

Approved

TOWN OF JERUSALEM
ZONING BOARD OF APPEALS

November 10th, 2021

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Wednesday, November 10th, 2021 at 7 pm by zoning board member Jim Bird.

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

Roll Call:	Rodgers Williams	Excused
	Earl Makatura	Excused
	Jim Bird	Present
	Lynn Overgaard	Present
Alternate	Steve Schmidt	Present
Alternate	Randy Rhoads	Present

Others present included: John Long/Contractor, Bill Groves/Engineer, Daniel & Elaine Lewis, Nora Morgan and a friend.

A motion was made by S. Schmidt and seconded by R. Rhoads to approve the October Zoning Board minutes as written. Motion was carried unanimously.

COMMUNICATIONS: Zoning Board members received letters of concern from 3 neighbors regarding Application #1203 (copies on file).

AREA VARIANCE/SPECIAL USE:

Application #1203 for Joan Bills for property at 11363 East Bluff Dr. Keuka Park, requesting Area Variances to build a new single-family home with a setback of 8.2 ft from the south side yard property line where 10 ft. is required and a front yard setback of 3.5 ft. from the highwater mark where 15 ft. is required. This property is located in the (R1) Lake-Residential Zone.

John Long/Contractor and Bill Grove/Engineer were present to represent the applicant for the requested area variances. Both Mr. Long and Mr. Grove had received copies of the letters of concern from the neighbors regarding this application.

It was noted by both Mr. Long and Mr. Grove that they were looking at some alterations to accommodate some of the concerns of the neighbors.

One of the concerned neighbors was present and she was most concerned with her part of her lake view being lost and stated that she had lived in her present home for 38 years and it was a year-round home not a cottage.

Engineer Bill Groves stated that he could shift the proposed new home back towards the road and that by shortening up the deck they could eliminate the need for the side yard setback and meet the required 10 ft. side yard setback.

It was noted that the patio on the north side is in a conforming location but Contractor John Long noted that they could curve the patio so that it wouldn't be as obtrusive as if it were the rectangle shape.

The porch can also be shortened up to either 10 ft. or possibly 8 ft. and if the cottage itself is moved back, the lake view from the neighbor's house on the north should be quite close to what it was before.

A question was asked about whether there would be a roof over the porch and it was noted that there would be, but that the board could make a condition that the porch could not be enclosed.

A board member had used a small cut-out of the proposed home to see if it could be rotated. The contractor stated they had to be careful with the house location and rotating it because of the inside layout of the home as well as the location of the septic system. B. Groves, the Engineer and J. Long, the Contractor did agree, however, that there was merit to this proposal and they would try rotating the building about 20° counter clockwise and move it back toward the road to avoid any variances if possible.

Due to the steepness of the bank to the shoreline, and because the 15 ft. setback from the high-water mark is well above the lake in elevation, a slight encroachment would have less impact on the shoreline. The engineer and the contractor agreed that they would only utilize any granted variance if necessary and the building will not be expanded to accommodate the variance.

The contractor and engineer also agreed that the steps from the parking area are currently encroaching on the neighbor's property. They will be removed and new steps will be built from the new shored up parking space.

It was also noted that the existing tree that is in the neighbor's view line is going to be removed and with the modifications to the deck and porch, should help to maintain her view.

In the discussion of the requested area variance to the highwater mark, the engineer and contractor stated that they could work with a 5 ft. area variance and come no closer than 10 ft. to the highwater mark. In addition, they would no longer be asking for an area variance from the south side yard property line.

Based on the revised request for one front yard area variance, 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, 0-Yes)

2) Whether the benefit sought by the applicant can be achieved by some other feasible method than an area variance: (4-Yes, 0-No) J. Bird they could eliminate the porch, or R. Rhoads move the whole house back.

3) Whether the requested area variance is substantial: (4-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: (4-no, 0-yes).

5) Whether the alleged difficulty was self-created: (4-yes, 0-no).

A motion was made by R. Rhoads to grant a five ft. variance for the front yard setback from the high-water mark with the house coming no closer than 10 ft. to the high-water mark as measured from its closest point including the deck and porch.

In addition, any portion of the home including the deck and porch that encroaches the 15 ft. distance to the high-water mark may have a roof covering, but may not be enclosed.

The motion was seconded by J. Bird and carried with a poll of the board as follows: L. Overgaard-grant, S. Schmidt-grant, J. Bird-grant, R. Rhoads-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 minimum variance that will accomplish this purpose. This variance will not be injurious to the neighborhood nor alter the essential character of this location

A second motion was made by J. Bird and seconded by R. Rhoads to deny the area variance request for the 1.8 ft. south side yard variance or a setback of 8.2 ft. from the south side yard property line. The motion was carried with a poll of the board as follows: S. Schmidt-deny, L. Overgaard-deny, R. Rhoads-deny, J. Bird-deny.

Application #1204 for Debaco, LLC/Daniel Lewis for property at 3333 Skyline Dr., Penn Yan requesting a Special Use Permit to operate a Small Retail Service Business (Finger Lakes Power Systems) at this location. This facility will be for the purpose of having generators to be taken to property sites for installation and shall have a building to store the generators, have office space, and a small show room area. Small retail service businesses are an allowed Special Permitted Use subject to Site Plan review by the Planning Board and review of the Special Use application by the Zoning Board. This property is located in the Ag-Residential Zone.

Mr. Lewis was present and described for the board what his business was all about. He also described to the board his plans for the building on Skyline Dr. and how the building would be used. He noted that his employees arrive in the morning load up their trucks and go to the job sites.

Right now, they work 4 ten-hour days (Monday – Thursday) arriving back at the shop between 4 and 6 pm, unload the trucks, park them and go home.

He will have two full time office staff that will be there in the building and two part-time staff personal. Sales Person and Book-keeper would share an office.

Customers coming in will be by appointment only. People walking in are not the normal way the business is operated. Most of the business is done by appointments on site with the homeowners.

Mr. Lewis explained about the proposed site and the proposed location of his building with existing wooded area that hides the building coming from the south and he has plans for pine trees to be planted on the other side. The driveway plan is for a horseshoe type that would be able to accommodate tractor trailers that will come twice a month with generators. He noted that there would also be the smaller box type trucks coming in 2 or 3 times a week with parts.

Mr. Lewis has been working with Colby Petersen for the wastewater system that will be put in. There is already a well on the property. Drainage area for water runoff has been taken into consideration and Mr. Lewis showed the board members his updated site plan with provision of where the runoff will go.

Mr. Lewis has been to the Planning Board for a sketch plan conference and then was at the November Planning Board meeting for Site Plan review. He will be at the December Planning Board meeting for another review of his Site Plan.

Board member J. Bird noted that this type of business is one that could be easily associated with the Agricultural-Residential Zone, especially for dairy farmers, when you think about the electric going out and the importance of having a standby generator to keep the farm in operation.

A question was asked about outside lighting and Mr. Lewis explained that he would have soft soffit lighting that would project in a downward direction. Regarding parking, he noted that there would maybe be a couple of trucks parked out behind the building but they would be mostly hidden from view.

He plans on having only a small sign out in front of the building.

There being no further discussion, a motion was made by J. Bird and seconded by S. Schmidt to grant the Special Use subject to the Planning Board's approval of the Site Plan and the SEQR review.

The motion was carried with a poll of the board as follows: L. Overgaard-grant, R. Rhoads-grant, S. Schmidt-grant, J. Bird-grant.

OTHER BUSINESS:

In other business, a question had come up with one of the engineer groups about extending the time for when an area variance is granted. At the present time, area variances are subject to the Zoning Code Chapter 160, Article XV Section 160-74 which then references Building Permits Article XIV, Section 160-65 F.

Building Permits as well as Area Variances are good for six months to get started/or put into use. A building permit expires in a year unless it is renewed.

The engineer questioning if a change could be made noted that with the Covid-19 issues, increased cost of building materials, long waiting time to get

on a contractor's job list have been very hard to work with and still keep within the time frame for a granted area variance and/or building permit.

In reviewing this matter with the zoning board, it was noted that the zoning board has, in the past, given an extension of time for an area variance upon a written request from the applicant or from his or her agent. This request for an extension should come at least two months ahead of the expiration date of the area variance and the written request should state the reason(s) for the request.

Board members were in agreement that if the request came in writing, at least two months in advance of the expiration date of the area variance, they would consider the request and make a decision about extending the time.

The engineer asking the question was concerned as they have several clients that need to have applications reviewed and do not want to wait too long to keep moving things forward as the winter months go very quickly and then spring construction time starts up again.

Board members had a brief discussion about training requirements and where to go on the internet for online training. There are websites that offer training for board members with 1 to 2 hours of training credits.

Next month's meeting will be on December the 9th.

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

Respectfully submitted,
Elaine Nesbit/Zoning Secretary