

ZONING BOARD AGENDA
Thursday May 9, 2024

OPEN MEETING / PLEDGE TO THE FLAG

ROLL CALL:

Rodgers Williams	Present
Randy Rhoads	Present
Earl Makatura	Present
Lynn Overgaard	Present
Steve Schmidt	Absent

Alternates Donald Wright Present

Others present included: Jim Bird, Daryl Jones, Town Board Liaison, Mike Madigan, David Hostutler, Bill Grove, Keith and Annette Toaspen, Anthony Tintera.

Correction to April meeting minutes, spelling errors corrected. Motion by **R.Rhoads** to correct minutes. Seconded by **D.Wright**.

COMMUNICATIONS – **App #13-2024** legal publication address posted as 2101 West Bluff Dr instead of West Lake Dr. Correction made and published in Chronicle Express.

Vice Chair **Randy Rhoads** relays to present applicants that Area Variance applications must explain the hardship of their requested variances. The board acts on the hardship not on the project. Justifying the request.

AREA VARIANCE/PUBLIC HEARINGS:

App #12-2024 -9021 East Bluff Dr. (Tax map: 110.25-1-1-5)

Two variance requests. Side setback 7' where 10' required, a 3' variance. Front setback 7' to mean high water mark where 15' is required, an 8' variance.

Contractor **Michael Madigan** is present to answer questions of the board. He explains that both the shed and deck were built during covid. He was in communication with the CEO at the time, he was told no variances were required. The setbacks from the side were 25 and 5, he was told. Current CEO **James McKinley** notified property owner that variances are required. The setbacks are 35 and 10. The shed is already built, to move it further away from the line it would be in direct line site of one of the windows.

The deck is on the highwater mark down towards the lake, Mrs. Gillan wanted to be able to get to her flowers easily. There is a steep bank there, and a retaining wall right there. They built the deck on top of the retaining wall.

E. Makatura asked **M. Madigan** if he applied for Building permits, **M. Madigan** answered no. **M. Madigan** said he was in communication with Zac Devoe, Tommy Fulkord, and Billy Gerhardt along with Water and Sewer employee Kasey Christensen. Along with Lou Aaron for electrical work. He thought he was all good. He was directed to take pictures.

E. Makatura asked why he would be told he didn't need a building permit, **M. Madigan** answers possibly because it was during covid, the department just requested pictures.

R. Rhoads relays that the improvements look great, but all structures and decks require a permit and in this case variance (s). As a contractor working in the Town of Jerusalem, he should be familiar with Building Permits and variances. Now they are playing the game of after the fact. He adds that on the Bluff in particular they are concerned with water runoff.

E. Makatura asks if it's too close, is it 3 foot not 7 feet? **R. Rhoads** agrees that it looks more like 3 or 4 feet, not 7 feet.

L. Overgaard asks if they deny the variance what will happen.

R. Rhoads answers that the deck and or shed can be removed, and make it conforming. The applicant will likely be fined by Code Enforcement if it is not conforming. **L. Overgaard** adds that building things and then asking for forgiveness is a trend.

R. Rhoads reiterates that contractors working in the Town of Jerusalem need to be aware of both Building Permits and the town Code.

M. Madigan answers that he was given the okay by the CEO at the time. **R. Rhoads** answers that the Zoning Board is not bound by what the CEO has said about a property, the board has the latitude to apply the law as they see fit.

D. Wright questions if the hardship of the variance for the shed is for the view out the window, can the windows be moved. Or the shed be a different dimension.

M. Madigan answers that the shed could be moved by chain and truck further from the property line. **R. Rhoads** adds that it is only a few feet, and a view is not a hardship that he subscribes to.

Area Variance test questions were read and reviewed regarding the requested side setback for the shed, 7' where 10' is required for a variance of 3' with the following results: 3 majority yes, 2 majority no.

R. Rhoads made a motion to grant the side setback (shed) for 7' where 10' is required for a variance of 3.' **R. Williams** seconds.

The board was polled as follows:

L. Overgard- Grant
D. Wright- Grant
E.Makatura- Grant
R. Rhoads- Deny
R.Williams- Grant

Area Variance test questions were read and reviewed regarding the requested front setback for the deck, 7' to mean-high water where 15' is required for a variance of 8' with the following results: 5 majority yes.

R.Rhoads states that he does not believe it is 7' from the water line, it appears to be closer to 3 or 4 feet. It is hard to judge. The board can table it or act as if it is a 12' variance.

L.Overgaard adds that CEO **J.McKinley** provided a letter with measurements. **R.Rhoads** answers that if they grant the 7' variance, they would have to move it. It's too close. He thinks it should be framed as a 12' variance. **L. Overgaard** is inquiring who went off the measurements James or homeowner. **R.Rhoads** and **R.Williams** said they don't think James went out and measured it.

The board discusses further the requested variance and decides to *table* the application. The shed can stay as is, and will likely receive fines from Building Department for building without a permit.

R.Rhoads motions to table the deck variance until the real number is provided. **E.Makatura** seconds.

App #13-2024 -2101 West Lake Rd. (Tax Map: 61.53-1-6)

Two variance requests. 27.75' rear setback where 44.75' is required for a 17' variance. 5.3' front setback where 15' is required for a 9.7' variance.

Project manager **Anthony Tintera** from Meagher Engineering is present to answer questions of the board.

A.Tintera states that as it relates to the requested area variances with the respect to the rear side setback and the front setback from mean high water and as it relates to hardship, as it relates to the requested variances the benefit aligns with the nature of the site and the steep slope coming down from West Lake Road.

Ultimately it is the desire of the client to have safe access across the parcel, not horizontally, but vertically. In its current state, there are retaining walls that frame a built-up parking area adjacent to West Lake Rd. Those walls do turn towards the right of way, of West Lake Rd. It is somewhat comparable to what is being proposed. They do come right up to the right of way. From that upper road area is tram access coming down and meets up with the deck. The deck comes off the existing two-story home on the south side of the property. There is a lower level that is at 27.28 located further down by the break wall. There are additional decks that wrap around the east and

south side of the property, in a nonconforming matter. The east deck especially, encroaching within the mean high-water setback. The southern deck is nonconforming that it approaches on neighbors' property slightly. Four feet or so. The existing boathouse on the north side of property, it is incorporated into the house layout. They want to store their boat on site. It is very much nonconforming. In its current states it extends further out then mean highwater.

The hardship for the site is with respect to the steel slope coming off West Lake Rd. it comes with challenges in terms of a realistic house layout that can accommodate the multiples levels of access coming down from the road to include the parking area up top. They do not want to create a situation where there is a steep driveway coming off of West Lake Rd and you are expected to park perpendicular to it.

There is also the uniqueness of the shape of the lot. He shows board members on site plan. They plan to incorporate the boat house in a more conforming manner without disturbing the stability of the slope. He adds that with the C2 layout, through a variety of retaining walls they are looking to handle the average grade around the footprint. So, they can meet building height requirements for the town. The variances they are discussing tonight are with respect to the setback, not height or lot coverage. With the purposed lot coverage for redevelopment while exceeding allowable it would be an improvement on what existing lot coverage is.

R.Rhoads asks I if he thinks it's an improvement as it relates to the road or not? **A. Tintera** In terms of the state of the existing retaining walls they are a bit odd in the sense that you have sections that are broken up by the tram access.

R.Rhoads asks if the tram will go away. **A. Tintera** answers that it is proposed to be located on the South side but to meet the side setback. He asks if the board members had a chance to visit the site. **R.Rhoads** and **E.Makatura** answer that they did not see anything on the lakeside where the setback is there. **A. Tintera** answers that part of that is a portion of the proposed footprint conflicts with the existing one, you'd have to be in the house to see.

D.Wright asks what the current lot coverage is. **A. Tintera** answers 26.8%. **E.Makatura** asks about the existing boat house, was there a building permit. Was that part of the lot coverage. **A. Tintera** said he does not know. **E.Makatura** adds that when that went in it was not supposed to be a boathouse, it was supposed to be just a slip. Eventually it got a roof, closed in and now it's a boat house. Knowing if the lot coverage was part of that would be good to know. He adds he thinks it was built in 2011 or 2012.

R.Rhoads confirms that what **E.Makatura** asks if the area coverage that exists today somehow navigate to that number. **L.Overgaard** asks if they plan to take down every structure on that property, it's all gone and they are starting from scratch. **A. Tintera** confirms except for retaining wall that creates a bit of yard space adjacent to lake.

E. Makatura adds that the setback is a little close too, they are asking for 27.75, where 44 is required. **A. Tintera** responds for rear setback, yes, it's ultimately for the driveway, not wanting to have one that is at 40% slope coming down.

R. Rhoads adds that the parking lot that is there is closer to the road than what they are asking for relative to the house. They will fill in the space between the home and the current retaining wall in order to access to the garage which will be in the top floor. **A. Tintera** said it isn't so much a garage as it is a storage space. It will be used for a small vehicle; the upper floor plan hasn't been completed yet.

R. Rhoads confirms that the proposal is to expand the distance you can park off the road towards the house by 20 feet. The parking area gets bigger. **A. Tintera**, yes tram will be move to the south side of the house.

R. Williams asks if the board has anymore questions or comments. **L. Overgaard** states she is most concerned with the lot coverage. It is extreme when they are basically taking everything down. **R. Rhoads** confirms that what she is saying if they are tearing everything down, they could build a house that complies. **L. Overgaard** states that even though they are not asking for a variance for lot coverage, she thinks they should be.

A. Tintera said CEO **J. McKinley** gave the direction that they did not need a variance for lot coverage. The reason they haven't reeled in the boathouse any further to fall within the acceptable setback is because of the concern as they move it back towards the road, it will need to be excavated further down.

R. Rhoads asks how many square feet is the proposed home. **A. Tintera** answers it certainly is more than the existing home, he does not have the exact number. **R. Rhoads** asks if there is a rough number. He answers he believes between 3,000-4,000 sq ft. **R. Rhoads** said it is a large house.

E. Makatura states he thinks they should table the application. **R. Williams** agrees they should table it until they receive more answers, inquire if there was ever a permit granted for the boathouse, that makes a big difference on the lot coverage. **L. Overgaard** confirms that if the boat wasn't permitted the lot coverage is way less.

A. Tintera ultimately that the portion of the boat house that is included towards the existing lot coverage calculation is just within the mean high water so that which would come out further towards the lake is excluded.

R. Rhoads states that the board needs further information on the boat house, he adds that the house is large for the lot. To have a 3,000 or 4,000 sq foot home on that lot is a lot. It is over 1600 per floor, maybe a little more. That is a big house. **R. Williams** adds to build something that big on the size lot is a big deal. It deals with the aesthetic of the neighborhood.

R.Rhoads adds that is in fact a nonconforming lot, these days lots are required to be 20,000 sq feet and that lot of 8,000 sq ft. It's right on West Lake Road, there isn't much room for parking.

E.Makatura motions to table the application. **R. Rhoads** seconds.

A.Tintera asks if there is any other concerns from the board. **J. Bird** says that he needs to be aware that the request of the highway superintendent to keep us 35 feet from the center of the road.

E. Makatura agrees they are very close to the road. **R.Rhoads** you are asking for 27.75 feet.

A. Tintera answers that the overhang for the storage area is 30.7 feet off the center line, the porch is 40.8 feet off the center line. **R.Rhoads** what part is 24.75 feet, the retaining wall

A.Tintera answers. **R.Rhoads** asks how far is the building, the storage portion with the overhang is 38.7 feet, the porch is 40.8 feet and the rest of the home does fall within the 44.75 ft.

E.Makatura the setback is only for the retaining wall. **A.Tintera** his concern was whether or not it would be two separate setback variances, but it was communicated it was just one, 24.75 feet.

R.Rhoads states the board's concern is the house is very large for the lot.

App #8-2024 -3518 West Bluff Dr. (Tax Map: 102.27-1-5) Previously tabled

One variance request for 25.8' setback where 44.75' is required for a variance of 18.95.' The application was tabled last month due to the site not being staked out.

Engineer **Bill Grove** is present to answer any questions of the board. The application was discussed in previous month but tabled due to site not being staked out. **B.Grove** adds that the board could now visualize where the shed would be placed off the end of the existing landing. It would be same floor elevation as the landing and then built up from there.

The access from the shed will be from the landing ask **D.Wright**. **B.Grove** answers yes.

R.Rhoads inquired about how the landing is anchored. He is worried about the existing structure and then to build on top of it. Would it be connected with a ramp. **B.Grove** states it would be a separate structure, adjacent to it. They could put supports in it. **L.Overgaard** adds that they would have to put big long poles with that.

R.Rhoads asks why the placement of the storage shed, is there an alternative to the placement. Is the placement for lake items? Could they put down the stairs down further to the left-hand side, it would certainly improve setback, and closer to the lake. There is a few stumps that would need to be removed.

R.Williams asks if it met steep slopes approval, **B.Grove** answers yes.

B. Grove there is no place to go except at the very bottom off the lowest landing, but then it is adjacent to the mean water line. There is a landing down by the shoreline. Either way they would be asking for a variance, he agrees Being closer to the shoreline would make it more useful. He's not sure where that goes aside from reconfiguring the entire stairway down to add another landing and then use that landing.

L.Overgaard adds that why not build across the road, they will be coming all the way up the lake anyway.

B. Grove for safety reasons they do not want to be hauling kayaks across the road.

R.Rhoads states he would rather give a variance to the high water mark verse a variance for the road. It would make it closer to its usable point of use.

L. Overgaard asked about putting it on the permeant dock.

B. Grove suggests moving it up to the stairs and to left of landing, lakeside of landing. It was one option he spoke with applicant about.

R.Rhoads asks if there is a way to meet setbacks.

B.Grove said he no, but he will look into the docking and mooring to refresh himself. Board members refer to site plan for options.

R.Rhoads adds that he is concerned about the setback on such a steep slope.

B.Grove said he shouldn't be the slope is fine and they were approved for it by Planning Board.

R.Rhoads add that it is very tight.

E. Makatura said it should not have been there in the first place. **B.Grove** said he will look into finding another way.

R.Rhoads motions to table the application. **R. Williams** seconds.

R.Rhoads motions to open public hearing, **R.Williams** seconds.

Residents **Keith and Annette Toaspern** who reside at 2409 West Lake Rd are concerned with the 48 x 24 garage being constructed next door to them.

Their concerns include the height and the setback in addition to the water and sewer hookup.

They have sent a letter with their detailed concerns to the Town Board, Zoning Board and Planning Board members. **R.Rhoads** confirmed the Zoning Board members have received the letter and a Zoning Board committee has been formed to review issues such as this.

R.Williams made a motion to close the meeting at 8:38 pm. **R.Rhoads** seconds.

Next meeting June 13th.