

Approved

TOWN OF JERUSALEM
ZONING BOARD OF APPEALS

October 13, 2011

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Thursday October 13th, 2011 at 7 pm by Chairman Glenn Herbert.

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

Others present included: Barbara & Jerry Sullivan, Chuck Sullivan, Sal Pitti, Max Parson/Town Bd., George White, Peter Gamba, and Deb Koop.

A motion was made by E.Seus and seconded by J.Crevelling to approve the September Zoning Board minutes as written. The motion was carried unanimously (5-yes, 0-no).

COMMUNICATIONS:

Board members were given copies of two letters from neighbors regarding application #989.

OLD BUSINESS:

Application #987 Part B for Barbara and Gerald Sullivan owning property at 5405 East Bluff Dr. requesting Area Variances to build a porch/deck with roof on the east side of home towards the lake that would cover existing edge of the break-wall. This would bring the porch/deck to or slightly beyond the approximate high-water mark. A front yard area variance is needed as well as an area variance for lot coverage.

This application had been tabled from the September meeting to allow applicants an opportunity to take a look at their proposed plans and see if there was a way to come up with a different plan for what they wanted to do which would require less of a front yard area variance and less of a lot coverage variance.

Chuck Sullivan was present along with his parents to present a different plan proposal for the front deck area. Copies of a drawing showing a pergola were distributed to board members (copy on file with application).

The new plan proposal is to remove the cement, clean up whatever is causing the eroding problem, and then put in drainage stone with patio brick on top keeping the level somewhat the same to the steps and then build up the area which would be where they would have the pergola.

This new plan proposal will keep the patio area as natural material and therefore the lot coverage area variance will not be needed. In discussing the pergola, there will be a building permit required but the location will not require an area variance for front yard setback or lot coverage.

Based on this proposed new plan and there being no need for Area Variances for Part B of this application, a motion was made by G.Herbert and seconded by J.Crevelling to accept that this application as stated is withdrawn. The motion was carried unanimously with a poll of the board as follows: E.Seus-approve to withdraw, D.Simpson-approve to withdraw, J.Crevelling-approve to withdraw, M.Steppe-approve to withdraw, G.Herbert-approve to withdraw.

Application #989 for Salvatore Pitti owning property at 587 Acorn Rd. Branchport requesting an Area Variance to build a 2-story garage with upper level to be used for storage. The garage is to be approximately 22 ft. high. This property to be located in the R1 zone which only allows for a height of 15 ft. for accessory buildings in the R1 zone when they are on lots which are located between the road and the lake.

Board members had received copies of letters from two neighbors in support of the proposed garage. Copies of letters on file with application.

Mr. Pitti was present to answer questions for board members regarding the proposed plan for his garage. When asked what he planned to store in the garage, Mr. Pitti stated that he has a boat, kayak, paddle boat, beach furniture and various water toys that he needs to put in storage.

There were questions as to why he was showing the upper portion of the garage being insulated. Mr. Pitti noted that it had been suggested by his architect that by insulating this storage area there would be less humidity.

It was noted by Mr. Pitti that his next neighbor has a garage that is much higher than what he is asking for. It was also noted by Chairman Glen Herbert that his garage is attached to his house by a roofline attachment which makes the difference.

It was noted by Chairman G. Herbert that the zoning code has been amended to allow for accessory structures to be 20 ft. high when they are located on lots in the R1 zone that are above the road away from the lake.

Mr. Pitti's lot is located between the road and the lake. The configuration of the lot is such that even if a 20 ft. high garage is built, it would not block anyone's view, since it is tucked back in by the creek and off to the side of the private road, known as Acorn Rd.

The area variance test questions were reviewed as follows:

- 1) Could granting of the Area Variance change the character of the neighborhood? (5-no, 0-yes).
- 2) Are there alternatives that would not require an area variance? (5-yes, 0-no).
- 3) Is the request substantial (3-yes, 2-no). G.Herbert-no, J.Crevelling-yes, M.Steppe-no, E.Seus-yes, D.Simpson-yes.
- 4) Would the granting of this variance have potential adverse impacts on physical or environmental conditions in the neighborhood? (5-no, 0-yes). There will be no physical or environmental impacts as long as the creek bed is not disturbed in any way.
- 5) Is the alleged difficulty self-created? (5-yes, 0-no).

There was discussion amongst the board members about the upper portion of the garage being used for something other than storage space. It was noted that when the building permit is issued it can be stated on the building permit that this building is for storage purposes only and it is to be non-habitable not to be used for living space.

It was noted by Chairman G. Herbert that he himself has a 20 ft. high garage on his property which is located on the upper side of the road. It has an upper storage space with open rafters and he can walk down through the center area.

Board members felt that a 5 ft. variance is the most that they feel they can comfortable allow and only because this lot is unique in its location by the creek and the garage will not block anyone's view nor be a detriment to anyone to the west of this property.

A motion was made by G.Herbert and seconded by D.Simpson to allow for a maximum 20 ft. high garage (which is a 5 ft. variance) with no plumbing inside and it is to be a non-habitable structure. This area variance is allowed due to the uniqueness of the lot, its location next to the creek and with respect to the other lots around it.

Board members agreed unanimously that this is a SEQR Type II Action.

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

Application #990 for George White owning property at 6295 West Bluff Dr. requesting an Area Variance to build a deck as part of access stairs going down to the beach with the deck to be larger than what is allowed for a landing when is a part of stairs and access and to request that the deck be closer to the high water mark than zoning allows for a deck in the R1 zone.

Board Member E.Seus stated that he would not be participating in the review of this application because he is friends with the applicant.

Mr. White was present to answer questions for board members and to explain his proposed plan to board members.

Mr. White noted for the board members that his deck dimension had been changed from a depth of 10 ft. to 11 ft. depth with the change of depth being added to the east side of the deck towards the road. This will not change the requested front foot set-back variance from the high-water mark. The deck that is being built is to be located over an area that is presently being utilized in part by an existing pump-house. There will be six posts going into the ground that will hold this deck and then there will be four posts that will hold the roof that will be over top of the deck. The roof height will not exceed the road line which lies to the east.

It was also noted that the existing stairs are being removed from their current location and will be relocated on the north side of the property.

The area variance test questions were reviewed as follows:

1) Could granting of the Area Variance change the character of the neighborhood? (1-yes, 3-no). G. Herbert-no, J.Crevelling-yes, M.Steppe-no, D.Simpson-no. The answer in support of yes to changing the character of the neighborhood is because most of the decks are open and do not have roofs over them.

2) Are there alternatives that would not require an area variance? (2-no, 2-yes) G.Herbert-no, J.Crevelling-yes, M.Steppe-yes, D.Simpson-no). The answer in support of yes, could be done by reducing the size of the requested deck to the allowed landing size.

3) Is the request substantial? (2-yes, 2-no). G.Herbert-no, J.Crevelling-yes, M.Steppe-no, D.Simpson-yes. In support of the yes answer, the request is substantial due to the requested deck size, the request for a roof over the deck and the encroachment on the mean high-water mark.

4) Would the granting of this variance have potential adverse impacts on physical or environmental conditions in the neighborhood? (1-yes, 3-no). G.Herbert-no, J.Crevelling-yes, D.Simpson-no, M.Steppe-no.

The answer in support of yes for the potential adverse impact on the physical or environmental condition is because the roof will shed all the water directly to the lake without interception, filtration, or percolation.

5) Is the alleged difficulty self-created? (5=yes, 0=no).

There was continued discussion about the proposed roof over the deck and what type of roof this would be. Mr. White explained that it was going to be a gazebo type roof.

A motion was made by M.Steppe and seconded by D.Simpson to grant this area variance to allow the deck to come no closer to the high-water mark than 6 ft. 5 in. (a variance of 8 ft. 7 in.) and the deck size is to be 11 ft. by 20 ft., which is a variance of 184 sq. ft. being that the zoning allows for landings of 16 sq. ft. The overall height of the deck with the roof is to be no higher than 12 ft.

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

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

OTHER BUSINESS:

Peter Gamba was present to discuss the concerns and impacts of hydrofracking.

There being no further business, a motion was made by M.Steppe and seconded by J.Crevelling to adjourn the meeting. The motion was carried unanimously (5=yes, 0=no), and the meeting was adjourned at 8:45 pm.

Respectfully Submitted,
Elaine Nesbit/Secretary