

TOWN OF JERUSALEM
ZONING BOARD OF APPEALS

July 9, 2009

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Thursday, July 9th, 2009 at 7 pm by Chairman Glenn Herbert.

Roll Call:	Glenn Herbert	Present
	Jim Bird	Present
	Jim Crevelling	Present
	Mike Steppe	Present
	Ed Seus	Present

Others present included: Ray Stewart/Town Bd., Dan & Bonnie Collins, Margaret Wiegand, Richard Murphy, David Pearce, Lin Hough, and Hiedi Bauer.

A motion was made by J.Bird and seconded by G.Herbert to approve the June Zoning Board Minutes as written. The motion was carried unanimously (5-yes, 0-no).

COMMUNICATIONS

Letters from neighbors adjacent to the Collins property on West Bluff Dr. were received, copied and distributed to Zoning Board Members. Copies on file with area variance application.

AREA VARIANCE REVIEW

Application #950 for Dan Collins owning property on West Bluff Dr. requesting Area Variances to build a new single family home on the lake side of the road with the portion of the lot between the road and the lake having less than 100 ft. minimum depth, and needing a variance for the setback from the rear yard lot line.

Mr. Pearce, architect for Mr. & Mrs. Collins, was present along with the property owners and their builder/contractor, Mr. Hough, to answer questions for board members.

Mr. Pearce called the Zoning Board Member's attention to a mistake on the application. He had indicated that a variance of 20 ft. was needed for the rear yard setback, and in fact only a 10 ft. variance is needed. He indicated that he would be willing to note the change and initial the correction, however, Chairman G.Herbert stated that it would not be necessary and the requested correction is noted in the minutes.

It was noted by Chairman G.Herbert that the code officer had sited that one of the area variances needed for this project was for the minimum lot depth for the portion of land that lies between the lake and West Bluff Dr.

Chairman G.Herbert stated that he had read the zoning ordinance for the R1 zone requirements for minimum lot depth and in his opinion; the ordinance is referring to the total overall lot depth even though it is interrupted by West Bluff Dr.

It is therefore his opinion that an area variance for minimum lot depth for this project is not needed even though the depth of the lot portion between the road and the lake is less than 100 ft. The total overall lot includes well over 1 and ½ acres of land and thus the minimum lot depth well exceeds the 100 ft. minimum required.

Board member J.Crevelling stated that he was not in agreement with this opinion. He was concerned with not proceeding with an area variance for this project since in his opinion, the intent of the zoning regulations was to require the 100 ft. minimum for the portion of the lot between the road and the lake and the board has interpreted it that way for a long time.

It was noted by the Zoning Secretary that an area variance had been granted a couple of years ago for this property for having less than the 100 ft. minimum lot depth. This area variance was for the placement of a small storage shed on this property.

It was noted by Mr. Collins that it is his engineering firm that provided the grading and erosion control plan for the Steep Slopes Application, and that he is the licensed professional engineer that signed the plan. The steep slopes application has been reviewed and approved by the Planning Board. Copy on file with area variance application.

There was a general discussion of the board members with regards to the house location. It was noted that the house could be built on the upper side of West Bluff Dr. without need for any area variances. There is very little green space left around the lake such as this portion of the lot between the lake and West Bluff Dr.

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

Chairman G.Herbert asked if all members of the board were in agreement with the interpretation of the ordinance as he had explained it with regards to determination of the minimum lot depth. Three members were in agreement with the Chairman, and one was not. It was therefore decided by majority of the board that review of this 100 minimum ft. lot depth was not necessary.

It was noted, that perhaps this portion of the ordinance should be looked at and re-worded for clarification purposes.

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

A motion was made by J.Bird and seconded by M.Steppe to approve the area variance request for a rear yard setback of 10 ft. as measured from the closest point of the proposed home to the rear yard property line.

The motion was carried with a poll of the board as follows: E.Seus-grant, G.Herbert-grant, J.Crevelling-deny, J.Bird-grant, M.Steppe-grant.

Application #951 for Roy & Margaret Wiegand (Buyer) and Kenneth Armes (Seller) for property at 531 East Bluff Dr. to request area variance(s) to add an 8 ft. by 10 ft. screened porch to existing cottage.

Mr. Richard Murphy was present with the prospective buyer, Mrs. Wiegand, to answer questions for board members.

There was a general discussion among board members about the actual size of the lot and whether it included the piece of land which had been previously purchased by the current owners/sellers.

It was noted that the site map accompanying the area variance application did include all of the land in the calculation of lot size. It was therefore determined that the amount of coverage of the lot by the existing cottage, storage shed, stairs and proposed screened porch would be approximately 25%.

The storage shed and the one set of stairs are to be removed which would then bring the lot coverage with the screened porch back to approximately 23%.

The area variances needed are for a 1.2 ft. rear yard setback, an 11.25 front yard setback, increase of lot coverage, minimum sq. ft. of living space and the expansion of a non-conforming building.

Mrs. Wiegand stated that if they purchase the property, it is their intent to raise the cottage and put better foundation piers/footers underneath the cottage; to raise the roof to increase the height then extend the roof line to add-on a screened in porch.

It was noted that if the screened-in porch is allowed with an area variance that it shall not be counted as part of the original footprint should there be a future plan to remove and replace.

Questions were raised about the expansion of a pre-existing non-conforming structure and whether or not it is allowed by the ordinance. The porch would not be considered living space, therefore it may not be allowed.

Board members also looked at increasing the building in an upward direction rather than expanding outwardly. It was noted that this is allowed if the original building is considered to be conforming by having 600 sq. ft. It was also noted that if the existing cottage did not meet the 600 sq. ft. there could be an expansion of the cottage a couple of feet to make the cottage conforming. If the cottage is raised up two feet, this should meet the requirement of living space to be at the 722 ft. mark for flood zone purposes.

An uncovered cement or stone patio could be added without affecting the existing lot coverage.

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

A motion was made by G.Herbert and seconded by J.Bird to deny the application based on the number of area variances requested and that the requested porch (non-habitable living space) would be increasing the degree of non-conformity.

The motion was carried with a poll of the board as follows: M.Steppe-deny, J.Crevelling-deny, E.Seus-deny, J.Bird-deny, G.Herbert-deny.

OTHER BUSINESS:

Hiedi Bauer was present to speak to the Zoning Board. Ms. Bauer showed the board some pictures of her property and that of her neighbor's. Ms. Bauer stated that she has a dilemma that has been ongoing for approximately 7 years. She has received a ticket from the CEO for a summons to Town Court for not mowing her lawn, but maintains that she has complied with the mowing of the immediate area around her home front and back yard as well as a pathway down to the lake. The rest of the area that is not mowed has trees and other plantings for birds, etc. in effect a meadow area. Ms. Bauer stated that her neighbor has two campers that are used over the summer. When people are there staying in them, there are cars parked along the property line. Chairman G.Herbert asked Ms. Bauer if she had been to the Town Board. She stated that she had. Board members stated that while they could listen, they had no power to help her with this situation.

There being no further business a motion was made by J.Bird seconded by M.Steppe to adjourn the meeting. The motion was carried unanimously (5-yes, 0-no). The meeting adjourned at 8:15 PM.

Respectfully submitted,
Elaine Nesbit/Secretary