

Approved

TOWN OF JERUSALEM
ZONING BOARD OF APPEALS

March 8th, 2007

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order by Chairman Ron Rubin on Thursday, March 8th, 2007 at 7 pm.

Roll Call:	Ron Rubin	Present
	Glen Herbert	Present
	Jim Jameson	Present
	Bob Fox	Present
	Jim Bird	Present

Others present included: John Phillips/CEO, Ken Hurley, Jim Creveling/Alt ZBA, Gerald Pease, Carol Quackenbush, Ron Williams, Doug & Darla Bugner, and Dar Henderson.

A motion was made by J.Bird and seconded by B.Fox to approve the February minutes as written. The motion was carried unanimously (5-yes, 0-nays).

COMMUNICATIONS

Board members had received copies of two letters from neighbors pertaining to two of the applications being reviewed.

AREA VARIANCE/SPECIAL USE REVIEW

Application #889 for Mr.& Mrs. Douglas Bugner owning property at 444 East Bluff Dr. to request an area variance for a second story addition to extend over a deck that is existing but is closer to the front and side yard lot line than zoning allows.

Mr. & Mrs. Bugner were present, along with their contractor, Ron Williams, to answer questions for board members.

Board Members had been given background information regarding this property. It was also noted that there is currently a "Stop-Work Order" in place for the construction work that had been started.

Mr. Bugner noted that they had submitted plans last fall along with an application for a building permit to replace the roof with new roof trusses and add second floor square footage over the existing one story building. They received the building permit in November of 2006 and then a "stop-work" order was issued about half-way through the construction. CEO, John F. Phillips, had received a complaint from a neighbor and upon further investigation into the history concerning the property, stopped the job.

CEO J.Phillips stated that he had discussed the issues regarding this property with the Town Attorney. He noted that he should not have issued the building permit, that he had misinterpreted an action of the Zoning Board back in April of 2003, when they had heard a previous application request from Mr. Bugner. In April of 2003, the Zoning Board had reviewed an application from Mr. Bugner, seeking to tie both structures together with a series of deck structures. Many questions came up regarding the property and the two existing structures. It was noted that there were two decks which had been built by a building permit issued in 1977, but there had been no area variances requested. The deck placements were close or on the high water mark and would have required area variances. The Zoning Board, while denying the requested variance, gave approval to the two decks as they existed without increasing square footage. This was in error by the Zoning Board, since this variance approval was not part of the application requested, nor had notices been given to neighbors advising them of a Public Hearing regarding the legalization of these decks.

It was noted by Chairman, R.Rubin that the only thing that they as a Zoning Board could do at tonight's meeting was to deal with the area variance application that was in front of them.

Board members were in agreement that this is a SEQR Type II action.

The area variance checklist was reviewed with the following results: #1(4-yes, 1-nay); #2(0-yes, 5-nay); #3 (5-yes, 0-nay); #4 (5-yes, 0-nay); #5 (5-yes, 0-nay).

A motion was made by R.Rubin and seconded by J.Bird to deny this application as submitted to build a second floor area over the existing deck and that Mr. Bugner be informed of his responsibility to get the rest of the non-conformities looked at before he makes any further applications to the Zoning Board. The motion was carried with a poll of the board as follows: G.Herbert-deny, J.Jameson-deny, R.Rubin-deny, J.Bird-deny, B.Fox-deny.

There was a question as to the status of the stop-work-order. There seemed to be a consensus from zoning board members that with other non-conformities still in existence, clarification of the non-conformities needs to be made before any further work is done.

Application #890 for Harold and Tina Kurland owning property at 624 West Bluff Dr. to remove existing cottage and replace with larger home requesting a minimum rear yard variance of 16.5 ft. This as measured from the closest portion of the building to the rear yard property line.

Mr. Ken Hurley, engineer for the Kurlands, was present to answer questions for board members.

There was discussion by board members as to whether consideration had been given to slightly rotate the house location to allow for more of a setback.

Zoning Board of Appeals
March 8th, 2007

Mr. Hurley stated that he had several discussions with his clients as to the location for the new home and this particular spot was where they would really like to have it. He noted that there would have to be a brand new engineer designed and approved septic system for this new house and the location of this system would be based on perc tests, setback distances, etc.

The concern of allowing the home within a 3.5 + ft. proximity of the road right-of-way was not acceptable by a consensus of the board members. Board members discussed whether a five foot setback was acceptable.

There was a very brief discussion about a future widening of West Bluff Dr. It seems rather unlikely given that there are so many places that are in close proximity of the road right-of-way.

The area variance test questions were reviewed with the results as follows: #1(2-yes, 3-nays); #2(5-yes, 0-nays); #3(4-yes, 1-no); #4(0-yes, 5-no); #5(5-yes, 0-no).

Board members were in agreement that this is a SEQR Type II action.

A motion was made by G.Herbert and seconded by J.Jameson to deny the application as requested. The motion was carried with a poll of the board as follows: R.Rubin-deny, B.Fox-deny, J.Bird-deny, G.Herbert-deny, J.Jameson-deny.

Board members briefly discussed a ten foot setback from the rear property line as measured from the closest point, whether it is roof overhang or deck, etc. Mr. Hurley stated that he couldn't speak for his clients but felt that it was a reasonable variance and the house plans could be adjusted to fit within that setback distance if granted.

A motion was made by G.Herbert and seconded by J.Bird to grant a ten foot setback from the rear property line as measured from the closest point of the house. It is noted that the Town will not be responsible for any damage to the property due to routine highway maintenance. The motion was carried with a poll of the board as follows: J.Jameson-grant, R.Rubin-deny, (because he would like to see a proposal come back from the applicant to the board for consideration), B.Fox-grant, G.Herbert-grant, J.Bird-grant.

In granting this area variance the board finds that the strict application of this chapter would deprive the applicant of reasonable use of the land and is the minimum variance that will accomplish this purpose. This variance will not be injurious to the neighborhood nor alter the essential character of this locality.

Application #891 for Carol Quackenbush owning property at 3737 Pepper Rd., Bluff Pt., NY to request a Special Use Permit to operate a small retail service business at this location.

Ms. Quackenbush was present along with Mr. Gerald Pease to answer questions for board members. It was noted by Ms. Quackenbush and Mr. Pease that their business which is the sale of small fishing tackle type of equipment would be located on the front porch of their home. It was also noted that Mr. Pease currently goes to fishing shows and has most of his fishing tackle equipment in boxes. He used to have a business in Horseheads selling his fishing equipment. He still has people buying the fishing equipment from him which he delivers because he works in Chemung County.

Ms. Quackenbush noted that they had decided that they wanted to open a small business out of their home. She stated that for now the request was to have it on their front porch, but that in the Spring they will be applying for a building permit to build a pole barn to store the boat which they own. The pole barn to be built will be approximately 32' x 40' and they would like to use a maximum of about (10' x 20') 200 sq. feet for the business.

Mr. Pease stated that the amount of space needed for his boat on a tandem axle trailer is approximately 12' x 32'. Mr. Pease added that most of his equipment is fishing poles, lures, no live bait except worms, fishing nets, etc. and at his former place of business he had most of the equipment on walls which had been lined with pegboard.

It was noted that this application had been reviewed by the Jerusalem Planning Board. The short EAF (Environmental Assessment Form) was reviewed by the Planning Board and based on this review it was determined that this type of business would have a negative impact on the environment, therefore a negative impact is declared.

Board Members were given a copy of a letter from a neighbor owning land near the 3737 Pepper Rd. site. There was some concern about seeing Pepper Road being turned into a commercial area in the immediate vicinity of Keuka Lake State Park. Ms. Quackenbush and Mr. Pease stated that one of the main reasons for having a business at this location, is for the weekend/summer people coming down to enjoy the lake and discovering that they need an extra fishing pole, or they've dropped and lost one in the water, etc.

Mr. Pease noted that the Planning Board in their site plan review had suggested a different location for the customers to park. This area would be a better location once the pole barn is built and the business moved into the new building.

Hours of business and the different items that he would be selling were discussed at the Planning Board meeting.

It was noted that the Planning Board approved the site plan for the business location on the front porch of the existing home, but did not have the necessary information to approve the location in the pole barn at this time.

There was a brief discussion regarding the signage for this business. Questions were asked about signage along Pepper Road or on State Rte. 54A. It was noted by the CEO that signage on private property requires a permit, or in this case, is part of the application for the Special Use, but in regards to signage on the road right-of-ways, that is the jurisdiction of the respective highway superintendents. Signage may be removed out of the road right-of-ways if it is a traffic hazard, visual impairment, etc.

A motion was made by J.Bird and seconded by R.Rubin to grant this Special Use Permit to operate a small retail service business to sell fishing tackle and equipment from the front porch (temporarily) until the pole barn is built. Once the pole barn is built, a maximum area of 200 sq. ft. in the pole barn is approved for use of the business, which will be moved from the front porch to the new pole barn. Prior to moving the business from the front porch to the pole barn, the applicant is required to return to the Planning Board for final site plan approval for the business relocation.

The motion was carried with a poll of the board as follows: B.Fox-grant, J.Jameson-grant, G.Herbert-grant, J.Bird-grant, R.Rubin-grant.

There being no further business to come before the board, a motion was made by J.Bird and seconded by B.Fox to adjourn the meeting. Motion carried unanimously and the meeting was adjourned at 8:45 pm.

Respectfully submitted,

Elaine Nesbit,Secretary