

Approved

TOWN OF JERUSALEM  
ZONING BOARD OF APPEALS

December 10<sup>th</sup>, 2020

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Thursday, December 10<sup>th</sup>, 2020 at 7 pm by Vice-Chairman Rodgers Williams.

The meeting opened with everyone standing for the pledge to the Flag.

Roll Call:	Glenn Herbert	Excused
	Rodgers Williams	Present
	Earl Makatura	Present
	Joe Chiaverini	Present
	Lynn Overgaard	Excused
Alternate	Jim Bird	Present
Alternate	Steve Schmidt	Present

Others present included: Mr. & Mrs. Lester Hoover, Eric Martin, James Zimmerman, Roxanne Lindon, David Clements, Bill Grove/Engineer and Daryl Jones/Town Board.

A motion was made by J. Bird and seconded by S. Schmidt to approve the November Zoning Board minutes as written. The motion was carried unanimously.

COMMUNICATIONS: An email was sent to the board members from a neighbor in support of application #1185 (copy on file with application).

AREA VARIANC/SPECIAL USE REVIEW:

OLD BUSINESS:

Application #1182 for Lester & Linda Hoover owning property at 2792 Keech Rd., Branchport, NY requesting a Special Use Permit for a small retail service business to operate a small bulk-food store out of their home. Mr. & Mrs. Hoover were present, once again to answer any questions for board members. The public hearing for this application was held at the November Zoning Board meeting with no one present from the neighborhood to speak to this application.

The submitted narrative and plans from the Hoovers explained about their business (copy on file) and they noted in their paperwork that they had also obtained a 'home-processor' license from NYS State.

The Hoovers stated that they would be open Monday thru Saturday and that their hours would be accommodating for the people.

The Jerusalem Planning Board approved the Site Plan for this business at their December 3<sup>rd</sup>, 2020 meeting. The SEQR documentation was also reviewed with a determination that the proposed action would not result in any significant adverse environmental impacts.

There being no further questions or discussion, a motion was made by J. Bird and seconded by S. Schmidt to grant the Special Use Permit as requested. The motion was carried with a poll of the board as follows: J. Chiaverini-grant, R. Williams-grant, E. Makatura-grant, S. Schmidt-grant, J. Bird-grant.

Application #1183 for Eric Martin owning property at 4288 Friend Rd., Penn Yan, NY requesting a Special Use Permit to operate a dog kennel facility at this location. Mr. Martin was present to answer questions for board members. The public hearing for this application was held at the November Zoning Board meeting. There were several neighbors in attendance and voiced their concerns regarding this special use. It was noted by the Zoning Board that Mr. Martin was not asking for more than 8 breeding females which is allowed by the zoning code as the kennel law was amended this year. It was also noted that the amended law had been worked on for almost two years with a lot of give and take from those for and against it to come to a compromise that would be acceptable to both sides.

Mr. Martin stated that after the November meeting he had met with two of his neighbors and had favorable talks with them regarding issues that they had concerns with and he feels that they are now on good terms with one another.

The County had reviewed this application and sent it back to the local boards for them to take action determining that there would be no significant County-wide or inter-municipal impact.

The Jerusalem Planning Board approved the site plan at their December 3<sup>rd</sup>, 2020 meeting. They also reviewed the SEQR and determined that there would be no significant adverse environmental impacts based on the information provided and the supporting documentation.

There being no other questions, and no other concerns from the board, a motion was made by R. Williams and seconded by J. Bird to grant the Special Use Permit as requested. The motion was carried with a poll of the board as follows: J. Chiaverini-grant, S. Schmidt-grant, E. Makatura-grant, J. Bird-grant, R. Williams-grant.

Board member J. Bird commended Mr. Martin on how he presented his application and his willingness to work with his neighbors to meet with them and talk with them about the concerns that they had.

#### NEW BUSINESS:

Application #1184 for James Zimmerman for property at 2293 Friend Rd., Penn Yan, NY requesting a Special Use Permit to move his existing woodworking shop which is presently located at 2026 Ingram Rd., Penn Yan, NY to 2293 Friend Rd. This property is located in the Agricultural Residential Zone.

Mr. Zimmerman was present to answer questions for board members regarding his application. It was noted in the paperwork submitted with his application that his woodworking business on Ingram Rd. was started in 2010 under a Special Use Permit. His request is to move his business from Ingram Rd. to Friend Rd. It will be the same business at Friend Rd. as he was doing at Ingram Rd.

Mr. Zimmerman stated that he basically deals with the customer or a contractor who wants custom furniture made for a particular job. Mr. Zimmerman stated that they mostly make kitchen cabinets and most of the customers they have come by 'word of mouth'.

Mr. Zimmerman stated that his brother would be taking over the business at 2026 Ingram Rd. doing the same thing that he was doing there. The Special Use at Ingram Rd. continues with the property as long as the business remains the same.

The County had reviewed this application and sent it back to the local boards for them to take action determining that there would be no significant County-wide or inter-municipal impact.

Mr. Zimmerman had been to the Jerusalem Planning Board and would be going back in January for Final Site Plan review and he stated that the only thing they were looking for was a better picture of his parking lot with the location of where the lighting would be for his parking lot.

There being no more questions and no one present to speak to this application a motion was made by E. Makatura and seconded by J. Bird to close the public hearing. The motion was carried unanimously.

Vice-Chairman R. Williams noted that the board would not take action on this application until their January Zoning Board meeting. Mr. Zimmerman thanked the board and stated that he would return for the January meeting.

Application #1185 for David Clements for property at 7182 West Bluff Dr. requesting an Area Variance to construct a 22 ft. by 24 ft. storage building with setback from the center of the road to be at 24.75 where 44.75 ft. is required for this property which is located in the (R1) Lake Residential Zone on the portion of the property that is located between the road and the lake.

Mr. Clements was present to answer questions for board members and explain about his requested area variance. Bill Grove, Engineer for Mr. Clements was also present to help answer questions regarding this application.

Mr. Clements explained why the request was being made for the storage building to be placed on the west side of West Bluff Dr. rather than on the east side of the road. He explained about the power lines as well as the very steep slope that would not lend itself to working out very well for putting a building on that side of the road.

The existing house has some work that needs to be done on it and currently has had a Certificate of Non-conformance issued by the CEO. The work that is to be done will remove anything that is currently in the road right-of-way and will be placed west of the road right-of-way line.

The proposed storage shed which is being requested would be built down over the bank and the plan is to also include a retaining wall since the bank has some erosion problems and the retaining wall will help with stabilizing this area of the bank.

Board member J. Bird stated that they had requests from the highway superintendent to not grant area variances to come closer than 35 ft. as measured from the center of the traveled way.

Questions were raised about moving the storage building closer to the high-water mark. There was discussion among the board members that they would prefer the building to move to the west toward the lake rather than be so close to the road. It was noted that the closer that the building gets moved to the west the taller the building will become and there might be need for a height variance since accessory structures on the lakeside are allowed to be 15 ft. in height and this could become more like 20 ft. in height. It was discussed, however, that due to its location, the 20 ft. height should not be an issue because it would set so far down that much of the building would not be visible from the road.

Engineer B. Groves then brought up the fact that it was his opinion that the reason for the 35 ft. setback request from the highway superintendent had more to do with garages and a turn-around place for vehicles so that they would not be backing out into the highway, than for any other reason.

The application for this storage building will not even have any turn around issues since it will not be used as a typical garage for vehicles.

Town Bd. Member D. Jones noted for the Zoning Board members that the Town Attorney has stated that nothing is to be granted in the Town Highway Right-of-Way.

Eng. B. Groves asked if the board members would consider a setback of 30 ft. from the center of the traveled way. This would allow the retaining wall to be built as planned to help with the bank erosion and stabilization as well as allowing for the storage building to be built with one area variance request.

If the applicant has to re-consider the location of the building and move closer to the high-water mark, then there has to be consideration for a front yard area variance from the high-water mark and a height variance due to moving the building forward. Does the applicant have to re-apply?

The consensus of the board was that the applicant would present the change of location for his building and would need to re-notify the neighbors since the requested area variances have changed.

Engineer B. Groves asked if the Town Highway Superintendent did not have an issue with the 30 ft. from the center of the traveled way since this is not a garage with any vehicles going in or out of it would his client need to re-apply? Board members stated that they would want to see something in writing from the highway superintendent whether an email or on paper that would state no concerns.

It was therefore discussed and decided for the applicant to wait and see what the highway superintendent had to say before making any changes. Engineer B. Groves stated that he would get in touch with Mr. Hurd regarding this matter.

A motion was made by J. Bird seconded by E. Makatura to table taking any action on this application until the January Zoning Board meeting. The motion was carried with a poll of the board as follows: J. Chiaverini-table, R. Williams-table, S. Schmidt-table, E. Makatura-table, J. Bird-table.

December 10<sup>th</sup>, 2020  
Zoning Board Minutes

**OTHER BUSINESS:**

New local law proposed as Local Law No. C for 2020 coming up for Public Hearing at December Town Board meeting.

Board members received a copy of the proposed local law that would be coming up for public hearing at the December Town Board meeting. This local law is to amend the Zoning Code with regards to the public notices that go in the paper for the Zoning Applications to ensure that the relief requested is given in specific detail to inform the public of the actual relief, if granted. (Copy of proposed may be obtained from the Town Clerk).

There was a brief discussion about other agencies whether interested or involved with regards to applications before the Zoning Board and it was suggested that applicants should be provided with a checklist of any other interested or involved agency that might be impacted by the application being requested and the applicant should get something in writing or email that if there are any concerns from any agencies they should be made known as part of the submitted application.

In an additional matter, J. Bird suggested that there are many times that the zoning board would like to have CEO Zac DeVoe at their meetings since there are many things that come up that he would be there to explain and give insight to certain matters that the board may have in front of them. Town Board member D. Jones stated that if the board feels that they need the Code Officer at a Zoning Board meeting, they should ask him to be there.

Regarding the re-organization for 2021, this was put on hold until January. Current Chairman, Glenn Herbert, will be stepping down as Chairman but will stay on as a board member for now.

There being no further business, a motion was made by R. Williams and seconded by S. Schmidt to adjourn the meeting. The motion was carried unanimously and the meeting was adjourned.

Respectfully submitted,  
Elaine Nesbit/Zoning Secretary