

Approved

TOWN OF JERUSALEM  
ZONING BOARD OF APPEALS

October 12, 2012

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order by Chairman Glenn Herbert on Thursday, October 11<sup>th</sup>, 2012 at 7 pm.

Roll Call:	Glenn Herbert	Present
	Jim Crevelling	Excused
	Ed Seus	Present
	Dwight Simpson	Present
	Jim Bird	Present
Alternate	Rodgers Williams	Present
Alternate	Earl Makatura	Excused

Others present included; Robert Simunek, John F. Phillips/CEO, Bill & Delores Sutherland, Steve McMichael, Myron White, and Pat Killen/Town Bd.

A motion was made by D.Simpson seconded by G.Herbert to approve the September Zoning Board minutes as written. The motion was carried 4-yes, 0-no with J.Bird abstaining, since he was not at the September meeting.

COMMUNICATIONS:

Board members received copy of a letter from Highway Superintendent Rob Martin regarding Application #1010.

OLD BUSINESS:

Application by Steven McMichael et al to develop a Senior Citizen Residential Living Complex on Central Avenue just north of Keuka Park.

Chairman G. Herbert noted that the Article 78 (having Index # 2012-0197) that was pending in the Supreme Court of New York, County of Yates, a proceeding against the Zoning Board of Appeals and Steven McMichael by Donald A. Schneider has been resolved by a settlement of the issues that had been raised by this petition concerning the Senior Living Complex.

A motion to accept the following resolution was made by J.Bird and seconded by G.Herbert.

TOWN OF JERUSALEM  
ZONING BOARD OF APPEALS  
RESOLUTION

WHEREAS, Donald A. Schneider commenced a proceeding under Article 78 of the Civil Practice Law & Rules against this Zoning Board of Appeals relating to the decision of this board concerning the application by McMichael et al to develop a senior citizen residential complex on Central Avenue in Keuka Park, and

WHEREAS, that proceeding is now pending in the Supreme Court of New York, County of Yates, bearing Index Number 2012-0197, and

WHEREAS, after discussions between the said Schneider and McMichael, et al, their attorneys and the attorney for the Town of Jerusalem a settlement of the issues raised by the petition has been reached and reduced to writing, and

WHEREAS, this board has reviewed the Stipulation of Settlement and Discontinuance and finds the same to be fair and reasonable and ought to be approved,

NOW THEREFORE BE IT RESOLVED that the Stipulation of Settlement and Discontinuance presented to this meeting is hereby approved, and the Chairman of this board is authorized to execute the same on behalf of the Town of Jerusalem Zoning Board of Appeals.

The motion was carried with a poll of the board as follows: E.Seus-approve, R. Williams-approve, J.Bird-approve, D.Simpson-approve, G.Herbert-approve.

AREA VARIANCE/SPECIAL USE REVIEW:

NEW BUSINESS:

Application #Robert Simunek owning property at 7353 East Bluff Dr. requesting an Area Variance to add an additional 4 ft. to an existing boat house with less side yard and front yard set-back than zoning requires. In addition, the lot coverage is at 26%.

Mr. Simunek stated that the calculated lot coverage is incorrect at 26% and it should be 22.6% not the calculated 26%. Mr. Simunek provided pictures of his existing boat-house, showing that the boat does not quite fit into the boat house and the extension would be towards the lake.

The boat is 21 ft. long and with the stern drive it is about 22 and ½ ft. The extension cannot be added onto the backside of the boathouse because of all the fill-dirt and concrete that was put into the embankment several years ago to reinforce the bank.

Board member J.Bird asked the applicant about the lot coverage. Mr. Simunek stated that they had done a renovation of their property in 2005 but had to reduce the size of the new deck additions that they had wanted to add because of the lot coverage issue.

When they finally re-worked their application for their renovation proposal, Mr. Simunek stated that the calculations from the assessor of the Town had their proposed lot coverage at 22.6 %.

It was noted, however, that the zoning board members had copies of the property showing the home from a “bird’s eye view” perspective, and it was pointed out to Mr. Simunek that a rather large portion of the lot is covered by structures.

Mr. Simunek stated that his lot does not look like a crowded lot when viewed from the lake

Board member D.Simpson stated that the issues he sees with this application are issues regarding the close setback to the south side yard property line to the neighbor, and the close proximity to the high-water mark. The other issue would be the concerns that DEC might also have with this dock extension that would extend lake-ward of the high-water mark.

Board member E.Seus stated that his concern was the enlargement of pre-existing, non-conforming structure.

Board member R.Williams stated that his concerns were expanding a non-conforming structure, as well as expanding the lot coverage of a lot that is already over the allowed lot coverage and expanding the non-conforming setback along the south side-yard property lot line.

The area variance test questions were read with the following results:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variances: (3-yes, 2-no), G.Herbert-no, J.Bird-yes, E.Seus-yes, D.Simpson-no, R.Williams-yes. Indirectly it will.

2. Whether the benefit to the applicant can be achieved by some other feasible method than an area variance: (1-yes, 4-no) G.Herbert-no, J.Bird-no, E.Seus-yes, D.Simpson-no, R.Williams-no.

3. Whether the area variances are substantial: (3-yes, 2-no) G.Herbert-no, J.Bird-yes, E.Seus-yes, D.Simpson-no, R.Williams-yes. The requested lot coverage and the setback to the south side yard lot line would be considered substantial when added to what is already existing.

4. Whether the proposed variances will have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district: (0-yes, 5-no).

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

A motion was made by E.Seus and seconded by J.Bird to deny this application as requested based on the reasons that the lot coverage is over 25% and to keep the south side yard setback as it is without further encroachment. In addition, that anything past the high water mark would be ruled on by the DEC.

The motion was carried with a poll of the board as follows: R.Williams-deny, D.Simpson-deny, J.Bird-deny, G.Herbert-deny, E.Seus-deny.

Application #1010 for Maribeth Lambert owning property at 4341 East Bluff Dr. requesting Area Variances for property between Lake Ave. and Keuka Lake for removing existing lower landing and lower staircase then add new 9 ft. by 35 ft. deck with new staircase. The new deck will extend farther to the south along the west (rear) property line than the former deck did, and the new stairs will come closer to the front (high water) yard property line than the former set of stairs.

Myron White representing White's Construction and the contractor for Ms. Lambert was present to answer questions for the board.

There was a brief discussion about the lot, keeping the existing trees, not disturbing the bank and the only holes that will be dug will be for the support posts for the new deck. There is no issue with side yard set-backs. This property is located in the R2 zone which requires a 30 ft. front yard set-back and a 20 ft. rear yard setback.

Mr. White stated that he had met with the Highway Superintendent and Lake Avenue is 30 ft. wide. Therefore if measured from the center of Lake Ave. the highway taking is 15 ft. to the edge of the property line. It was noted when he met with the Highway Superintendent that a portion of the deck would be in the Town Right-of-Way but that it would be far enough off of the traveled portion of the highway as to not hinder routine highway maintenance or traffic.

A letter from the Highway Superintendent submitted to the Zoning Board regarding this application was noted by the board members (copy on file with application) and a copy was given to the Contractor.

It was noted that the requested front yard variance would be 15 ft. from the proposed new set of stairs to the high-water mark as shown on the survey map. A portion of the new deck would be at the rear yard lot line at its closest point.

The area variance test questions were read with the following results:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance: (0=yes, 5-no).
2. Whether the benefit to the applicant can be achieved by some other feasible method than an area variance: (1=yes, 4=no). G.Herbert-no, J.Bird-no, E.Seus-no, D.Simpson=yes, R.Williams-no.
3. Whether the area variance is substantial: (0=yes, 5-no).
4. Whether the proposed variance will have an adverse effect or impact the physical or environmental conditions of the neighborhood or district: (0=yes, 5-no).
5. Whether the alleged difficulty is self-created: (5=yes, 0=no).

A motion was made by J.Bird and seconded by G.Herbert to grant the application as follows that the new structure should come no closer to the (front yard lot line which is the high-water mark) than 15 ft. which is a 15 ft. variance and that the structure is at the rear yard lot line with no rear yard setback. The applicant must also adhere to the requirements as stated in the letter submitted by the Highway Superintendent regarding this application and dated 9/27/2012.

The board members were in unanimous agreement that this was a SEQR Type II action.

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

#### OTHER BUSINESS:

Town Board Member Pat Killen was present and asked Zoning Board Members if there was anything they as a board needed or wished to discuss.

The subject of training in-house came up and Chairman G.Herbert mentioned that two months ago, when there were no applications to review, he and the other board members had taken time to review the R1 portion of the Zoning Code with the two new alternate members and discussed the interpretation of this portion of the code. It was very informative and had been a good refresher for all of the board members.

Chairman G. Herbert asked if the Town Board would look into the possibility of this type of review being considered as part of the training needed by the Zoning Board members and to consider whether this could be counted as part of the credit hours needed for continuing education.

Town Bd. P.Killen stated that he would look into this for them. It was noted that this type of hands on review and training is much more useful since it deals with our own ordinance and our own Town.

There was some discussion as well about the need to continue reviewing the Zoning Code updating the parts that have not been done in a while. The Zone that has been reviewed and updated the most is the R1 zone. The other Zoned areas need to be reviewed as well.

There being no further business, a motion was made by J.Bird and seconded by G.Herbert to adjourn the meeting. The motion was carried unanimously (5-yes, 0-no). The meeting was adjourned at 8:10 PM.

Respectfully submitted,  
Elaine Nesbit/Secretary