

TOWN OF JERUSALEM
ZONING BOARD OF APPEALS

April 14, 2011

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Thursday, April 14th, 2011 at 7 pm by Vice-Chairman Jim Crevelling.

Roll Call:	Glenn Herbert	Excused
	Jim Crevelling	Present
	Mike Steppe	Present
	Ed Seus	Present
	Dwight Simpson	Present
Alternate	Jim Bird	Present
Alternate	John Hoffer	Present

Others present included: Jerry Kernahan, Lynn & Richard Dobosz, Amy DeMoras, Richard & Carol Correnti, Dennis & Merrill Race, Max Parson/Town Board, and Mike Stefkovich.

A motion was made by E.Seus and seconded by D.Simpson to approve the March Zoning Board Minutes as written. The motion was carried unanimously (5-yes, 0-no).

COMMUNICATIONS:

No communications had been received.

AREA VARIANCE/SPECIAL USE REVIEW:

OLD BUSINESS:

Application #978 for Richard & Carol Correnti owning property at 2245 West Lake Rd., Penn Yan requesting area variances to build a bridge span to access existing structure, to add a deck on the south end of the structure with stairs being added to the deck to provide access to the beach area. This application had been tabled from the February Zoning Board meeting to allow the property owner time to contact his surveyor to establish the high water mark and to give the property owner and contractor a chance to refigure the lot size. The other issue of existing lot coverage and proposed lot coverage could also be established.

Mr. Correnti was present with a new survey which established the high water mark, and copies were distributed to board members.

Mr. Correnti also provided board members with copies of a summary of the improvements to the lot, the previous lot coverage and the proposed lot coverage, along with a new sketch drawing of the proposed deck addition and stairs. Copies of all newly presented documentation on file with application.

Zoning Secretary provided board members with copies of the approved February 10th, 2011 zoning board meeting minutes. Board members took a few minutes to read the minutes to review the information regarding application #787 and review the area variance test which had been completed.

Mr. Correnti then reviewed the submitted paperwork with board members, briefly describing what was there when he and his wife purchased the property. He described the work which has already been done to repair the cottage. Mr. Correnti noted that there were at least two things which are excluded from lot coverage calculation. He noted that there was an existing boathouse which had been removed making the lot more conforming by removing this structure which was located right on the north side yard property line.

There were questions and concerns about the existing retaining wall on the west side of the cottage. Mr. Correnti stated that the Building Inspector had been involved with the work that had been done and that it was an engineered wall. It was noted by Mr. Correnti that at some time, prior to their purchase of the cottage, there had been some concrete work done to reinforce the west cottage wall on both the inside and the outside. The embankment on the west side of the cottage had apparently moved towards the west cottage wall causing some concern.

Board members commended Mr. Correnti for the time he had taken to prepare the summary, the re-designing of the plan for the deck and the extra costs he had incurred to get a new survey.

The applicant was wanting the stairway to come off the south east side of the deck, but board members were happier with the design and location as re-designed. This would keep the stairs back away from the highwater mark.

Mr. Correnti then asked if the board would consider some extra sq. footage going towards the west. This would make the proposed area to be utilized for the stairs to be less intrusive. Board members did not object to allowing a little more sq. footage for this area.

A motion was made by M.Steppe and seconded by J.Bird to grant the area variance for the deck addition and bridge span with the following conditions:

- 1) The total lot coverage shall not exceed 25.5% sq. ft. as determined by the newly submitted summary and newly submitted survey. This shall include the extra allowed sq. footage for the deck addition.
- 2) The proposed deck at the southeast corner shall not be any closer to the lake than the east overhang of the cottage and to be no wider than 10.5 ft. off from the south overhang of the cottage.

This variance is granted to the applicant based on the fact that with the removal of the boathouse and the proposed new deck addition the degree of non-conformance for lot coverage has been reduced to being less non-conforming. The provision of the stairs for beach access have been designed in such a way as to come under the proposed deck area (so as not to increase lot coverage) and provide a means of access to the beach. This removes a previous safety issue of not having access directly from the road to the beach area for emergency purposes without going inside and through the cottage.

The motion was carried with a poll of the board as follows: J.Crevelling-grant, E.Seus-grant, D.Simpson-grant, J.Bird-grant, M.Steppe-grant. * (See 5/12/11 ZBA MIN)

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

Application #979 for Richard & Lynn Dobosz owning property at 2549 West Lake Rd. Penn Yan, requesting an area variance for a side yard setback from their north property line for a proposed new 2-car garage. Mr.& Mrs. Dobosz were present along with their engineer Jerry Kernahan, to answer any questions that board members might have.

It was noted and explained by Mr. Kernahan that there is also an addition to the existing cottage that is being planned for but this will meet zoning setback requirements. Mr. Kernahan noted for the board members that calculations had been made and lot coverage is not an issue.

There were questions regarding the height of the garage since it is proposed as being a two story. Mr. Kernahan noted that it is being built into the bank and the height as measured from the mid-point of the lowest side elevation is 14 ½ ft. This will allow the upper floor area to be used for the vehicles coming in off from West Lake Rd. The area below will be used for boat storage, beach furniture, etc. There will be an inside stairway from the lower area to the upper area at road level.

Concerned neighbors living directly across the road were present to voice their concerns for having this garage built in an area that would take away their view of the lake that they have had for over 27 years. Additionally, they pay a large amount of taxes due in part to their location and the view of the lake which they have enjoyed. Their question was, how are we compensated (in tax dollars) for our loss of view.

Another neighbor had concerns about the continual changes that are made to our local zoning laws that seem to accommodate developers and those who have the means to get these changes made.

It was noted by Mrs. Dobosz that some existing trees on their property had been removed, some which had blown down during a storm and others that appeared as if they could very easily come down. These trees were definitely much taller than the proposed garage.

Zoning Board Vice-chairman, Jim Crevelling, noted that while they as a board were very sympathetic to the neighbors concerns, it is not something that they as a board have any jurisdiction over. It was noted that Town Board member, M.Parson, was present, and is hearing these concerns. It was suggested that there is also the Grievance process that is available as well. J.Crevelling noted that the concerns of the neighbors are important and that these concerns do need to be heard and made known to the appropriate boards/individuals.

Board member, J.Bird, asked if the proposed garage were placed at the required side yard setback, would that make a difference. The neighbors noted that it would not help. It was then noted that the Dobosz could actually build the addition to the cottage and add the garage keeping the proper side yard setback and a variance would not be needed.

The zoning laws were changed in 1993 which required accessory structures in the R1 (Lake-Residential Zone) to be no higher than 15 ft. It was also noted that in 2008 the way in which the height of accessory buildings is determined in this zone was also changed.

The area variance test questions were reviewed as follows:

- 1) Could granting of the area variance change the neighborhood character: (5-no, 0-yes). The location of the garage even at the proposed location is not as close to the lot line as many structures are in this area.
- 2) Are there alternatives that would not require an area variance (5-yes, 0-no). the applicant could meet the side yard setback, but by doing so would not be able to utilize the storage area below for his boat. By having the garage in the proposed location, it will provide a place to house the boat inside.

3) Is the request substantial: (5-no, 0-yes).

4) Would the granting of this variance have potential adverse impacts on physical or environmental conditions in the neighborhood: (5-no, 0-yes). This proposal has been reviewed by Yates County Soil and Water Department and will be applying for Steep Slopes review and approval.

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

A motion was made by M.Steppe and seconded by J.Crevelling to grant this variance that the garage shall be no closer to the north side yard lot line than 6 ft. as measured from the roof overhang and in line with the existing cottage.

Motion carried with a poll of the board as follows: D.Simpson-grant, E.Seus-grant, J.Crevelling-grant, J.Bird-grant, M.Steppe-grant.

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

Prior to the review of application #980, Vice-Chairman Jim Crevelling stated that he would not be taking part in the review of this application due to conflict of interest and had asked Mike Steppe to preside over the meeting for the review of this application. Alternate Jack Hoffer will take part in this review.

Application #980 for Michael Stefkovich owning property at 438A Lake Ave. Keuka Park requesting area variances to build a two-car garage on the west side of Lake Ave. and to build a small addition to an existing cottage on the east side of Lake Ave. next to the lake. Both locations will require front yard variances.

Mr. Stefkovich was present to answer questions for board members. In reviewing his proposal with board members, he noted that there are two pieces of property that he owns which he will merge under one deed. He did not want to put the pieces together if the board was not going to grant the area variances. He noted that the piece of property which he purchased in 2005 is located in two parts, one of which is lake front on the east side of Lake Ave. and another triangle shaped piece located on the west side of Lake Ave.

Mr. Stefkovich also noted, that he had discussed this proposal with an adjacent neighbor whose view of the lake would be affected by the building of this garage and therefore, he would be willing to reposition the proposed garage location so that it will not impede the view of his neighbor.

Board members had been to the site noting these requests. Acting Chairman Mike Steppe asked board members to consider the proposal of the garage first.

It was noted that this location has two front yards and two rear yards since it is located between Central Ave. and Lake Ave. The required front yard setback in the R2 zone is 30 ft. The width of Lake Ave. is 30 ft. therefore the required setback as measured from the center line of Lake Ave would be 15 ft. plus 30 ft. or 45 ft. to the roof overhang.

The front yard setback variance that is needed on the east side of the garage lot would be 26 ft. or no closer to the edge of the Lake Ave. road right-of-way than 4 ft. The front yard setback needed to Central Ave. on the west side would be a 5 ft. variance or no closer than 25 ft. to the edge of the road right-of-way. All measurements are to the roof overhang. The rear yard setback required for the garage is 20 ft. and the requested rear yard variance as shown on the proposed site plan is 7.4 ft. or no closer than 12.6 ft. from the property line to the roof overhang.

It is noted that by the proposed garage location being changed to accommodate the neighbor's view that the rear yard setback variance may be less than what is shown and closer to the required 20 ft.

The board then reviewed the proposed addition to the existing cottage. The addition being proposed would be added on to the south side of the existing cottage with a deck addition which would be at a second story level coming no closer than 6 ft. to the high water mark.

Board members questioned the approximate high water mark as shown on the site/survey plan. There is an existing concrete pad and retaining wall that is in place and has been there for many, many years, prior to the current owner. It was noted by Mr. Stefkovich that he had come to the zoning board to get a front yard variance in 2004. The high water mark that was used at that time is the same one that is located on the site plan/survey map presented with this current application and the high water mark/tie line is listed as approximate. In any event, the proposed deck addition would not come as close to the high water/tie line mark as the existing cottage or the existing retaining wall.

Mr. Stefkovich stated that he would be having the surveyor come back to finalize the survey map for bringing all the properties together if the area variances are granted. He would have the surveyor establish the high water line.

Board members reviewed the area variance test questions as follows:

1) Could granting of the area variance change the neighborhood character: (5-no, 0-yes)
Applicant will be joining both properties together under one deed making a more conforming piece of property. In addition, by having the garage the applicant will be able to store his boat inside rather than leaving it outdoors.

- 2) Are there alternatives that would not require an area variance: (5-no, 0-yes)
- 3) Is the request substantial: (3-yes, 2-no) The applicant, however, will be combining the properties making two non-conforming properties into a more conforming piece of property.
- 4) Would the granting of this variance have potential adverse impacts on physical or environmental conditions in the neighborhood:(5-no, 0-yes) The applicant has changed the position of his proposed garage so as not to impede the view of the lake from his neighbor's house.
- 5) Is the alleged difficulty self-created: (5-no, 0-yes).

The adjacent neighbor to the north was present stating that he and Mr. Stefkovich had worked out about the placement of the garage and while it would be different having a garage next door instead of looking at trees that he was not against this proposal. They had been spoiled in having it like it is for so many years, but they would be okay. The board commended Mr. Overgaard for his comments and generally being a good neighbor regarding this application.

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

Based on the application review and the review and weighing of the area variance test questions, a motion was made by J.Bird and seconded by J.Hoffer to grant the request as per the application with the following conditions:

- 1) The properties shall all be joined together under one deed.
 - 2) The front yard setback for the deck addition shall be no closer than 6 ft. to the high water mark which is a 9 ft. variance. The new survey as completed shall show the high water mark.
 - 3) The front yard setback for the west side of the road right-of-way to the garage roof overhang shall be no less than 25 ft. which is a 5 ft. variance
 - 4) The front yard setback for the east side of the road right-of-way to the garage roof overhang shall be no less than 4 ft. which is a 26 ft. variance.
- 5)* (See 5/12/2011 ZBA min)**

The application was carried with a poll of the board as follows: D.Simpson-grant, E.Seus-grant, M.Steppe-grant, J.Bird-grant, J.Hoffer-grant.

The meeting was turned back over to Vice-Chairman J.Crevelling.

OTHER BUSINESS:

Jim Bird stated that while he was not able to attend the last meeting for the Finger Lakes Historical and Cultural Museum, it was reported that they have met with their Architectural firm.

They have a reputable engineering firm on board. They have a pre-construction firm involved. They are making progress.

J. Bird asked about alternates for the Zoning Board. Right now it is both Jack Hoffer and himself that are the alternates.

There being no further business, a motion was made by M.Steppe and seconded by J.Bird to adjourn the meeting. Motion was carried unanimously (5-yes, 0-no). The meeting was adjourned at 8:55 PM.

Respectfully submitted,
Elaine Nesbit/Secretary