

Town of Jerusalem  
Zoning Board of Appeals

May 9, 2013

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Thursday, April 9<sup>th</sup>, 2013 at 7 pm by Vice-Chairman, Jim Crevelling.

Roll Call:	Glenn Herbert	Present
	Jim Crevelling	Present
	Ed Seus	Present
	Dwight Simpson	Present
	Earl Makatura	Present
Alternate	Rodgers Williams	Present

Others present included: John F. Phillips/Code Enforcement Officer, Mike Folts/Town Bd., Allen Carey, Joe Chiaverini, and Jean McConnell.

A motion was made by J.Crevelling seconded by E.Seus to approve the April Zoning Board minutes as corrected. Correction to read as follows: Page 2 of April 2013 minutes for Area Variance Test Question number 5 the number of yes answers should be 3 and the number of no answers should be 1.

COMMUNICATIONS:

Board members had received a copy of the letter of Earl Makatura’s appointment as a regular member to the Zoning Board of Appeals to fill the unfinished term left vacant by the resignation of Jim Bird.

AREA VARIANCE/SPECIAL USE REVIEW:

Application #1015 for Allen Carey owning property at 6362 West Bluff Dr. requesting an Area Variance to place a storage shed on the east side of West Bluff Dr. with less front yard setback than zoning requires. This property is located in the R1 zone and for placement of a storage shed on this side of the road requires a front yard setback of 40 ft. or 65 ft. as measured from the center of the traveled way to the edge of a structure or building.

The proposed location of this 6 ft. by 8 ft. storage shed would be at the edge of an existing driveway where there is already a layer of crushed stone in place and the area is flat. The applicant, Mr. Carey, who was present to answer questions for board members stated that if he were to move back further east for the proposed location, it would require excavation into the bank and more expense for him.

Mr. Carey noted for the board that this building is a temporary building, i.e. it is not being placed on a fixed or permanent foundation. It can be moved. He noted that there are other buildings that are closer to the road than the required 40 ft. front yard setback.

J.Crevelling stated that he had concerns with granting an area variance of 35 ft. for a 65 ft. setback as measured from the center of the traveled way. He stated that in looking both ways from this property there aren't any buildings on this side of the road that are located as close to the road as this proposed storage shed would be located. He had noted that in looking at this site he thought that with some grading of the bank the building could be moved further back and require a much smaller variance.

G.Herbert stated that he owns property about ¼ of a mile away from this property and his garage is set back 30 ft. from the center of the traveled way, as is his neighbor's garage. Mr. Herbert stated that if he and his neighbor had not been granted the area variances, they would have had to excavate a lot of material out of the hillside in order to meet the required 65 ft. setback for their garages. He stated that he does not see a problem with this small storage shed being placed at this proposed location and being given a 35 ft. variance. The building is temporary and can be moved.

E.Seus stated that our zoning ordinance does not differentiate between permanent and temporary buildings or structures. Once an area variance is granted it goes with the property not the building or the property owner.

D.Simpson stated that he had noted the flat area farther up the hillside that would accommodate this building but it is a longer walk, there would be the issue of getting the stone up there for a stone base and also getting the building up there. There are some garages on West Bluff Dr. that are closer to the highway right-of-way than this building will be.

The letters of notification were sent out to all neighbors within 200 ft. regarding this application. There were no letters of communication back to the Zoning Board from any of these neighbors.

Mr. Carey stated that he had heard from three of his neighbors and after explaining to them about what the building was and where he planned to place it, they had no concerns.

The area variance test questions were reviewed with the following results:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby property owners will be created by the granting of the area variance. (2-yes, 3-no). G.Herbert-no, J.Crevelling-yes, E.Seus-yes, D.Simpson-no, E. Makatura-no. Granting more than 50% of the setback or 35 ft. is excessive. There are no structures this close to the road for a considerable distance either north or south. The building will be in the direct vision of the \*south site line of the neighbors to the \*north. **(correction should read: northwest site line of the neighbors to the south.)**

2. Whether the benefit to the applicant can be achieved by some other feasible method than an area variance: (3-yes, 2-no). G.Herbert-no, J.Crevelling-yes, E.Seus-yes, D.Simpson-no, E.Makatura-yes.

3. Whether the area variance is substantial: (4-yes, 1-no). G.Herbert-no, J.Crevelling-yes, E.Seus-yes, D.Simpson-yes, E.Makatura-yes. Granting an area variance of 50% is substantial.

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district: (0-yes, 5-no).

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

There being no further discussion, a motion was made by G.Herbert seconded by E.Makatura to grant the area variance as proposed for a 35 ft. area variance, allowing the proposed building to be placed no closer than 30 ft. as measured from the center of the traveled way to the closest point on the building.

The motion was carried with a poll of the board as follows: D.Simpson-grant, E.Seus-grant, J. Crevelling-deny, E.Makatura-grant, G.Herbert-grant.

The board members were 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 nor alter the essential character of this locality.

Other Business:

J. Crevelling asked if the board members had an opportunity to review the outline that he has put together for educational purposes. The plan is to send this proposed outline on to the Town Board as soon as possible and then to ask to be placed on the June Town Board Agenda to ask for approval for educational training credits for this outline. This would then be used as an educational course for Zoning Board members that as hours are set aside to go through the course, to provide them with some of the required training credit hours that they need to meet NYS requirements.

ZAP Secretary asked if any of the board members preferred to have monthly applications sent to them electronically rather than through the mail. Two board members stated that they would prefer to have it sent electronically. The remaining board members will continue to receive the material by mail.

There being no further business, a motion was made by D.Simpson, seconded by G.Herbert to adjourn the meeting. The motion was carried unanimously and the meeting was adjourned at 8:30 pm.

Respectfully submitted,  
Elaine Nesbit/Secretary