

Approved

TOWN OF JERUSALEM
ZONING BOARD OF APPEALS

June 14th, 2007

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order by Chairman Ron Rubin on Thursday, June 14th, 2007 at 7 pm.

Roll Call:	Ron Rubin	Present
	Glen Herbert	Present
	Jim Jameson	Present
	Jim Bird	Present
Alternate	Jim Creveling	Present

Others present included: Pam Brawdy, Alan & Carol Hilfiker, Mike Delsanto, David Hostutler, Brian O’Sullivan and Jim Brennan, Ryan McKenzie, and John Phillips/CEO, and Mike Folts/Town Bd.

A motion was made by J.Bird and seconded by J.Creveling to approve the May 2007 Zoning Board minutes as written. The motion was carried unanimously (5-yes, 0-no).

COMMUNICATIONS

Board members received a copy of a letter which CEO Phillips has sent to the property owner of 444 East Bluff Dr.

NEW BUSINESS

Application #901 for Brian O’Sullivan and Jim Brenna owning property at 82 West Lake Rd., PY to request an area variance to build a second story deck on existing cottage with less front yard and south side yard setback than zoning requires.

Mr. O’Sullivan was present to answer questions for board members. Mr. O’Sullivan also had letters from two neighbors stating that they had no objections with regards to the proposed deck (copies made and filed with application).

Mr. O’Sullivan noted that he had met with CEO Phillips at the site, submitted a plan along with the building permit application. He had been given a verbal go ahead prior to obtaining the building permit, the posts were put in, then Mr. O’Sullivan was asked to stop-work by CEO Phillips.

The proposed deck will be approximately 14ft. 4 in. from the high water mark at the south end of the deck and 15ft. 8 in. from the north end of the deck to the high water mark.

The existing house sets at an angle on the property with the south west corner of the cottage being at 4.4 ft. from the south side yard property line but continuing to come closer to the side yard property line as you come to the south east corner of the cottage

The location of the proposed deck and stairs will bring the structure to approximately 3 ft. 1 in. from the south side yard property line at the closest point.

Chairman R.Rubin noted a memo to the board from CEO Phillips regarding this application (copy on file with application and copy provided to applicant).

There was a question regarding moving the stairs from the south side to the north side of the deck. Board members were in agreement that moving the stairs to the north side of the deck would then keep the proposed deck farther from the south side yard property line than from where the existing cottage is.

Mr.Hilfiker, an adjacent neighbor, was present stating that as the neighbor most affected he had no objections to the proposed deck addition.

J.Jameson was concerned about having an exact measurement to the south side yard lot line if the deck and stairs are extended at the same angle as the cottage. He noted that it appeared to him that the structure would then be closer than 3 ft. maybe more like 2 ft. from the lot line.

There was discussion about keeping the deck at five feet from the south property line and if granted, the applicant could do whatever needed to be done, such as moving the stairs to the north side, to meet the setback that is granted.

Yates County Planning Boards' review of this application recommended action for the town only (copy on file).

A motion was made by J.Bird and seconded by J.Creveling to deny the application as applied for based on the NYS Regulations for side yard setbacks and due to the fact that the applicant showed no dimensions on his site map as to the distance of the proposed deck and stairs to the south side yard property line. The motion was carried with a poll of the board as follows: J.Jameson-deny, R.Rubin-deny, G.Herbert-deny, J.Bird-deny, J.Creveling-deny.

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

A second motion was offered by G.Herbert seconded by J.Bird to allow the deck to come no closer to the south side yard lot line than 5 ft. and no closer to the high water mark than 14 ft. at the closest point which would be the southeast corner. This motion is also offered due to the fact of oversight by the Code Enforcement Officer and the applicant's support posts for the deck already being in place.

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

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

In granting this area variance the board finds that the strict application of this chapter would deny 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 #902 for Michael DelSanto owning property at 200 West Lake Rd., PY requesting an area variance to build a balcony deck at the front of existing cottage with less setback from the high water mark than zoning allows.

Mr. DelSanto was present to answer questions for board members regarding his proposed request.

There were concerns with the lot coverage of this property. If the deck addition were to be granted it would put the lot coverage over the 20% allowed by 78 sq. ft. Mr. DelSanto stated that a lot of the footprint on the map is actually stone rather than structure.

There were concerns with the deck being only 1 to 2 ft. from the high water line at its closest point, 6 ft. from the water. The deck would line up with the top of the seawall.

The adjacent neighbor to the south had concerns about the deck being 6 ft. wide, how Mr. DelSanto plans to support the deck (whether with posts down to the ground or a cantilevered support) as well as its affect on the view they have from their property. Mr. DelSanto stated that he intended to cantilever the deck.

J.Bird asked applicant if a 4 ft. wide deck would be adequate. Mr. DelSanto stated that he wanted at least a minimum 6 ft. wide deck.

The Yates County Planning Boards' review of this application recommended action for the town only (copy on file).

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

Applicant stated that there are other properties that are close to the high water mark. R.Rubin stated that this board is only dealing with this application. As to whether a deck would ever be allowed, R.Rubin stated that no one could say one way or the other. Each application is reviewed on its own merit by the “then sitting zoning board members”, but the required zoning setback from the high water mark is 15 ft.

A motion was made by R.Rubin and seconded by J.Jameson to deny this application as applied for due to the requested closeness (within 1 to 2 ft.) from the highwater mark and because of the neighbor concerns with the potential loss of beach privacy from this requested construction. The motion was carried with a poll of the board as follows: J.Jameson-deny, R.Rubin-deny, G.Herbert-deny, J.Bird-deny, J.Creveling-deny.

Application #903 for David Hostutler owning property at 912 East Bluff Dr. to request an area variance to build a pole barn with greater height than allowed by zoning in the R1 zone.

Mr. Hostutler was present to answer questions for board members and briefly described what he wished to build. He has purchased some additional land from his neighbor and therefore has no side yard setback issue only a height issue. The property that he recently purchased has been surveyed as one with his other property and the abstract updated to reflect this as one piece of property. His pole barn will be set back 150 ft. ± from the west side of East Bluff Dr., he will use it to store his boat, motor home, and trailers.

He noted that the additional height is needed because the door at the front is a 14 ft. door and he needs 16 ft. of clearance thus with the roof pitch, the overall height will be at 21 ft. as measured at front finished grade. The building will not block anyone’s view as there are no other buildings on either side of his property at this location. He owns an additional 600 to 700 ft. behind the proposed barn location.

Mr. Hostutler stated that the existing garage was built before he purchased the property in 1995. He stated that his garage was 10 ft. from the side yard property line. The neighbor’s house is about right on the property line.

There were questions about any square foot limits for accessory buildings. CEO Phillips stated there were none that he knew of, only the 15 ft. height limit without a variance.

Mr. Hostutler stated that he wished to have an overhead door versus a sliding door since he would be better able to secure the building with an overhead door versus a sliding door.

The was discussion about a 20 ft. versus a 21 ft. overall height for the barn and a brief discussion about the roof pitch/snow load requirements. CEO Phillip stated that since this is a non-habitable building the required roof pitch could be a 3/12 pitch with a metal roof which would drop the overall height by 1 ft.

The area variance test questions were reviewed with the following results: #1(1-yes, 4-no), J.Jameson stated yes because the location is in the Lake Residential Zone; #2(5-yes, 0-no), #3(4-yes, 1-no), #4(4-yes, 1-no), #5(5-yes, 0-no).

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

A motion was made by R.Rubin and seconded by J.Bird to grant an area variance to allow a five foot variance so that the overall height of the building is not to exceed 20 ft. This variance is allowed because of the proposed location of the pole barn and the fact that it will not have an impact on the neighbors. In addition, the pole barn will provide storage for the items named earlier rather than having them setting outside or down by the other garage. This approval is also contingent upon the recently purchased 25 ft. of land being combined as one with Mr. Hostutler's other property.

The motion was carried with a poll of the board as follows: J.Jameson-grant, J.Creveling-grant, G.Herbert-grant, J.Bird-grant, R.Rubin-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 #904 for James & Pamela Brawdy owning property at 628 East Bluff Dr. to request an area variance to change the roof on the existing garage by removing the existing roof, raise the height of the roof walls adding a gable type roof to match the house which is in the process of being rebuilt. The requested height of the new garage is to be 25 ft. as measured from front finished grade which is the east elevation facing the lake.

There was a discussion by Chairman R.Rubin about the height of the garage at the road side being 15 ft. would be more acceptable than the proposed 16 ft. since 15 ft. is the permitted maximum height for accessory buildings in the R1 zone.

CEO Phillips stated that this is a pre-existing building and is already non-conforming in that in accordance with the zoning, he is required to measure the height at the front finished grade which in the R1 (lake-residential zone) is the lake side. Due to the contour of the land at this location, the height of the new garage as measured from the front makes it much higher than when measured at road level.

Board members commented about the fact that the building use is not changing, and it is being designed so as to be aesthetically pleasing with the changes being made to the house.

J.Bird stated that if dirt were brought in and the area were filled in around the garage front (lake side), the building height would be close to conforming.

G.Herbert stated that he did not have an objection to the requested height if the roof pitch is maintained and is compatible with the house improvement.

J.Creveling stated that it appeared to him that the architect mainly wants to match the rooflines for aesthetic purposes.

J. Jameson stated that they could just be required to keep the height at 15 ft. on the roadside and let the lake side come out where ever it does.

J.Creveling stated that creating another roofline at a different pitch may or may not be detectable, but for aesthetic purposes it would be better to follow the drawings.

The area variance test questions were read with the following results: #1(0-yes, 5-no), #2(1-yes, 4-no), #3(3-yes, 2-no), #4(0-yes, 5-no), #5(3-yes,2-no).

A motion was made by G.Herbert and seconded by J.Bird to grant the variance as applied for at the roadside with the height as measured at the road being a maximum of 16 ft.

The motion was denied with a poll of the board as follows: J.Jameson-deny, R.Rubin-deny, G.Herbert-grant, J.Bird-grant, J.Creveling-deny.

A second motion was made by J.Bird and seconded by J.Creveling to grant the variance for the garage with a maximum height of 15 ft. as measured on the west side (roadside) of the garage; mainly because of the incline of the property and it would give the applicant an undue hardship to meet the required zoning height when measured from front finished grade in accordance with the current zoning. An overall 15 ft. height at the roadside is reasonable and does not negatively impact the neighborhood.

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

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

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.

OTHER BUSINESS

Ryon McKensey from the Observer will contact the Zoning Board Secretary on Friday as a follow-up to the Zoning Board meeting.

There being no further business, a motion was made by J.Creveling and seconded by J.Bird to adjourn the meeting. The motion was carried unanimously and the meeting was adjourned.

These minutes were compiled based on a tape recording of the zoning board meeting and from notes provided by Alice Hunt, acting secretary for the June Zoning Board meeting.

Respectfully submitted,

Elaine Nesbit/ZAP Secretary