

TOWN OF JERUSALEM
ZONING BOARD OF APPEALS

August 13th, 2020

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Thursday, August 13th, 2020 by Chairman Glenn Herbert at 7 pm. The meeting was held at the Jerusalem Town Offices at 3816 Italy Hill Rd., Branchport, NY. Social Distancing guidelines were followed and face masks were used in accordance with NYS Governor’s recommendations.

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

Roll Call:	Glenn Herbert	Present
	Rodgers Williams	Present
	Earl Makatura	Present
	Joe Chiaverini	Present
See (9/10/20)min	<u>Lynn Overgaard</u>	Present
Alternate	Jim Bird	Present
Alternate	Steve Schmidt	Present

Others present included: Daryl Jones/Town Bd., Tim Pease, Rich Vega, Richard & Dianna Dever, Robert & Margaret Lorenzetti, and Dan Long, RA.

A motion was made by L. Overgaard and seconded by R. Williams to approve the July Zoning Board minutes as written. The motion was carried unanimously.

COMMUNICATIONS:

There was an email from Rick Ayers (Yates County Soil & Water) regarding Application #1174 (copy of email on file with application).

There was an email from Tim Cutler, Planning Board Chairman, that the Planning Board had approved the Steep Slopes Application #06-2020 and a negative declaration had been determined for the SEQR review (copies on file with application).

SPECIAL USE/AREA VARIANCE REVIEW:

Application #1172 for Timothy and Marcia Pease for property at 3463 Brandy Bay, Penn Yan, requesting an Area Variance to remove the existing house and replace it with a new home with the placement of the new home to be closer to the west side-yard lot line than the existing home. The new home would be 5 ft. from the side yard lot line from the house wall and 4 ft. from the lot line as measured from the roof overhang. This property is located in the Lake-Residential Zone.

Mr. Pease was present to explain the reason for moving the home closer to the side yard lot line than the existing home so as not to have to move the grinder pump and he also noted that they wanted to build a patio on the east side of the proposed home in the area that would provide them some privacy.

The neighbor to the west was present and stated that he did not have any concerns with this application.

Mr. Pease also stated that he wanted to stay away from the ditch area which would involve a steep slopes disturbance if he were to move closer to that area.

Board members stated prior to reviewing the area variance test questions that they would like to see the proposed house a minimum of 6 ft. from the west property line with a 5 ft. setback from roof overhang.

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: (5-no, 0-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: (4-no, 1-yes) G. Herbert-no, R. Williams-yes, E. Makatura-no, J. Chiaverini-no, L. Overgaard-no.

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: (5-yes, 0-no).

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

A motion was made by E. Makatura and seconded by G. Herbert to grant an area variance for the proposed new home to be no closer than 6 ft. to the southwest side yard property line as measured from the wall of the house and no closer than 5 ft. to the southwest side yard property line as measured from the roof overhang.

The motion was carried with a poll of the board as follows: J. Chiaverini-grant, R. Williams-grant, L. Overgaard-grant, G. Herbert-grant, E.Makatura-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 #1173 for Richard and Dianna Dever for property at 3732 State Rte 54A, Branchport requesting an Area Variance for placement of a storage shed with less setback from the rear yard property line than zoning requires. This property is located in the General Business Zone.

Mr. & Mrs. Dever were present to discuss their requested variance application.

It was noted by board members that the required setback for an accessory building at this location is 30 ft. and Mr. Dever was asking for a 5 ft. area variance to be 25 ft. from the rear yard property line.

Mr. Dever also noted for the board that the 8 ft. by 12 ft. storage building was not going to be on a permanent base but it was going to be on skids, a moveable building.

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: (5-no, 0-yes).

2) Whether the benefit sought by the applicant can be achieved by some other feasible method than an area variance: (3-no, 2-yes). G. Herbert-no, R. Williams-no, E. Makatura-yes, the building could be moved to a location closer to the front of the lot; J. Chiaverini-yes, L. Overgaard-no.

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: (5-yes, 0-no).

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

A motion was made by L. Overgaard and seconded by G. Herbert to grant the area variance to allow the storage building to be placed no closer than 25 ft. to the rear yard lot line.

The motion was carried with a poll of the board as follows: R. Williams-grant, E. Makatura-grant, J. Chiaverini-grant, G. Herbert-grant, L.Overgaard-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 #1174 for Robert and Margaret Lorenzetti for properties at 3539 & 3554 West Bluff Dr., Keuka Park requesting Area Variances to remove an existing cottage and replace with a new home and to build a garage on the east side West Bluff Dr. This property is located in the Lake-Residential Zone.

Mr. & Mrs. Lorenzetti were present along with their architect Dan Long to review their application with board members and to answer questions.

Mr. Long presented the project giving some history and background of the property prior to the Lorenzetti's purchase and then explained the things they would like to do.

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It was noted that the Lorenzetti's attorney had sent a letter to the Zoning Board (copy on file) stating that once the Lorenzettis' had received all the board approvals, their office would proceed with merging the two properties back into one deeded property. The former owner having split the property many years ago, adding a second dwelling to the east side of West Bluff Dr.

It was noted by Mr. Long that the dwelling on the east side of West Bluff Dr. has been removed since the Lorenzetti purchase. The wastewater system that was in place for the dwelling on the upper side of the road has been redesigned and approved by Yates County Soil and Water and will be the system for the new home on the west side of West Bluff Dr.

The area variance requests are in two parts with one request being for the garage on the east side of West Bluff Dr. with less front yard set-back than zoning requires and the other area variance is for the new home to be built on the west side of West Bluff Dr. with less set-back from the rear yard lot line than zoning requires.

The board members would look at these requests as Part A and Part B. Part A being the request for the garage and Part B being the request for the new home.

Part A of Application #1174 regarding the garage which was requesting it to be a 26 ft. by 36 ft. garage to be placed at 32 ft. as measured from the center of the traveled way where 65 ft. is required. It was also noted that this measurement is to the face of the garage and the roof itself is designed so that any runoff from rain, etc. will go towards the rear into the eaves/downspout and into a French drain not onto the road.

A lengthy discussion came about regarding the close proximity to the road and the fact that the road in this particular area is not straight. There is a curve as you come from the south and there is one to the north. The road right-of-way rounded off at 25 ft. leaves only 7 ft. in length in front of the proposed new garage; about the length of a vehicle. Board members felt this was too close.

Mr. Long stated that there was very little room to move back because of the new re-designed wastewater system. On the south side there is not much room as there is a ditch right there. The north side of the property has a very steep bank that Mr. Long stated he was not wanting to disturb due to the erosion and destabilization issues it would cause in trying to excavate into it and then try to re-stabilize it.

A board member asked if the width of the garage could be reduced to 24 ft. wide instead of having it 26 ft. wide. Mr. Lorenzetti was agreeable to changing the proposed garage size from 26 ft. by 36 ft. to 24 ft. by 36 ft.

This would help to give a little more room in the front of the garage for a vehicle coming out of the garage and backing around before driving onto the road.

A copy of the area variance application had been given to the Jerusalem Highway Superintendent.

Board members were then ready to read and review the area variance test questions as follows, based on the reduced size of the garage at 24 ft. wide by 36 ft. long and the area variance request would be 34.75 ft. from the center of the road:

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 an area variance: (4-no, 1-yes). G. Herbert-no, R. Williams-no, because even though the required setback is 65 ft., the wastewater system prevents the proposed location of the garage from being moved back; E. Makatura-no, same reason, J. Chiaverini-no, L. Overgaard-yes

3)Whether the requested area variance is substantial: (2-no, 3-yes) G. Herbert-no, R. Williams-yes, it is a substantial variance but not out of line given the conditions of the property and the location of the wastewater system; E. Makatura-yes, same reason; J. Chiaverini-no, L. Overgaard-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: (5-yes, 0-no).

A motion was made by G. Herbert and seconded by E. Makatura to grant the area variance for Part A of Application #1174 for a 24 ft. wide by 36 ft. long garage on the east side of West Bluff Dr. to come no closer than 34.75 ft. as measured from the garage to the center line of the road.

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

In granting this area variance Part A, 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.

Part B of application #1174 was then discussed and Mr. Long talked about the previous plan to reconstruct the home on the same footprint, however, the highway superintendent was not encouraging this since this would have the home in the highway right-of-way.

The new proposed plan is to move the home out of the road right-of-way to be placed at 25.75 ft. as measured from the center of the road, putting the house 1 ft. out of the road right-of-way.

Mr. Long noted that the plan is to put a foundation under the new home with a drainage system that will help with some of the drainage issues that are present with the current cottage.

He also noted that the proposed foundation and drainage system would help to improve the erosion problems that come from run-off from the road.

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: (5-no, 0-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: (1-no, 4-yes) G. Herbert-yes, R. Williams-yes, E. Makatura-yes, J. Chiaverini-no, L. Overgaard-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: (2-yes, 3-no). L. Overgaard-yes, J. Chiaverini-yes, G. Herbert-no, E. Makatura-no, because the applicant is making the situation better; R. Williams-no, same reason, that the measures taken for erosion control will improve the property.

A motion was made by R. Williams for Part B of application #1174 to grant the area variance for the new home to be no closer than 25.75 ft. from the center of West Bluff Dr. as measured from the center of the road to the house per the submitted plan filed with the application.

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

In granting this area variance Part B, 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:

Board members discussed how many applications that they might have in September. There are two applications that have come in for the September Zoning Board meeting so far.

Chairman G. Herbert asked about getting a copy of the Planning Board minutes when they are ready for distribution.

There was a brief discussion about notification and input being obtained from other departments that are affected by area variance applications. Zoning Secretary noted that copies of applications are distributed to other departments that are affected by the requested area variances. The question was asked about the highway department and the Lorenzetti project.

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The architect had noted that the highway superintendent had met with him regarding the house location last February and that was the reason for the delay and the repositioning of the proposed house location in application #1174. There was no mention of any discussion by the architect with the highway superintendent about the garage location.

The Zoning Board Meeting for September will be on the 10th.

There being no further business for discussion, a motion was made by R. Williams, seconded by E. Makatura to adjourn the meeting and the motion was carried unanimously.

Respectfully submitted,
Elaine Nesbit/Zoning Secretary