

TOWN OF JERUSALEM  
ZONING BOARD OF APPEALS

March 11, 2021

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Thursday, March 11<sup>th</sup>, 2021 at 7 PM by 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	Present
Alternate	Jim Bird	Present
Alternate	Steve Schmidt	Present

Others present included: Mahlon Esh, Daryl Jones/Town Board and Michael Monahan.

A motion was made by E. Makatura and seconded by J. Bird to approve the February Zoning Board minutes as written. The motion was carried unanimously.

COMMUNICATIONS:

Yates County Planning Board determined there to be no significant county-wide or inter-municipal impact from the Special Use proposed by Application #1188 (copy on file with application).

Jerusalem Planning Board approved the Site Plan for Application #1188 at their March 4<sup>th</sup> Planning Board meeting. In addition, based on the material submitted for the SEQ, it was determined that the proposed action would not result in any significant adverse environmental impacts (copies on file with application).

AREA VARIANCE/SPECIAL REVIEW:

Application #1188 for Mahlon Esh of Keystone Custom Decks, potential buyer of vacant land owned by MTS Development, that lies adjacent to 2875 Rte 54A (which is just to the west of this vacant lot) requesting a special use to construct a two-story building 100ft. by 48 ft. wide by 22 ft. high to be used as office space for their employees with additional indoor space for showroom and shop space. This property is located in the Agricultural Residential Zone and the Scenic Overlay District.

Alternate J. Bird recused himself from the review of this application due to being a friend of the owner of the property. Alternate S. Schmidt would take his place for the review of this application.

Chairman Williams briefly reviewed the discussion from the February meeting regarding this application and its proposed location in the Scenic Overlay district. He noted that there were some concerns about the size of his proposed use noting the uses that are specifically prohibited in this overlay district.

He noted that office buildings are an allowed special use and wanted to be clear on exactly what was the intended use for this proposed building.

Mr. Esh noted that the office spaces in the building would not be rented out, it would be used by his employees. The area in the back would be used for the storage of the one small "bobcat" that they use. There would not be any decks built at this location. All decks are built at customer home sites.

One board member did not think this type of business fits the area and felt the building was too big, for the residential area. Another board member did not see how one business could utilize this much office space.

It was noted that office building size is not specified in the code, but it is an allowed special use and needs to meet the criteria of setback from NYS Rte 54A, which it does. It was also noted that the applicant has proposed to do landscaping with some trees and bushes along the sides to further enhance the looks from Rte 54A and to screen the area from the neighbors.

There being no further discussion, a motion was made by R. Williams to grant the Special Use as requested with the following conditions that there will be no outside storage of construction equipment and no storage of building materials at this location.

The motion was seconded by E. Makatura and denied by the following poll of the board: J. Chiaverini-deny, L. Overgaard-deny, S. Schmidt-deny, E. Makatura-grant, R. Williams-grant.

Zoning Secretary thought there was a concern with the vote because of the Yates County Planning Board's determination of no-significance or inter-municipal impact, that there needed to be a majority plus one vote to override Yates County Planning Board recommendation.

It was noted again that office buildings are a special permitted use in the scenic overlay district. Some of the concerns that were being raised by board members concerning this proposed project had already been addressed by the Planning Board under site plan review such as the location for the parking area to be behind the building, the landscaping and planting of trees to provide a buffer and screening from the neighbors' property, the size of the building meets the zoning requirements of the underlying ag-residential zoning district.

Zoning Secretary suggested after reviewing criteria of special use permits and the criteria of the scenic overlay district to have a re-vote. Chairman R. Williams agreed and the board members agreed. The motion was repeated as made by R. Williams and seconded by E. Makatura to grant the Special Use as requested with the conditions that there not be outside storage of construction equipment and no storage of building materials at this location. The motion was again denied by the following poll: J. Chiaverini-deny, S. Schmidt-deny, L. Overgaard-deny, E. Makatura-grant, R. Williams-grant.

Still being unsure regarding the denial of the application with regards to the County Planning Board's recommendation, the request was considered as possibly being approved since there was not a majority plus one vote.

Alternate J. Bird rejoined the board meeting at this time.

Application #1189 for Thomas Sudek as owner of property at 7480 West Bluff Dr., Keuka Park, requesting an Area Variance to replace a 7 ft. by 7 ft. steel storage shed with a 6 ft. by 12 ft. shed with side yard setback to be 2 ft. from the north side yard property line where 10 ft. is required. This property is located in the Lake-Residential Zone.

Mr. Sudek had contacted the Zoning Secretary requesting that the public hearing on his application be tabled until the May 13<sup>th</sup>, zoning board meeting due to health reasons and being in the hospital. He would like to be present to speak on behalf of his area variance request.

A motion was made by J. Bird and seconded by E. Makatura to table the public hearing for application #1189 until the May 13<sup>th</sup> meeting. The motion was carried unanimously.

Application #1190 for Michael Monahan as owner of property at 318 Ritchey Blvd., Penn Yan requesting an area variance to build a 12 ft. by 20 ft. single story garage on a concrete slab with zero setback from the rear yard property line where 20 ft. is required. This property is located in the (R3) Residential-Indian Pines Use District.

Mr. Monahan was present to represent himself and talk about his requested area variance application. Mr. Monahan noted that because the road 'taking' down past his house was quite large that the lot where his home is located is very odd shaped. It does not leave much of any other location for the proposed garage since his wastewater system is located on the south side of his property .

Board members had been out to visit the site to see the proposed location of the garage.

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) It is substantial but the setback from the rear yard property line to the center line of the road is quite a wide distance.

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: (0-yes, 5-no). No, since the front of the property is towards the marsh area and the rear yard is towards the road.

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

There being no further discussion, a motion was made by J. Bird and seconded by L. Overgaard to grant the area variance for the 12 ft. by 20 ft. single story garage as requested with zero distance from the rear yard property line as measured to the roof overhang. This motion is made based on the fact that the distance to the center line from the edge of the road right-of-way is a large distance away . The motion was carried with a poll of the board as follows: J. Chiaverini-grant, E. Makatura-grant, R. Williams-grant, L. Overgaard-grant, J. Bird-grant

**OTHER BUSINESS:**

An email request had been sent in to the Code Enforcement Officer and cc'd to the Zoning Board Secretary regarding property at 2954 State Rte 54A Bluff Pt. belonging to Mike and Carol Steppe. The email noted that Carol had closed 'Keuka Inspirations' (a small retail business) about a year ago and Mike and Carol were now considering opening the building back up to operate a business office for themselves with 2 desks to be known as ACE Handyman Services. They would, from this building, take information by way of phone/internet for people who needed to have work done at their properties, and would send the handyman/worker from his/her home to the job site to do the work. There would be very limited foot traffic and as noted in the email, mostly he and Carol would be in and out. No changes to the building and there was already a small office area in the building when Carol had Keuka Inspirations open.

CEO DeVoe had already been in contact with Planning Board Chairman Tim Cutler who did not think it was necessary to go through planning review for this building use. It was also noted that it is still Mike and Carol Steppe, no change in ownership.

Zoning Board members considered the request and had no concerns regarding the use of this building being used for this business as requested. It was viewed as more of a change in the type of business versus a change to the building itself with no changes to the area around the outside of the building.

Zoning board secretary asked the board members if they were all in agreement for this building to be used by Mike and Carol as an office for their ACE Handyman Services and the consensus was that they were in agreement.

Next Zoning Board meeting – April 8<sup>th</sup>, 2021.

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

Respectfully  
Submitted/Zoning Secretary

