

**ZONING BOARD MINUTES**  
**Thursday January 9, 2025**

OPEN MEETING / PLEDGE TO THE FLAG

ROLL CALL:

	Rodgers Williams	Present
	Randy Rhoads	Present
	Earl Makatura	Present
	Lynn Overgaard	Present
	Steve Schmidt	Present
Alternates	Donald Wright	Absent
	David Hostutler	Absent

Others present included:

Daryl Jones, Town Board Liaison. Jim Bird, Town of Jerusalem Council member. Jesse Jayne, Vine Country Builders. Bill Grove, engineer. Code Enforcement officer, James McKinley. Residents, Stephen Thompson, Barbara Juskiw, unidentified individual, and Christopher Healy.

Meeting called to order at 7 pm.

Approval of November minutes approval. Motion made by **S.Schmidt**, seconded by **R.Rhoads**.

COMMUNICATIONS –

Two letters of support for **App #Z25-001**.

Resident (s) Robert and Geraldine Popp, 5395 E.Bluff Dr.

Resident Lynn Simmons, 2582 County House Woods Rd.

AREA VARIANCE/PUBLIC HEARINGS:

**Area Variance #Z24-0030** Christopher Healy 3079 Brown Hill Rd. (Tax map: 103.81-1-1.11)

**Builder Jesse Jayne** present to represent application along with owner **Christoper Healy**.

Application was tabled last month due to project not being staked out. Project is now staked out.

**R.Rhoads** stated the board did see the flags on the property. **J.Jayne** also showed the board pictures. He shows that the portion that was previously close to the bank, it is now kicked back. It is not nearly as close to the bank as the existing house, about a good three feet back.

**R.Rhoads** confirms that the orange portions on the site plan are further back on the bank then the current foundation. It is still within the setback of the road.

**J.Jayne** shows pictures to board showing that the property is in two zoning districts, causing the hardship. If the barn was 25 feet closer it would be fine. No variance would be required. The barn was built just a bit too far to the East. He adds that when talking to **CEO James McKinley** a portion of the building is within 50 feet of that district. It might be just a portion, but he would like to get it all.

**L.Overgaard** said the side closer to the lake is not further back, **J.Jayne** agrees but it further is back because the road starts turning away.

**R.Rhoads** adds that the reason for the Zoning laws are intended to support the vision and mission for the Town, which includes preserving the infrastructure and safety of the community. They are the factors when the board considers these variances. States that they are a good size property.

**Owner Christopher Healy** explains that what they are trying to do is maintain the barn structure itself, right now it is three seasonal. They are the third generation that have visited the lake. It was for sale in 2021. They hired an architect and want to maintain the essence of the property. They want to stay and live year-round, to include heat and air condition and four bedrooms and several bathrooms. They are not trying to do anything out of the ordinary.

**R.Williams** asks about the road. **C.Healy** points out on site plan. **R.Rhoads** asks about the addition, **C.Healy** confirms that is a deck, it is not livable space. They are adding bathroom space and mechanical room for heat and air.

**R.Rhoads** asks for clarification on where they are asking for the variance. **J. Jayne** points out on site map where orange coloring is to clarify for board members. **J.Jayne** states it is 33 feet one inch from the road.

**R.Rhoads** states the deck is what is being added to existing structure, it is not a full foundation. Looks like there is a tree there that holds that bank, for him personally he thinks it is important to maintain the integrity of that bank.

**E.Makatura** asks about other corner, will it be back further then where flags are now? **J.Jayne** answers that it is right where the flags are, the flags are pushed back from the existing structure.

Board members and **J.Jayne** continue to review copy of site plan.

**R.Rhoads** asks if the requested variance is for a bathroom. **C.Healy** answers yes. **J.Jayne** confirms that the bank will not be at all affected by what they are doing.

**R.Williams** confirms that it will be just post holes. **J.Jayne** answers yes, it won't be too deep.

**L.Overgaard** asks how far that corner is. That is the one that is 33 feet, where it is supposed to be 65 feet.

**R.Williams** asks **J.McKinley** if it was ag-res district, would it be okay. **J.McKinley** states it would still need a variance just less, ag-res is 30 feet for a front yard setback.

**R.Rhoads** adds that the whole structure is in the R1 district. He asks if there are any alternatives?

**C.Healy** answered the bathroom is serving the first-floor master bedroom. They would like to keep it on the first floor for when they get older, however they did look at other ways with an architect but this was the most feasible option.

**E.Makatura** thinks it is fine, it is far enough away from bank. And the setback from the road isn't a big one.

**R.Williams** ask if any board members have additional questions.

**L.Overgaard** answers no, know that she knows the large portion is just a deck.

**R.Rhoads** makes a motion to approve a setback of 33 feet from the center of the road, for a 32-foot variance. **E.Makatura** seconds.

The Area Variance test questions were read and reviewed regarding the requested 32-foot variance with the following results: 3 majority no, 2 majority yes.

The board was polled as follows:

R.Rhoads- Grant with the stipulations that the post holes for the deck are not full foundation but only post holes.

R.Williams- Grant

E.Makatura-Grant

L.Overgaard-Grant

S.Schmidt-Grant

**Area Variance #Z24-0031** John & Linda Lundy 11715 East Bluff Dr. (Tax map:117.62-1-10)

**R.Williams** states that the application was also tabled from last meeting due to project not being staked out.

Builder **J.Jayne** is representing application. He states he added an address to project site for board members to view, however it had been removed he thinks by the Town. Project was staked out. He did show pictures for board members to review. Board member **S.Schmidt** also showed pictures he took as well.

**J.Jayne** shows on picture that they are asking for just a small portion, he shows existing now. They want to push it out just a touch, only 2-3 feet. The deck is now pushed in, but they want the deck to run the length in. There are stairs that pop out a portion, they could recess them. They are building a lot that is in existing building space. To him the major issue is popping a little more deck space, he did talk to owners and they are willing to compromise pushing the stairs back.

**J.Jayne** states they are asking for 3 feet.

**R.Rhoads** confirms on application the request is for a 3'9", he asks if he is willing to pull that.

**J.Jayne** said the stairs popping out makes it the 3'9." He adds the problem was finding the property line.

**E.Makatura** suggests getting a variance for a different portion (points out on site plan) extending deck out and not bringing it as far that way. After brief discussion, applicant decides to go with original variance request.

**R.Rhoads** states their role is to offer and grant the minimum variance, allowing owner to achieve what they want given the explained hardship. He asks **J.Jayne** what their minimum is.

**J.Jayne** answers they are a bit cramped in there, and need to give them more living space.

**R.Rhoads** suggest they grant 6-foot variance, it would give them 4 feet from property line.

**J.Jayne** answers yes. He will get a new survey to make sure they are compliant.

**E.Makatura** makes a motion to grant a 4-foot variance on the south side for the deck, 6-foot for the home and 1-foot variance for setback of the mean high water line. Only exception would be to put the stairs on the south side. **R.Rhoads** seconds.

The Area Variance test questions were read and reviewed regarding the requested 6-foot variance, 4-foot variance and 1-foot variance with the following results: 3 majority yes, 2 majority no.

The board was polled as follows:

R.Rhoads- Grant

R.Williams- Grant

E.Makatura-Grant

L.Overgaard-Grant

S.Schmidt-Grant

**Area Variance #Z25-001** Barbara Juskiw 5419 East Bluff Dr. (Tax map: 84.76-1-4)

Homeowner **Babara Juskiw** is present to represent the application.

She had planned a new home with the original foundation intact, the foundation fell apart. The footers were still intact they made a decision to go with fox blocks. They scheduled to do that, house was at 719 feet, adding another block would be 720 feet.

The home next door that they own is also 720 feet, it was built in 1983. That was the code and they have not had any high water since. When the house came down in the fall Neil Simmons came down and he had said there was never any water that came up in 32 years. The house next door was at 720 feet, to keep it looking aesthetically nice between both homes.

She is requesting that level, they are getting older and to have it go up to 722 or 723 feet. That adds a lot of extra steps. Looking from the lake it would look very nice to be at same level, they have a shared driveway, they look similar. Aesthetically look the same and nice.

**E. Makatura** asks if home is a stick build. **B. Juskiw**, yes Sugar Creek construction is doing it. **R.Rhoads** asks there is a wood floor that is to be below habitable level. **E.Makatura** asks what is it at 720 feet, the foundation?

**B.Juskiw** answers yes, foundation is. So with deck it will be 721 feet. It is only one foot lower. **E.Makatura** states that you can blend it in, grade it. **R.Williams** adds that the code refers to living spaces.

**E.Makatura** states he doesn't see the water ever getting that high. **B.Juskiw** agrees and said especially not with a 4-foot break wall.

**R.Rhoads** adds that if residents can't live within the law, they come to the Zoning Board for a variance. If you build a property that is not within the code, the board can state that the town is not liable for any damages due to your decision to build below the flood plain level (if giving a variance)

He adds that he does not think a foot will make a big difference, one-foot is also viable to grade. It will not be difficult to get into the house. **E.Makatura** agrees, he finished one last year that looked great.

**R.Rhoads** asks if any board members have questions or comments.

**L.Overgaard** states that she thinks they should stay within the code.

**E.Makatura** responds that they did grant a greater variance awhile back on Crescent Beach.

**J.Bird** asks if homeowner already has the foundation laid, she responds yes. If denied they will have to tear down. **R.Rhoads** answers or they will have to add to it.

**B.Juskiw** said that her home next door was remodeled and went in at 720 feet and that had passed, she did not need a variance. She just brought it into the town and it was approved.

**E.Makatura** doesn't think they will have a problem in that area. **B.Juskiw** said yes they are pretty high up.

**L.Overgaard** makes a motion to grant 721 feet of habitable floor elevation above sea level, for a 1-foot variance. **E.Makatura** seconds.

The Area Variance test questions were read and reviewed regarding the 1-foot variance, with the following results: 3 majority no, 2 majority yes.

The board was polled as follows:

R.Rhoads- Grant

R.Williams- Grant

E.Makatura-Grant

L.Overgaard-Deny

S.Schmidt-Deny

**Area Variance #Z25-002** Stephen Thompson 6646 West Bluff Dr. (Tax map: 116.27-1-3)

**Engineer Bill Grove** and **homeowner Stephen Thompson** are present to represent application.

**B. Grove** states that the applicant is requesting a variance for an addition to South side of the existing cottage. It is now his full-time residence, and they need more space.

It is already a tight site; they are requesting retaining walls between home and road to help shore up the steep slope. A new set of stairs down to the addition.

They are seeking three variances, one for front setback to mean high water line of 2-feet, retaining wall of 14.7 feet and another retaining wall setback of 5.1.'

Homeowner **S.Thompson** adds they are requesting the variances because himself and wife have sold their home in Rochester and are now living here full time. They have owned the cottage for years, after living here full time they realize there is more space needed in the 100-year-old structure. They would like to add a master bedroom on the first floor, the bedrooms now are on the second floor. They like the cottage feel of it, and do not want to take it down and do a new build.

**R.Rhoads** inquires if it is a two or three story addition. **S.Thompson** responds it would be a single story, because the way the bank slopes there is opportunity for a basement beneath however that would be unhabitable space, just storage.

**R.Rhoads** adds they are really wedging a lot into a small space. If you took the center line of the road and the 15 ft setback from the mean high-water line, they actually overlap.

**R.Rhoads** states he saw that to the North of the property is a walk way.

**S.Thompson** answers yes, there is a path that goes down to the beach, he shares with his neighbor. Bottom third of it is his.

**R.Rhoads** adds there is a lot of space to the North, could he build to the North.

**E.Makatura** responds, he does not think so, it is too close to mean high water line.

**L.Overgaard** inquiries about steep slopes. **B.Grove** responds they go next week to planning board.

**R.Rhoads** asks if highway **superintendent Tony Hurd** went to site, **S.Thompson** responds yes.

**L.Overgaard** states it is really close to the water and too tight of a space.

**R.Rhoads** relays that the applicant bought the property with the knowledge it would be difficult to add additional space.

**B.Grove** answers most of the setbacks overlap.

**R.Williams** isn't as concerned about walls, they could help but he is concerned about the distance. Being two feet off the mean high-water line.

**B.Grove** said there is quite a bit of flat beach down there.

**S.Thompson** adds that when the water is up there are 15-20 feet from the water line, the last storm was 10 feet from their cottage before it even came up the beach. The basement floor is 4 feet above the beach level.

**E.Makatura** said he doesn't remember granting maybe three variances within the 15 feet in all his years on the board, and one they should not have granted.

**R.Rhoads** confirms he wants three variances, one is a setback of 23.5 ft to the house, 14.7 ft from the retaining wall, and 2 feet to the mean high water and a half a foot to the neighbors property.

**B.Grove** – not quite, the retaining wall has to hold the road back, they have to have a return on that, the house structure meets side set back but the retaining wall does not. An existing shed there will be moved. It will be an improvement.

Variance for the wall to south property line, a variance to the wall to the center line of road and one for mean high water line.

**R.Rhoads** states they will need to be granted or denied all together, you cannot do one without the other.

**S.Thompson** said he has not done full architectural drawings yet, waiting for permission from board.

**R.Rhoads** makes a motion to grant a 3 area variances. Front setback to the mean high-water line of 2' where 15' is required, a retaining wall rear setback of 14.7' from centerline where 44.75' is required and an additional retaining wall setback of 5.1' from the property line where 10' is required. **E.Makatura** seconds.

The Area Variance test questions were read and reviewed regarding the three variances, with the following results: 3 majority yes, 2 majority no.

The board was polled as follows:

R.Rhoads- Deny

R.Williams- Deny

E.Makatura-Deny

L.Overgaard-Deny

S.Schmidt-Deny

**B.Grove** asks if the board thinks both variances are too much. **R.Rhoads** answers if it gets further away from the water, and a better wall to support the road is a good thing. He likes the retaining walls. The property is just so tiny in that area, it's too tight. He wouldn't need variances on south side if it was made smaller.

**B.Grove** is it too late to go back and make a determination on the wall variance request separate from the mean high water line request.

**R.Williams** said yes, he thinks they can vote on just the wall.

**R.Rhoads** asks if the center of the road and the south are the two, to be redetermined. They errored by grouping it all together.

**R.Williams** makes a motion to grant 2' where 15' is required. **R.Rhoads** seconds.

The board was polled as follows:

R.Rhoads- Deny

R.Williams-Deny

E.Makatura-Deny

L.Overgaard-Deny

S.Schmidt-Deny

**R.Williams** make a motion to grant a 14.7' retaining wall rear setback from centerline where 44.75' is required minimum. **R.Rhoads** seconds.



The board was polled as follows:

R.Rhoads- Grant  
R.Williams- Grant  
E.Makatura-Grant  
L.Overgaard-Grant  
S.Schmidt-Deny

**R.Williams** makes a motion to grant a 5.1' setback from the property line where 10' is required.  
**R.Rhoads** seconds.

The board was polled as follows:

R.Rhoads- Deny  
R.Williams- Deny  
E.Makatura-Deny  
L.Overgaard-Deny  
S.Schmidt-Deny

**R.Williams** the wall from the centerline is okay, figure out something different for the South end. The addition is just too close to the water.

**S.Thompson** asks what is acceptable for the board. **E.Makatura** responds 14 feet. **S.Thompson** asks would the board entertain the possibility of a break wall. **R.Rhoads** said that is a D.E.C. question. **R.Williams** said they would need to move it.

**R.Rhoads** states the Zoning board meetings will be the second Thursday of each month for the remainder of the 2025.

**R.Williams** announces the next meeting is February 13<sup>th</sup>.

**R. Rhoads** motions to adjourn at 8:41 pm, seconded by **E. Makatura**; carried.