

Approved

TOWN OF JERUSALEM  
ZONING BOARD OF APPEALS

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

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Thursday, September 10<sup>th</sup>, 2020 at 7 pm by Chairman Glenn Herbert. Social distancing guidelines were followed where possible 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	Excused
	Earl Makatura	Present
	Joe Chiaverini	Present
	Lynn Overgaard	Present
Alternate	Jim Bird	Present
Alternate	Steve Schmidt	Present

Others present included: Barbara & Nicholas Juskiw, Charles & Barbara Shank, Christian McCloud, Daryl Jones/Town Bd., Wendy Meagher and Ellen Horbachewski of Meagher Engineering.

A motion was made by L. Overgaard and seconded by S. Schmidt to approve the August Zoning Board minutes as corrected. Correction was for last name for board member Lynn Overgaard in the August Roll Call. The motion was carried unanimously.

Alternate Steve Schmidt would be sitting in on the board in place of excused Rodgers Williams.

Communications:

There were no communications.

AREA VARIANCE/SPECIAL USE REVIEW:

Application #1175 for Charles and Barbara Shank for property at 4282 Lake Avenue, Keuka Park requesting an Area Variance to build a 14' by 24' addition onto their existing garage which would not meet the set back to the rear yard property line or the north side yard property line. This property is located in the (R2) Residential-Public Sewer Zone.

Mr. & Mrs. Shank were present along with their contractor Chris McCloud to answer questions for board members. It was noted that the required rear yard setback is 20 ft. and the proposed addition would be 17.2 ft. from the property line as measured from the roof overhang of the proposed addition. The required side yard setback is 10 ft. and the proposed setback from the north property line would be 6.1 ft. measured from the proposed roof overhang.

The submitted paperwork showed an existing shed in the location of the proposed addition and a question was asked if this shed would be relocated on the property and the answer was no, it was going to be removed.

It was also noted that the existing trees will be left as a barrier to other properties that border this one. The property that lies to the north westerly half of the Shanks property and to most of the south of their property is owned by Keuka College.

E. Makatura did not have the paperwork prior to the Zoning Board meeting and did not visit the property so alternate J. Bird replaced him for this application review.

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: (0-no, 5-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: (5-no, 0-yes).

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

The board members were in unanimous agreement that this would be a SEQR type II action.

A motion was made by L. Overgaard and seconded by G. Herbert to grant the variance as requested for the 14 ft. by 24 ft. addition to the garage, that it come no closer than 17.2 ft. to the south rear yard property line and no closer than 6.1 ft. to the north side yard property line. All measurements are taken from the closest part of the building including the roof overhang. In addition, the existing shed at this location is to be removed from the property.

The motion was carried with a poll of the board as follows: J. Chiaverini-grant, S. Schmidt-grant, J. Bird-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 #1176 for Barbara Juskiw for property at 5419 East Bluff Dr. requesting an Area Variance to tear down the existing home and rebuild a new home in the same location with lot coverage being greater than the 20% allowed for property in the (R1) Lake-Residential Zone.

Barbara and Nicholas Juskiw were present along with their engineers, Wendy Meagher and Ellen Horbachewski from Meagher Engineering, to answer questions for board members.

G. Herbert stated that he would recuse himself from the review of this application citing personal interest with this application. Alternate J. Bird and Alternate Steve Schmidt would review this application along with the rest of the regular board members.

L. Overgaard started the review of application #1176 noting that the applicant wanted to tear down the existing house and replace it with a larger home; keep the existing boat house and the existing two story block garage. The requested area variance is for additional lot coverage and the existing lot coverage is already over the allowed 20%.

The current existing lot coverage is at 25.73% and the proposed lot coverage requested would be at 32.76% an increase of 7%. It was noted by Meagher Engineers that the original submitted lot coverage was thought to be at approximately 21.22% lot coverage but then they realized that they had not subtracted out the sq. footage of the road right-of-way. When the re-calculation was done it brought the existing lot coverage to 25.73%.

It was also noted that the property shares a driveway with the adjacent property to the south. The increased lot coverage being requested was considered excessive by the board members.

W. Meagher stated that she understood about the lot coverage being excessive and the coverage of the lot with impervious surfaces and run off from rooflines. She noted that they could provide bio-retention rain gardens along the shoreline to help with storm water run-off.

Board members were still not convinced that even with storm water run-off measures that this was reason to allow for the increased lot coverage.

The code enforcement officer had issued a Certificate of Non-Conformity with the lot coverage at 25.73% (copy on file).

Prior to the reading of the area variance test questions, it was noted that the board members would be answering the questions based on allowing an area variance of what is present lot coverage at 25.73% to include the home being replaced, the boathouse retained and the two-story garage retained.

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: (4-no, 1-yes). E. Makatura-no, because the lot coverage is already existing; J. Chiaverini-no, L. Overgaard-yes, J. Bird-no, S. Schmidt-no.

3) Whether the requested area variance is substantial: (2-no, 3-yes) J. Bird-Yes, S. Schmidt-yes, J. Chiaverini-no, because it is already existing; E. Makatura-no, already existing; 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: (4-no, 1-yes). S. Schmidt-no, E. Makatura-no, J. Chiaverini-no, L. Overgaard-no, J. Bird-yes.

5) Whether the alleged difficulty was self-created: (4-no, 1-yes). E. Makatura-no, because it is pre-existing; J. Chiaverini-no, for the same reason, it is pre-existing; L. Overgaard-yes, J. Bird-no, S. Schmidt-no.

Board members asked if there was an opportunity for the property owners to purchase any additional property around them and they stated that there was not. They own the house and lot to the south of this property and this is one of the largest lots in the area.

Ms. Meagher asked if they might table the application to come back with a revised set of plans for the proposed house that would be in keeping with the existing coverage.

Board members were agreeable to grant an area variance allowing a replacement home that would not exceed the existing lot coverage that lot coverage would also include the boathouse and the garage that the property owners wanted to keep.

A motion was made by E. Makatura and seconded by J. Chiaverini to grant an area variance to allow the lot coverage to not exceed 25.73%. Lot coverage would include the garage, the boathouse, and the replacement home. Engineers are to work with CEO DeVoe regarding the house plans and lot coverage.

The motion was carried with a poll of the board as follows: L. Overgaard—grant, S. Schmidt-grant, J. Bird-grant, J. Chiaverini-grant, E. Makatura-grant.

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

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:

Next Zoning Board meeting will be on October 8<sup>th</sup>, 2020.

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

Respectfully submitted,  
Elaine Nesbit/Zoning Secretary

