

September 2006

**TOWN OF JERUSALEM
ZONING BOARD OF APPEALS**

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order by Chairman Jim Jameson on Thursday, September 14, 2006 at 7 pm.

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

Others present included: John F. Phillips/CEO, Loretta Hopkins/Town Bd., Kirk Jones & Mary St.George, Norman Bates, Anita Maroscher, Scott Hafleigh, Elizabeth & Brian Smith, Frank Pinkosky, Jim Creveling/Alt. ZBA, Jim Bird/Alt. ZBA and Jim Barden.

A motion was made by J.Jameson and seconded by R.Rubin to approve the August 2006 minutes as written. The motion was carried unanimously (5-ayes, 0 nays).

COMMUNICATIONS

A reminder to board members regarding the Yates County Land Use Training scheduled for Tuesday, September 19th, at 6:30 pm at Yates County Office Buildings in Penn Yan.

VARIANCE/SPECIAL USE

Application #877 for Anita Maroscher owning property at 246R West Lake Rd., PY to request an Area Variance to remove an existing shed and replace with a two-car garage and needing a front yard variance.

Ms. Maroscher and her contractor, Scott Hafleigh were present to answer questions for board members. There were questions regarding the submitted site plan and the existence of two wells which appeared on the site map. Ms. Maroscher stated that she was on public water and did not use either well and in fact was not even sure if the one well was even in existence.

It was mentioned that the garage location was opposite of what appears on the submitted site plan. The contractor stated that the garage was going to be built closer to the home than the submitted site plan shows.

There was one letter(copy on file) from a nearby neighbor writing in support of this variance.

Zoning Board of Appeals
September 14, 2006

The Yates County Planning Board report was read which determined no County-wide or inter-community impact.

Board members reviewed the Area Variance Test Question's Checklist: #1(0-yes, 5-nay) #2(4-yes, 1-nay) #3(2-yes, 3-nay) #4(0-yes, 5-nay) #5(5-yes, 0-nay).

Motion made by R.Rubin seconded by G.Herbert to grant this application with the closest part of the new proposed garage to come no closer to the center of West Lake Rd. than 47.5 ft. (which is the distance from the present storage building) and that a new drawing be submitted to the Code Enforcement Officer prior to the building permit for the new garage being issued.

Motion carried as follows: J.Jameson-grant, B.Fox-grant, B.Worden-grant, G.Herbert-grant, R.Rubin-grant.

Board Members in unanimous agreement that this is a SEQR Type II action.

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 #878 for Jim & Ellen Stork owning property at 84 Old Pines Trail, PY requesting an area variance to enclose an existing deck area into a three season room; to add an additional deck area with roof; to remove and replace stairs for access. The area variance is needed for the north side yard setback.

Mr. Norman Bates (Stork's contractor) was present to represent them and to answer any questions for board members.

A new revised drawing was submitted (copy with application on file) to board members showing a minor change for the new deck addition. The newly submitted drawing reduces the size of the new deck on the north side to keep an existing tree and to keep the building in line together along this north side of the property. In addition, the replacement stairs will come farther away from the highwater mark to more than meet the required front yard setback.

There were no comments received from any neighbors.

The area variance test questions were reviewed: #1(0-yes, 5-nay), #2(2-yes, 3-nay), #3(2-yes, 3-nay), #4(0-yes, 5-nay), #5(5-yes, 0-nay).

Zoning Board of Appeals
September 14, 2006

Motion made by R.Rubin seconded by B.Worden to grant this variance per the newly revised (9/14/06) and submitted drawing. This brings the existing deck to be enclosed no closer than 5 ft. to the north property line as measured from the wall of the building and 4 ft. as measured from the roof overhang. The new deck addition with the roof shall come no closer to the side yard property line than 6 ft. as measured from the deck wall, and no closer than 5 ft. as measured from the roof overhang.

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

Motion carried as follows: J.Jameson-grant, B.Worden-grant, Bob Fox-grant, G.Herbert-grant, R.Rubin-grant,

Application #879 for Elizabeth Smith owning property at 3320 H. Davis Rd. to request a Special Use Permit and Site Plan Review for a home operated service business.

Ms. Smith and her husband were present to answer questions for board members. Ms. Smith stated that she would be operating a single chair hair salon, by appointment only and would have varying hours from Monday thru Saturday from 10 am to 8 pm by appointment only.

Jerusalem Planning Board reviewed the short form SEQR with unanimous agreement and motion for a negative declaration.

Ms. Smith stated that Richard Osgood would be checking out the site and septic system information to insure that the existing septic system will accommodate the single chair hair salon.

The Planning Board recommended approval of the Special Use permit and accepted the site plan map as having final site approval subject to the granting of the special use permit by the Zoning Board. Copy on file with application.

A motion was made by J.Jameson seconded by R.Rubin to approve the Special Use Permit as requested subject to Engineer Richard Osgood's review of the septic system and approval for accommodation of the single chair hair salon.

Motion carried as follows: G.Herbert-grant, B.Worden-grant, B.Fox-grant, R.Rubin-grant, J.Jameson-grant.

Application #880 Kirk Jones owning property at 122A West Lake Rd., PY requesting an Area Variance to build a wood-framed garage at this location needing variance a side yard and a rear yard variance setback.

Mr. Jones and his wife were present to answer questions for board members.

Zoning Board of Appeals
September 14, 2006

Mr. Jones noted that his original request for the 28 ft. x 48 ft. garage is changed from 28 ft. x 38 ft. because of the present location of the gas line located along Rte 54A and his requirement of staying 10 ft. from the gas line.

There are also two existing sheds and the 10 ft. x 14 ft. shed will be removed once the garage is built. The removal of this shed and the reduction in size of the proposed garage will keep the lot coverage from exceeding the 20% allowed.

The Yates County Planning Board reviewed this application with a determination that there would be no county-wide or inter-community impact.

The requested proposal would bring the proposed garage 2 ft. from the side yard lot line and 14 ft. from the rear yard boundary line.

The area variance test questions were reviewed as follows: #1 (4-yes, 1-nay) #2 (4-yes, 1-nay) #3 (5-yes, 0-nay), #4 (2-yes, 3-nay), #5 (5-yes, 0-nay).

Board members expressed concerns of having only 2 to 3 ft. of side yard setback to maintain a building and not having to go on someone else's property to clean the gutters of the roof or do any other type of building maintenance.

There were questions regarding the separation distance between the proposed garage and the house. CEO Phillips stated that if it were closer than 5 ft. the walls would have to be fire-rated.

A motion was made by J.Jameson and seconded by B.Worden to deny the application as requested.

Motion carried as follows: B.Fox-deny, G.Herbert-deny, R.Rubin-grant, B.Worden-deny, J.Jameson-deny.

Mr. Jones asked the board what changes he could make that they might be willing to accept. He stated that he had done much work on the property to clean things up and had a lot of wood working tools, and other things that he needed the building for as storage purposes along with parking their vehicles inside. He stated that he and his wife presently rent two storage spaces for things that he would like to store in the garage if they can receive permission to build it.

After further discussion, a motion was made by J.Jameson and seconded by B.Fox to grant an area variance for a 26 ft. x 38 ft. garage with the building to come no closer to the side yard property line than 5 ft. as measured to the wall of the building and no closer than 4 ft. as measured from the roof overhang. The building is to come no closer to the rear yard property line than 14 ft. as measured from the roof overhang.

Zoning Board of Appeals
September 14, 2006

The building height will not exceed 15 ft. A new building permit needs to be made out and a new site plan submitted prior to the issuance of a building permit.

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

The motion was carried as follows: R.Worden-deny, B.Fox-grant, G.Herbert-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.

Application #881 for Scott Dawson owning a "Flag Lot" located off from Italy Friend Rd. on a private road requesting an area variance to build a seasonal cabin on a Flag lot.

There being no one present to discuss this request, a motion was made by R.Worden and seconded by R.Rubin to table review of this application until the October meeting.

Motion carried as follows: B.Fox-table, J.Jameson-table, B.Worden-table, G.Herbert-table, R.Rubin-table.

OTHER BUSINESS

Letter of Request by Frank Pinkosky to Amend Area Variance #825 decision rendered on 11/11/2004.

Mr. Pinkosky was present (with board members having received the letter of request in August) to answer and discuss the reason for his request.

Board members had a copy of Mr. Pinkosky's deed granting him the right to use an easement in common with others for all roadways as shown on a filed subdivision map (Liber 11A of Maps at Page 276 on 12/3/90). Zoning Board noted the statement in Mr. Pinkosky's deed by the Grantor referencing the maintenance of the roads (Liber 508 Pg. 237).

Mr. Pinkosky stated that he had attempted to get the property owners to sign an agreement with regards to the maintenance of this private road.

Mr. Pinkosky's home has been built and meets all building and fire code requirements. He would like to get his Certificate of Occupancy which was contingent upon the language of the November 2004 decision and subsequent signing of a road maintenance agreement by him and his neighbors.

Zoning Board of Appeals
September 14, 2006

A motion was made by G.Herbert and seconded by J.Jameson to remove the language of the November 11th 2004 decision recognizing that Mr. Pinkosky's deed grants him the right of ingress and egress in common with others over the roadways. The filed subdivision map of 12/3/90 (Liber 11A Maps, Page 276) showing the roadways is noted and Mr. Pinkosky's deed (Liber 508 Pg. 237) regarding the Grantor's statement of his maintenance of the roads. That Mr. Pinkosky recognizes that this is a private road and the Town of Jerusalem is not responsible for maintenance. A Final Certificate of Occupancy is issued.

Motion carried as follows: B.Worden-agree, R.Rubin-agree, B.Fox-agree, G.Herbert-agree, J.Jameson-agree.

There being no further business, a motion was made by J.Jameson and seconded by R.Rubin to adjourn the meeting. Motion carried unanimously and the meeting was adjourned at 9 pm.

Respectfully submitted,

Elaine Nesbit/ZAP Secretary