

TOWN OF JERUSALEM
ZONING BOARD OF APPEALS

January 13th, 2022

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Thursday, January 13th, 2022 at 7 pm by Chairman Rodgers Williams.

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

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

Others present included: Larry Barnes, Bill Grove/Engineer, Jeff Arnold/Clifton Land Co., Bill Gerhardt/CEO and Daryl Jones/Town Bd.

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

COMMUNICATIONS:

Board members had received copies of emails sent by nearby neighbors in favor of area variance application #1206 (copies on file).

AREA VARIANCE/SPECIAL USE PERMITS:

Area Variance Application #1206 for Larry Barnes for property at 5989 West Bluff Dr., Keuka Park requesting Area Variances to replace existing cottage with a new home having a proposed front yard setback of 4.6 ft. at its closest point where 15 ft. from the highwater mark is required. Having a proposed rear yard setback of 30 ft. as measured from the center of West Bluff Dr. where 44.75 ft. is required when it is for the portion of the lot between the road and the lake. Also requesting a front yard setback on the east side of West Bluff Dr. for a proposed garage, a distance of 35 ft. as measured from the center of West Bluff Dr. to the closest part of the garage including roof overhang where 65 ft. is required. This property is located in the (R1) Lake-Residential Zone.

Mr. Barnes and Mr. Groves, Engineer for Mr. Barnes, were present to describe the proposed area variance application and answer questions for the board.

Mr. Barnes explained some history behind the property and the fact that it has been in the family for many years belonging to his father before him and he remembered helping his father build the cottage when he was about ten years old.

Mr. Barnes noted that there is a significant break-wall which was built with a DEC permit in 1973 and re-built in 2005 which is in effect at the highwater mark and he provided pictures to show the portion of the deck that extends lakeward beyond the break-wall which was going to be removed. The existing deck that is landward of the break-wall and the proposed new home will be replaced with hardscape or a new deck.

Mr. Barnes also provided pictures of the proposed new home showing elevation levels from north, south, east and west sides. It was also noted that the basement level will be at 722 which is 1 ft. above the one hundred year flood level.

There will be a retaining wall built behind the new proposed home which will either be a poured wall or possibly the lego type blocks which will help to ensure the retention of the bank between the road and the proposed new home.

The new home will sit down somewhat below road level and only the main upper part will be at road level as shown in the picture of the east side elevation.

Mr. Barnes noted that the reason he wants to build the new home on the lakeside instead of on the upper side of the road is due to a medical condition with his spine that he has, mostly in the neck, and one that his father had as well, dealing mostly with the neck. He noted that at some future time, hopefully not for a few years, he will have difficulty with stairs and he would like to have the cottage be in a location for lake accessibility.

The proposed garage will be 20 ft. in height with the upper part to be used as a wood shop. The reason for not moving the garage farther back was the attempt to keep as many of the trees as possible so as not to disturb the hillside and reduce the amount of excavation into the hillside while keeping it as stabilized as possible. Also, the proposed garage area will not interfere with the area where the wastewater system will be located.

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) J. Bird-no, L. Overgaard-no, E. Makatura-no, S. Schmidt-no, R. Williams-yes, applicant could build on the other side of the road

3)Whether the requested area variance is substantial: (0-no, 5-yes) J. Bird a lot of variances being asked for.

4)Whether the proposed area variance will have an adverse effect or impact on the physical or environmental condition of the neighborhood or district: (3-no, 2-yes) L. Overgaard-yes because there will be a lot of excavating that has to be done, S. Schmidt-yes,

R. Williams-no, because applicant must apply for Steep Slopes review and any adverse conditions due to excavation should be able to be mitigated under the steep slopes plan; J. Bird-no for the same reason that the Steep Slopes plan should prevent any adverse effects or impacts; E. Makatura-no.

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

There being no further discussion, a motion was made by J. Bird to approve the area variance for the setback from the highwater mark since it is a DEC approved break-wall and the applicant is reducing the non-conformance by removing the portion of the existing deck that extends lake ward of the break-wall. The proposed new deck that is part of the new home will be no closer than 4.6 ft. from the break-wall measured from the closest point. Regarding the area variance for the rear yard setback from the road to be no closer than 30 ft. as measured from the closest part of the home to the center of the road to not be a problem since the applicant will be having a retaining wall put in that will be helping to shore up the road bank. The area variance for the garage having a front yard setback of 35 ft. as measured from the center of the road to the closest part of the proposed garage including the roof overhang should not be a problem by reducing the amount of tree removal and excavation into the hill and the applicant does not hold the Town responsible for any damage to the property due to routine highway maintenance.

The motion was seconded by S. Schmidt and the motion was carried with a poll of the board as follows: E. Makatura-grant, L. Overgaard-grant, R. Williams-deny, J. Bird-grant, S. Schmidt-grant. This granted motion is subject to Steep Slopes review and approval by the Planning Board.

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.

Board member J. Bird commended Mr. Barnes on the pictures that he had brought in and his explanation for board members as well as having things staked out at the site for the board members to see when they visited the property.

OTHER BUSINESS:

CEO Gerhardt provided board members with a Steep Slopes plan that had been to the Planning Board and received Steep Slopes approval for property at 10193 East Bluff Dr.

A question had come up about a proposed parking area on the west side of East Bluff Dr. that was to be excavated out of the hillside and two retaining walls would be build to help maintain the integrity of the bank on the west side of the road. The retaining walls will be approximately 8 ½ ft. tall and do not meet the required 65 ft. setback from the center of East Bluff Dr. The question came up as to whether these retaining walls, being over 4 ft. tall, require permits and in this case, also require area variances.

Zoning board members were in agreement that they do, in fact, need permits and in this case, area variances are required because they do not meet the required front yard setback. So noted by CEO

Zoning Board Minutes
January 13th, 2022

Gerhardt and he will reach out to the Owner's agent to let them know they need to apply for an area variance and get scheduled for the February Zoning Board meeting.

In other business, Chairman R. Williams welcomed our newest full-time board member, Steve Schmidt who has moved from the alternate position to regular board member.

Town Board member, Daryl Jones reminded Zoning Board members that they need 4 hours of training each year. If anyone has hours of training, please make sure that you get the certificates of training to Town Clerk, Sheila McMichael, as she is keeping track of training hours.

There was a brief discussion of different websites for training and where to go on the web for those who need to get some hours of training. J. Bird asked again if the Town Board would look at the time spent by alternates who come to all of the zoning board meetings to consider this time towards training hours.

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

Respectfully submitted,
Elaine Nesbit/Zoning Secretary