

TOWN OF JERUSALEM
ZONING BOARD OF APPEALS

January 14th, 2021

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called together on Thursday, January 14th, 2021 at 7 pm by Vice-Chairman Rodgers Williams.

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

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

Others present included: Chet Tuttle, Jamie Sisson/Town Supervisor, Roxanne & David Clements, Glenn Thornton/Eng., Bill Groves/Eng., Angelo Licciardello, Daryl Jones/Town Bd., CEO Zac DeVoe and Jim Connolly.

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

COMMUNICATIONS:

Email communication regarding Area Variance applications 1186 and 1187 were received by the Zoning Board members (copy on file with applications).

AREA VARIANCE/SPECIAL USE REVIEW:

OLD BUSINESS:

Special Use Application #1184 for James Zimmerman for property at 2293 Friend Rd., Penn Yan, NY requesting a Special Use Permit to put a woodworking shop in the existing 40 ft. by 74 ft. pole barn where he will make custom kitchens and bath per individual orders. Most requested work is word of mouth. Mr. Zimmerman states that he has a few pieces of furniture to show anyone who might like to see his work, and he has done a little work at the request of a contractor for a particular job site.

This property is located in the Agricultural Residential Zone and the public hearing for this application was held at the December 10th, 2020 Zoning Board meeting. All neighbors were properly notified, however there were no neighbors present to speak in regards to this application.

The woodworking business that Mr. Zimmerman started in 2010 under Special Use #967 at his former location at 2026 Ingram Rd. will continue on and his brother will be running the business at this location. The woodworking business at the proposed new location will be operated by Mr. James Zimmerman.

Mr. Zimmerman's Special Use application and Site Plan application was reviewed by the Yates County Planning Board in November and they determined that both the Site Plan and the Special Use applications as presented held no significant County-wide or inter-municipal impact.

The Town of Jerusalem Planning Board reviewed the SEQR for this project and determined that the proposed action would not result in any significant adverse environmental impacts based on the materials submitted.

The Town of Jerusalem Planning Board approved the site plan for this facility at their January 7th, planning board meeting.

In the materials that Mr. Zimmerman provided with his application was a map to show the area that would be used for parking. It was also noted in his submitted material that the only light would be a dawn to dusk light on the side of his shop facing the east.

There being no concerns or questions from the board, a motion was made by R. Williams and seconded by E. Makatura to approve the Special Use Application for Mr. Zimmerman as requested. The motion was carried with a poll of the board as follows: J. Chiaverini-grant, J. Bird-grant, E. Makatura-grant, R. Williams-grant, S. Schmitt-grant.

Application #1185 Amended for David Clements for property at 7182 West Bluff Dr., Keuka Park, NY requesting an area variance to construct a storage building with less setback from the center of the traveled way than zoning requires for a building located in the Lake-Residential (R1) zone. The required setback is 44.75 ft. and the requested area variance is 30 ft. as measured from the center of the traveled way. A front yard area variance is also being requested from the high-water mark of 10 ft. where 15 ft. is required.

This application was tabled from the December Zoning Board meeting. The original application had requested an area variance of 24.75 from the proposed storage building to the center of the traveled way. This request was rejected by the board members. When it was explained that this building would set well below road level and would not be used as a garage and there were plans to build a retaining wall to shore up the bank along side the road, it was suggested that perhaps a note from the Town Highway Superintendent stating that he did not have any issues with a setback of 30 ft. from the center of the traveled way would be helpful for this application as an amended request.

The Engineer for Mr. Clements, Bill Groves, stated that he would get in touch with the Town Highway Superintendent to get a letter regarding this matter. This was done (copy on file with application) and submitted for review along with a revised plan showing the setback of the building to be at 30 ft. from the center of the traveled way. This moved the proposed building closer to the front yard property line and therefore the additional requested variance of 10 ft. from the high water was requested where 15 ft. is required.

Mr. Clements re-sent certified letters to his neighbors for the January Public Hearing, notifying them of the amended changes to his area variance request.

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: (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). The action will actually help shore up the road embankment with the retaining wall.

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

Everyone having been heard and there being no further questions a motion was made by J. Bird and seconded by S. Schmitt to close the public hearing for area variance application #1185. The motion was carried unanimously.

A motion was made by J. Bird and seconded by S. Schmitt to approve the area variance as requested with the rear yard setback for the proposed building to be no closer than 30 ft. as measured from the center of the traveled way to the closest part of the building including the roof overhang. That the building be no closer than 10 ft. to the highwater mark as measured to the closest part of the building including the roof overhang for the front yard setback.

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: J. Chiaverini-grant, J. Bird-grant, E. Makatura-grant, R. Williams-grant, S. Schmitt-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 #1186 for Angelo Licciardello for property at 8255 East Bluff Dr. requesting Area Variances to construct retaining walls and stairs to support the proposed single-family residence at 8271 East Bluff Dr., with the requested variances being on the portion of the lot located between the road and the lake as follows: the west wall structure requested to be 26.39 ft. from the center of the traveled way where 44.75 ft. is required for the rear yard setback; the east wall structure requested to be 0 ft. from the south side yard property line where 10 ft. is required and the stairs for access requested to be 0 ft. from the south side yard property line where 10 ft. is required. This lot is located in the (R1) Lake-Residential Zone.

Application #1187 for Angelo Licciardello for property at 8271 East Bluff Dr. requesting Area Variances to construct a single-family home with supporting retaining walls requesting the west retaining wall to be 33.55 from the center of the traveled way where 44.75 ft. is required for the rear yard setback. The east retaining wall to be 0 ft. from the north side yard property line where 10 ft. is required; the proposed deck on the front of the new home to be 7.74 ft. from the north side yard property line where 10 ft. is required and for the deck to be 1 ft. from the high-water mark where 15 ft. is required. This portion of the lot is located between the road and the lake in the (R1) Lake-Residential Zone.

Mr. Glenn Thornton, P.E. of Thornton Engineering, was present, representing Mr. Licciardello, who was also present. Mr. Thornton gave the board a brief overview of the proposed project reviewing the requested area variances from both applications since they are both from Mr. Licciardello.

There was a lengthy discussion about the proposed private road that would be serving both properties and it was noted that the approval for the private road lies with the Jerusalem Planning Board and the Town Board.

Board members discussed the number of area variances being requested for both applications and noted that there were a large number of variances being requested. Mr. Thornton explained that the retaining walls would normally not require area variances, however, due to the steepness of the bank in this area and the need to have these walls in place to uphold the integrity of the embankment once the tree stumps are removed there are portion of these walls that will be 4 ft. or higher and these require building permits. Therefore, they must meet the required zoning setbacks or request an area variance.

The concern of the board members was the fact that these retaining walls cross property lines and even though they are owned by the same owner at this time, it may not always be this way and if there is an issue with one of the walls, whose responsibility is it going to be for repair or replacement and what affect will that have on the adjoining property. In addition, the request for a set of stairs to cross the property lines to give access to the shoreline was not looked upon favorably when there is the ability for each lot to have its own set of stairs for access.

Board members were in agreement that the application #1187 which was requesting area variances for not only the retaining walls and stairs but also for the new house was asking for too much on this particular lot. It was too busy, too much going on for the size of the lot. It was suggested that perhaps a smaller residence would fit in much better on the lot and fit in better with the surrounding area.

The Engineer stated that he was hearing what the board members were saying and was suggesting that no decision be made for these two applications at this time. His suggestion was to table the applications so that he and Mr. Licciardello could go back to the drawing board and make some changes to their proposal that would be more suitable and acceptable to the board.

It was noted that if the private road is to be part of these applications, then that should be the first thing to be reviewed for approval. CEO Zac DeVoe was present at the meeting and noted that this would come under the 280 A law for "Open Development" and be reviewed by the Town Board and the Town Planning Board using the private road specifications from Chapter 93, Article II of the Municipal Code.

These applications will also require Steep Slopes approval. CEO DeVoe stated that the Town might need to seek some guidance as to how to proceed with these applications with regards to the private road and the steep slopes review. Should they be reviewed together, i.e. steep slopes and the private road?

It was agreeable by the Zoning Board members and Engineer Thornton to table any further review of these applications and he would go back with the applicant, Mr. Licciardello, and they would make some adjustments to the proposed plans.

A motion was made by E. Makatura and seconded by S. Schmidt to table application #1186 a second motion was made by J. Chiaverini and seconded by R. Williams to table application #1187. The motions to table were both carried with a poll of the board as follows: E. Makatura-table, J. Bird-table, R. Williams-table, J. Chiaverini-table, S. Schmidt-table.

OTHER BUSINESS:

It was noted that Glenn Herbert was stepping down as Chairman of the Zoning Board but would remain as an acting member on the board.

For purposes of re-organization for 2021 a motion was made by J. Bird that Rodgers Williams be the Zoning Board Chairman and Earl Makatura be the Vice-Chairman. The motion was seconded by S. Schmidt and the motion was carried unanimously.

Zoning Secretary noted that there were at least two applications upcoming for the February zoning board meeting which will be on the 11th.

Respectfully submitted,
Elaine Nesbit/Zoning Secretary