

TOWN OF JERUSALEM

ZONING BOARD OF APPEALS

July 13, 2006

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order by Chairman Jim Jameson on Thursday, July 13th, at 7 pm.

	Roll Call:	Jim Jameson
Present		
		Robert Worden
Present		
		Ron Rubin
Present		
		Glen Herbert
Present		
		Bob Fox
Present		
	Alternate	Jim Bird
Present		
	Alternate	Jim Creveling
Present		

Others present included: Anne & Kent Salisbury, John Bruning, James E. Stapleton, John F. Phillips/CEO, Robert & Karen Scott, Rick Willson, M.J. Herson, and Doug Paddock.

A motion was made by R.Rubin and seconded by J.Jameson to approve the June 2006 Zoning Board Minutes as written. The motion was carried unanimously.

COMMUNICATIONS

Communications to the Zoning Board from Yates County Planning Board and from Town Attorney Phil Bailey, will be read as the relevant applications are reviewed.

VARIANCE REVIEW

Application #868 for James & Rebecca Stapleton owning property at 919 East Bluff Dr. to request two area variances, one to build on the portion of land between the road, East Bluff Dr., and the highwater mark of the lake with less than 100 ft. minimum depth. The second variance request is for less rear yard setback than zoning requires for building between the road and the highwater mark.

Mr. Stapleton was present to answer questions for board members. He gave a brief review of his request and stated that the reason for not building on the upper side of the road was due to the topography. He also stated that he had possible future plans to add on to the proposed structure, but he understands that he would have to come back to the Zoning Board when that time comes.

It was noted that this property has the availability to hook-up to municipal water and sewer and that there are plans to do this if the area variances are granted.

Zoning Board of Appeals
July 13, 2006

There was some discussion by board members regarding the zoning as it pertains to the minimum width of a lot for building purposes and how it has been interpreted for lots that are interrupted by a public or non-public right-of-way (road). The definition of minimum lot depth and width in the R1 zone and the definition of lot depth, has guided the Zoning Officer to refuse a building permit application if a lot has never been built on and does not have a minimum depth between the road and the lake of 100 ft. These types of requests have always been sent on to the Zoning Board as an area variance application.

The rear yard setback question was reviewed and Mr. Stapleton stated that even though his drawing shows the setback of the proposed structure at 15 ft. this measurement is taken from the rear yard property line to the base of the proposed structure and did not include any roof overhang. He also stated that there might be a need for a small storage addition and there would be room for that within this varied distance. The area variance checklist was then reviewed with the majority answer of no to questions: 1,2,3 & 4 and unanimous yes to question 5.

Board members were in agreement that this is a SEQR Type II action.

There were no letters of concern from any neighbors and no one present to speak to this application.

A motion was made by G.Herbert and seconded by R.Rubin to grant this application as applied for, to allow the proposed structure to be built on the lot between the road and the lake with less than the 100 ft. minimum depth, and to allow a rear yard variance of 10 ft. instead of the required 20 ft. rear yard setback. If measured from the center of East Bluff Dr. the distance would be 35 ft. It was also noted that in granting this variance the applicant understands that the Town will not be held

responsible for any damage due to routine highway maintenance. There was some discussion about the rear yard setback variance, but finally board members agreed to go with the requested 10 ft. rear yard setback request.

The motion was carried with a poll of the board as follows: B.Fox-grant, J.Jameson-deny, R.Worden-grant, R.Rubin-grant, G.Herbert-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 or alter the essential character of this locality.

Application #869 for W.Kent and Anne Salisbury owning property at 60 Crescent Beach to request an area variance to place a wood-tex storage building on their property with less front yard setback from the road than zoning requires. The building will be 12 ft. high and 11 ft. by 11 ft. including roof overhangs.

Zoning Board of Appeals
July 13, 2006

Mr.& Mrs. Salisbury were present to answer questions for the board members with regards to their requested application.

It was noted from a letter of communication from the Yates County Planning Board that in their review of this application, it was determined that there was no significant county-wide or inter-community impact and no further action was needed from their board.

Board members had also been given a copy of the DEC permit that the Salisbury's had applied for and received with regards to the location of their proposed structure in previously approved lawn area within an adjacent area of freshwater wetlands.

It was noted on the applicant's survey map that Crescent Beach road is a Town road but is only 16 ft. wide. The required setback from the road right of way is 40 ft. and if measured then from the center of the traveled way would be 48 ft. The variance request is for a variance of 15 ft. from the property line or 23 ft. as measured from the center of Crescent Beach road.

The area variance checklist was reviewed with the majority answer of no to questions: 1,2,3, & 4 and a unanimous yes to question 5.

Board members were in agreement that this is a SEQR Type II action.

There were no written communications from any neighbors and there was no one present to speak to this application.

A motion was made by B.Fox and seconded by R.Rubin to grant this area variance with a 23 ft. relief as measured from the center of the traveled way (Crescent Beach road) or 15 ft. as measured from the north side of the road right-of-way.

The motion was carried with a poll of the board as follows: G.Herbert-grant, R.Worden-grant, R.Rubin-grant, J.Jameson-grant, B.Fox-grant.

In granting this area variance the board finds that 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 or alter the essential character of this locality.

Zoning Board of Appeals
July 13, 2006

Application #870 for Robert & Karen Scott owning property at 278 West Lake Rd., PY to request an area variance to place a 10 ft. by 16 ft. wood-tex storage building on an existing cement parking area with less side yard setback than zoning requires.

Mr. & Mrs. Scott were present to answer questions for board members with regards to their application. It was noted for the board that in 1986 an area variance had been granted for a carport which was never built. The lot coverage at this location is presently calculated at approximately 22% and the addition of the proposed structure would increase the coverage to approximately 24%.

It was noted that the line of cedar trees on the north side belongs to the neighbor and the property line also is located at this line of trees. There was some discussion of building maintenance and Mr. Scott stated there was no lawn area here and the only property maintenance would be keeping the tree branches trimmed away from the building. Mr. Scott also noted that aesthetically it would fit perfect up against the existing

retaining wall and most of it would be hidden by this wall from a height point of view.

The proposed application shows a setback from the property line of 2 ft. at the closest point of the building. The neighbor has a storage shed which appears to be approximately two feet from the side yard property line.

There were no written communications from neighbors and there was no one present to speak to this application.

Written communication from the Yates County Planning Board was received stating that from their review of this application it was determined that there was no significant county-wide or inter-community impact and no further action was needed from their board.

The area variance test questions were read with the majority answer of no to questions; 1,2, & 4 and a majority answer of yes to questions 3 & 5.

There was discussion about allowing at least a minimum of a four ft. side yard setback which would give room for the property owner to at least walk around the storage building.

It was also noted by one board member that while excessive lot coverage will increase, the area where the storage building will be located is already covered with cement to provide an area for parking and has been in existence for over 20 years. This property is connected to public water and public sewer.

Zoning Board of Appeals
July 13, 2006

A motion was made by R.Worden and seconded by G.Herbert to grant a variance for the location to be a minimum of four ft. from the side yard lot line as measured from the building's closest point and that the maximum size of the structure could be 10ft. by 16 ft. as applied for.

The motion was carried with a poll of the board as follows: B.Fox-grant, J.Jameson-grant, R.Rubin-grant, R.Worden-grant, G.Herber-grant.

In granting this area variance the board finds that 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 or alter the essential character of this locality.

Chairman J. Jameson asked for a five minute break then called the meeting back to order.

Board member, Glen Herbert, excused himself from review of application #871 as a board member, because he is an adjacent neighbor of Mr. Bruning. Alternate Board member, Jim Creveling, was present to review this application with the rest of the board.

Application #871 for John Bruning owning property at 613 West Bluff Dr. to request two area variances to place a garage on the east side of West Bluff Dr. with less front yard setback than zoning allows and to request the building to be 5 ft. higher than zoning allows for storage purposes.

Mr. Bruning gave a brief review of his request for variances stating that there is a bank which he would have to excavate to get the required setback. It was noted by Mr. Bruning that his septic field and raised leach bed area is located on the east side of the road and mainly on the north side. The garage would be built into the bank with a double retaining wall for the back garage wall. This would also allow for a ramp to give access for storage of his lawnmower on the second level of his garage.

Mr. Bruning stated that his request for the garage setback variance and height variance is in keeping with his neighbor to the south having a garage with similar setback and height.

Mr. Bruning estimated his septic area to be approximately 40 ft. from the proposed garage. Zoning Secretary noted for the board that the Building Department had within the past two weeks been notified of some changes with regards to septic system areas, wells, etc. having new required setbacks depending on the location, soil types, drainage tiles, etc. It was therefore suggested to the board members that if the area variances are granted that as part of the motion, the property with proposed structures be subject to reviewed by the Watershed Dept. prior to the issuance of a building permit.

Zoning Board of Appeals
July 13, 2006

Chairman J. Jameson discussed the existing power line presently located behind the proposed garage area and what effect that might have. Mr.

Bruning did not know, but G.Herbert, the adjacent neighbor had contacted Mr.Baur at NYSEG earlier in the day and it was suggested that Mr. Bruning have a similar setup as that of Mr. Herbert, which would be to bring the electric into the garage, through the garage and out to the front pole.

The only neighbor present to speak to this application was Mr. Herbert who stated he would like to see this application granted so that the garage could be built similar to his and that ascetically it would fit into the area.

Mr. Bruning stated that he had put in some significant drainage improvements prior to enlarging the area for parking.

The area variance checklist was reviewed with unanimous answer of no to questions:1,2, & 4 and the unanimous answer of yes to questions 3 & 5.

Board members were in agreement that if they were to require a greater setback it would require more disturbance to the embankment and there would be more problems with the power line in back.

It was also noted that highway safety would not be compromised by this variance since the road in this area is fairly straight with good visibility both ways when leaving this location.

Board members were in agreement that this would be a SEQR Type II action.

A motion was made by J.Jameson and seconded by R.Rubin to grant this application as applied for with a front yard variance of 60 ft. or 35 ft. as measured from the center of West Bluff Dr. to the closest point on the garage including roof overhang. To grant a 5 ft. variance for the height and allow the 2-car garage with a height of 20 ft. allowing for a stand-up storage area in the upper portion of the garage. Conditions of this variance are: review by Jerusalem Watershed Dept. prior to the issuance of the building permit, and that the Town will not be responsible for any property damage due to routine highway maintenance.

The motion was carried with a poll of the board as follows: R.Worden-grant, B.Fox-grant, J.Creveling-grant, R.Rubin-grant, J.Jameson-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 or alter the essential character of this locality.

Zoning Board of Appeals

July 13, 2006

Board member G.Herbert returned to sit with the board and Board Member R.Rubin, having asked to be excused from reviewing application #872 (being a friend of the applicant) was replaced by alternate J.Creveling.

Application #872 for Douglas and Sheri Reynolds owning property at 2785 Wager Hill Rd. requesting an area variance for 2 "Flag Lots" in accordance with the 280a Law for a non-public right-of-way for emergency vehicle ingress and egress.

Mr. Rick Willson, licensed land survey, was present and stated for the board members that he was there to represent Mr. Reynolds. Mr. Willson also noted for the board that he had been made aware of a point of law that Mr. Reynolds needed to deal with, but that he did not think that it was a matter that would prevent the Zoning Board from reviewing and making a decision on this application.

Board secretary passed out copies of the survey representing Mr. Douglas's property and the proposed private right-of-way that would be built to providing one entrance off from Wager Hill Rd. giving access to three adjacent parcels. Copy is also on file with the application.

It was also noted that Mr. Douglas had submitted copies of proposed language for the private road, its shared maintenance and useage to be filed with each deed as each lot is sold having frontage on this private road. Town attorney Phil Bailey has reviewed the proposed clauses and finds them satisfactory. Copy of the proposed clauses and letter from Attorney Phil Bailey on file with application.

Mr. Willson stated that the purpose of having one private right-of-way was to provide for one access on to Wager Hill Rd. instead of three separate driveways. In addition, it would locate the road of entry to the back of the homes which would minimize disturbance (noise and dust) to neighbors.

The Jerusalem Planning Board had reviewed this application and their recommendations were read.

The applicant will be required to obtain a driveway permit from the Town Highway Superintendent.

Review of this location by the DEC could be implemented and if review is required, they could then refer it to the local YC Soil and Water Dept./ Rick Ayers.

Deed transfers/5217's require the disclosure by the seller to the buyer if

property is located within an agricultural district and farming is present.

The location of the front line for the two future homes are indicated on the survey map and in the clauses that will be filed with the deeds.

Zoning Board of Appeals
July 13, 2006

The survey maps will be filed with the deeds showing the private right-of-way if approved.

These proposed lots will also be subject to review by KWIC and the Jerusalem Watershed Department with respect to engineer designed septic systems subject to DOH approval and for the proper separation distances for wells and septic system placements as they pertain to neighboring properties as well.

One neighbor was present, who lives on the opposite side of Wager Hill Rd., had a concern that as the driveway is currently shown on the survey map, would be directly across the road from his driveway. He asked that the driveway be perpendicular to Wager Hill Rd. but offset from his driveway by a few feet. Mr. Willson stated that given the 50 ft. right-of-way that he did not think that this would be an issue and could be done.

G.Herbert expressed concern about the legal issue involved. Mr. Willson stated that he did not have full knowledge of the issue and therefore did not wish to comment.

The neighbor adjacent to the east of this property was present to comment on deed restrictions that he was made aware of when he purchased his property and which he had concerns for his neighbor's property being subdivided. He referenced the Martin Act which is found in the General Business Law 352E. (also known as the Condominium Law). He stated that he was not familiar with the Town Law 280a and did not think having three separate driveways instead of a one for use in common by the proposed lots was a significant safety at this location on Wager Hill Rd.

The area variance checklist was reviewed with a majority answer of yes to questions: 1,2,4 & 5 and a majority answer of no to question 3.

Board members that this would be a SEQR Type II action.

A motion was made by J.Jameson and seconded by J.Creveling to grant this area variance as requested and as shown on the survey submitted 7/13/2006, with the clauses as reviewed by Attorney Phil Bailey to be attached and filed to the respective deeds. The proposed road area to be reviewed by

the DEC for any plan that might be required regarding drainage, stormwater runoff, and/or erosion control. A driveway permit from the Town Highway Superintendent is required. The appropriate checks on the deed transfer (5217) regarding Ag District and agricultural disclosure. Review of septic system permits from KWIC as well as separation distances from existing wells and neighboring wells. The driveway for access to be perpendicular to Wager Hill but offset from the neighbor's driveway across the road.

Zoning Board of Appeals
July 13, 2006

The motion was carried with a poll of the board as follows: R.Worden-grant, G.Herbert-decline, B.Fox-grant, J.Creveling-grant, J.Jameson-grant.

There being no further new business, a motion was made by J.Jameson and seconded by J.Creveling to adjourn the meeting. The motion was carried unanimously and the meeting adjourned at 9:45 pm.

Respectfully submitted,

Elaine Nesbit