

TOWN OF JERUSALEM
ZONING BOARD OF APPEALS

July 9th, 2020

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called together on Thursday, July 9th^h, 2020 at 6:35 P.M. by Chairman Glenn Herbert. The meeting took place at the Branchport/KP Firehouse located at 3686 Rte 54A, Branchport, NY in order to follow the social distancing guidelines as directed by the State due to Covid-19.

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

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

Others present included: Daryl Jones/Town Board, Kevin Munt, Michelle & Scott Hall, Bill Groves (Grove Engineering), Joe & Laura Manning and Donna Gridley.

A motion was made by R. Williams and seconded by J. Chiaverini to approve the March minutes as written.

There were no Zoning Board meetings during the months of April, May and June due to the Covid-19 restrictions and following the NYS guidelines regarding the holding of public hearings.

COMMUNICATIONS:

There were no communications.

AREA VARIANCE/SPECIAL USE REVIEW:

Application #1167 for Kevin Munt for property at 3399 State Rte 54A, Keuka Park, NY requesting an Area Variance to build a 40 ft. by 60 ft. pole barn with metal siding to be used as a storage barn. No water or sewer, no electric, a couple of doors on one end, just basically a cold storage building for housing an RV, his boats, his work vehicles and other small items. The doors on the north end of the pole barn will line up with the driveway for access proposed to be on the north side of the property. The area variance request is for the pole barn to be built with no front yard setback from the highway right-of-way line. The required setback for this pole barn located in the scenic overlay district would be 1/3 of the lot depth where the lot is less than 180 ft. wide or a setback of 60 ft. if the lot is greater than 180 ft. This lot happens to be just over 200 ft. at the south end and just over 103 ft. at the north end.

The other issue with this lot is a set of power lines that cut the lot almost in half and there is a requirement of NYSEG that the building should be 10 to 15 ft. from the power lines.

This also prohibits moving the proposed building into a more favorable location to allow for some setback from the highway right-of-way line.

The County Planning Board had reviewed this application back in April noting that the circumstance appears to be unique and of no County-wide impact. The Town shall consider options in reducing the requested area variance wherever practicable.

The Jerusalem Planning Board reviewed the Site Plan application and the Seqr for this project. Upon review of the information given for the seqr, it was determined that the proposed action would not result in any significant adverse environmental impacts. The site plan was approved subject to the applicant showing the driveway for access to the proposed barn, the color of the barn, and showing where the rain runoff from the roof area would be directed. D. Gridley was present stating that several of the Planning Board members got kicked out of the Planning Board "Zoom" meeting and were not able to get back in and therefore she did not know if the site plan issues had been resolved.

Zoning Secretary stated that she had received an email from Chairman Cutler stating that the Site Plan had been approved subject to three pieces of information which the applicant has provided and the zoning board had received copies with a copy on file.

The information from the applicant showed the driveway for access on the north side of the building going out towards Rte 54A in a diagonal direction. The barn color is to be grey with a black roof. The runoff of rain from the roof would be going from the gutters onto splash blocks.

Since the applicant's property lies slightly lower than the road, it was asked how much of the building would actually be visible from the road and Mr. Munt noted approximately 10 ft. It was also asked if the applicant would be willing to reduce the size of his pole barn to 35 ft. in width and move it 5 ft. closer to the power lines which would then result in a 10 ft. setback from the highway right-of-way line. Mr. Munt said he could do that.

Based on these agreeable changes the area variance test questions were read and reviewed 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: (4-no, 1-yes) G. Herbert-no, R. Williams-no, J. Chiaverini-no, L. Overgaard-no, J. Bird-yes.

2)Whether the benefit sought by the applicant can be achieved by some other feasible method than an area variance: (5-no, 0-yes).

3)Whether the requested area variance is substantial: (0-no, 5-yes).

4)Whether the proposed area variance will have an adverse effect or impact on the physical or environmental condition of the neighborhood or district: (4-no, 1-yes). G. Herbert-no, R. Williams-no, J. Chiaverini-no, L. Overgaard-no, J. Bird-yes.

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

A motion was made by R. Williams and seconded by G. Herbert to close the public hearing for this application. The motion was carried unanimously.

R. Williams made a motion to approve this revised application with the proposed pole barn at 35 ft. wide by 60 ft. long and moving the proposed site to being 10 ft. from the overhead power lines resulting in a 10 ft. front yard setback from the highway right-of-way line. The motion was seconded by J. Chiaverini and carried with a poll of the board as follows: L. Overgaard-grant, G. Herbert-grant, J. Bird-deney, because he is not sure the Planning Board issues have been resolved and he would like to see something (trees, arborvitae, or some type of vegetation) between the proposed barn and the road. J. Chiaverini-grant, R. Williams-grant stating that he realizes this is a substantial variance but feels that it is the minimum that can be granted to give the property owner relief due to the odd shape of the lot, the location of the overhead power lines and the highway taking in this particular area.

This motion is subject to the Planning Board requests regarding color of the barn, driveway access and rain water runoff.

In granting this area variance the board finds that the strict application of this chapter would deprive the applicant of reasonable use of the land and is the minimal variance that will accomplish this purpose. This variance will not be injurious to the neighborhood nor alter the essential character of this location.

Application #1169 for Scott Hall for property at 5299 East Bluff Dr., Penn Yan, requesting an Area Variance for a new retaining wall on the south side of their new home which needed to be built higher than first was anticipated when the 1st area variance was applied for a few months ago for the retaining wall on the north side of the property. This property had also received steep slopes approval several months ago from the Planning Board for the new retaining wall at this location.

Mr. & Mrs. Scott were present to review their request with the board and brought pictures of the project (copy on file) for the board members to review. Some members who had visited the site spoke in favor of the project and noted that it was a very commendable way to help hold and retain the bank having close proximity to the lake.

It was noted by Mr. Hall that the proposed retaining wall will be approximately 9 ft. tall near the house and then will begin to taper off like stair steps as it goes towards the south side yard property line. The wall stops at 5 ft. from the property line but still requires a variance since it is about 6 ft. high where it stops. The area behind the wall will be tapered off and planted with some type of vegetation such as crown vetch to hold and retain the soil in this location.

The area variance questions were read and reviewed 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: (5-no, 0-yes).

2)Whether the benefit sought by the applicant can be achieved by some other feasible method than area variance: (5-no, 0-yes).

3)Whether the requested area variance is substantial: (5-no, 0-yes).

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

5)Whether the alleged difficulty was self-created: (1-no, 4-yes), G. Herbert-yes, R. Williams-yes, J. Chiaverini-yes, L. Overgaard-yes, J. Bird-no.

A motion was made by G. Herbert and seconded by J. Bird to close the public hearing. The motion was carried unanimously.

There being no further discussion, a motion was made by G. Herbert and seconded by J. Bird to approve the application as requested for a five ft. setback from the south side yard property line for the new retaining wall.

The board was in unanimous agreement that this was a Seqr Type II action.

The motion was carried with a poll of the board as follows: R. Williams-grant, J. Chiaverini-grant, L. Overgaard-grant, J. Bird-grant, G. Herbert-grant.

In granting this area variance the board finds that the strict application of this chapter would deprive the applicant of reasonable use of the land and is the minimal variance that will accomplish this purpose. This variance will not be injurious to the neighborhood nor alter the essential character of this location.

Application #1170 for Brian and Nancy Hanley owning property at 6389 East Bluff Dr., Penn Yan requesting an area variance to remove an existing cottage and replacing it with a new single-family home on a full basement.

Bill Groves of Grove Engineering was present, representing Mr. & Mrs. Hanley, to answer questions for board members about this application. Mr. Groves gave a brief summary of the proposed project noting that the new cottage was placed at a slight angle on the property to match up with the shoreline rather than lining up with the property lines.

There was a question about lot coverage which was already taken into consideration by the engineer and proposed coverage is at 16.8% where 20% is allowed.

The question came up about rotating the house location so that it would have a greater setback from the north side yard property line than the 4.7 ft. at its closest point. There was general discussion about how close to the lot line was acceptable and it was finally agreed that if the house as measured from the overhang was a minimum of 6 ft. that was more acceptable than the 4.7 ft. The landing with the stairs was not as critical as the house itself and could be closer.

It was noted that this application was reviewed by the Planning Board for Steep Slopes and had been approved pending the approval of the area variance. Planning Board's determination of the Seqr based on the information submitted was that the proposed action would not result in any significant adverse environmental impacts.

The area variance questions were read and reviewed 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: (5-no, 0-yes).

2)Whether the benefit sought by the applicant can be achieved by some other feasible method than area variances: (0-no, 5-yes).

3)Whether the requested area variances are substantial: (4-no, 1-yes). G. Herbert-no, R. Williams-yes, J. Chiaverini-no, L. Overgaard-no, J. Bird-no.

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

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

A motion was made by G. Herbert and seconded by J. Bird to close the public hearing. The motion was carried unanimously.

A motion was made by R. Williams to grant an area variance for application #1170 for the house to come no closer to the northwest property line than 6 ft. as measured from the roof overhang and that the landing part of the stairs come no closer than 4.8 ft. to the north property line. The motion was seconded by G. Herbert and carried with a poll of the board as follows: J. Bird-grant, J. Chiaverini-grant, L. Overgaard-grant, G. Herbert-grant, R. Williams-grant.

In granting this area variance the board finds that the strict application of this chapter would deprive the applicant of reasonable use of the land and is the minimal variance that will accomplish this purpose. This variance will not be injurious to the neighborhood nor alter the essential character of this location.

Application #1171 for Joseph and Laura Manning for property at 3169 West Lake Rd., Penn Yan requesting Area Variances for the construction of a retaining wall to stabilize the bank and provide better shoreline access.

Bill Groves of Grove Engineering was present representing Mr. & Mrs. Manning, who were also present, to answer questions for board members.

Mr. Groves explained about the need for the proposed retaining wall and the deteriorating wooden wall that it was replacing. He also noted that a similar wall had been built at a neighboring property and had turned out very well.

The materials being used for this project are often used for break-walls and withstand the elements very well.

The requested area variances were 7.6 ft. from the north side yard property line, 7.2 ft. from the south side yard property line and 2.6 ft. from the high-water mark or front yard property line.

The area variance questions were read and reviewed 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: (5-no, 0-yes).

2)Whether the benefit sought by the applicant can be achieved by some other feasible method than area variances: (5-no, 0-yes).

3)Whether the requested area variances are substantial: (3-no, 2-yes). G. Herbert-no, R. Williams-yes, J. Chiaverini-no, L. Overgaard-yes, J. Bird-no, because it's a wall not a structure.

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

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

Mr. & Mrs. Manning had two signed letters of support from adjacent neighbors who had no concerns for this proposed project (copies on file with application).

A motion was made by G. Herbert and seconded by J. Bird to close the public hearing. The motion was carried unanimously.

G. Herbert made a motion which was seconded by J. Bird to grant the area variance application as applied for allowing the proposed retaining wall to be 7.2 ft. from the south side yard property line, 7.6 ft. from the north side yard property line and 2.6 ft. from the high-water mark.

The motion was carried with a poll of the board as follows: L. Overgaard-grant, J. Chiaverini-grant, R. Williams-grant, J. Bird-grant, G. Herbert-grant.

In granting this area variance the board finds that the strict application of this chapter would deprive the applicant of reasonable use of the land and is the minimal variance that will accomplish this purpose. This variance will not be injurious to the neighborhood nor alter the essential character of this location.

OTHER BUSINESS:

There was a brief discussion regarding the August Zoning Board meeting. There are currently three applications that are on the agenda and board members were in agreement that they could meet back at the Town Offices to have their meeting.

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Alternate board member Steve Schmidt was present, and board members expressed thanks to him and as a member of the Branchport/Keuka Park Fire Department for the use of the firehouse for the Zoning Board meeting.

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

Respectfully submitted,
Elaine Nesbit/Zoning Secretary