

Approved

TOWN OF JERUSALEM
ZONING BOARD OF APPEALS

April 14th, 2016

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Thursday, April 14th, 2016 at 7 p.m. by Co-Vice Chairman Rodgers Williams.

| | | |
|------------|------------------|---------|
| Roll Call: | Glenn Herbert | Excused |
| | Dwight Simpson | Excused |
| | Rodgers Williams | Present |
| | Ed Seus | Present |
| | Earl Makatura | Present |
| Alternate | Joe Chiaverini | Present |
| Alternate | Kerry Hanley | Present |

Others Present: Tim Cutler/Planning Bd., Pam & Liudy Bukys, Art & Joyce Hunt, Bill Grove, John Carroll, Gary Dinehart/Town Board, Penny Hayes, Afra Nahmmacher and Andrew Williams

A motion was made by E. Seus seconded by R.Williams to approve the March Zoning Board minutes as written. The motion was carried unanimously.

COMMUNICATIONS:

Yates County Planning Board sent notices of decisions regarding Applications #1065 and #1069, copies on file with applications.

AREA VARIANCES/SPECIAL USE REVIEW

Application #1065 for John Carroll owning property at 3408 Guyanoga Rd. , Branchport, NY requesting an Area Variance to build a pole barn/garage with less rear yard setback than the zoning requires which is 30 ft. for an accessory building. The requested area variance is for a 15 ft. rear yard setback.

Mr. Carroll was present to answer questions for board members. Several of the board members had been to visit the site.

The Yates County Planning Board had this application on their agenda to review at their February meeting which was not held due to their lacking a quorum, and therefore the application was approved by default. Copy of this approval on file with the application.

There was a discussion of how close a building can be to another building according to the New York State Building and Fire Code without buildings being fire-rated. This distance is five feet.

Board members were not comfortable with the 15 foot setback because they felt it was a considerable sized variance to grant and that it was too close to the neighbor to the west.

There had been no correspondence from the neighbor regarding this application and all neighbors were notified by certified mail.

A letter from William Pinckney was sent to Zoning Board Members regarding application #1065, copy on file with application.

Board members asked Mr. Carroll if he could work with a twenty foot rear yard setback. Board members stated they would be more comfortable with a setback of 20 ft. from the rear yard property line.

The Area Variance Test questions were reviewed based on a modified setback of 20 ft. from the west rear yard property line with the following results:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance: (5-no, 0-yes).
2. Whether the benefit to the applicant can be achieved by some other feasible method than an area variance: (5-yes, 0-no).
3. Whether the requested area variance is substantial: (4-no, 1-yes): E.Seus-yes, R.Williams-no, E.Makatura-no, J.Chiaverini-no, K.Hanley-no.
4. Whether the proposed area variance will have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district: (5-no, 0-yes).
5. Whether the alleged difficulty was self-created: (5-yes, 0-no).

Other neighbors present spoke with concerns regarding this application and if this area variance is granted how long will it take for the work to be completed. A question came up whether a condition could be set for the work to be completed in six months or the permit be revoked. This would be a legal question to be answered by the attorney since the Zoning Code is clear that a building permit is good for up to a year and then may be renewed per the appropriate fee.

Mr. Carroll noted that he has milled lumber that he wants to use to complete work on the house and that is what this building is for to keep it under cover and dry so that he can finish the work on the house.

Board members again discussed compromising with the applicant with regards to the rear yard setback.

Since the neighbor to the west might not always be the neighbor living there, and since once an area variance is granted it goes with the property, the board members were in agreement that a setback of 20 ft. to the west rear yard property line was as much of a variance as they were willing to agree with.

Board members asked Mr. Carroll if he wished the board to vote on this application or if he wanted to table the application and come back with a different proposal.

Mr. Carroll stated that no matter which way he moved the building he would have to ask for an area variance. Mr. Carroll then asked for the board to go ahead and vote.

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

A motion was made by R.Williams seconded by E.Makatura to grant an area variance allowing for a setback of 20 ft. from the west rear yard property line.

This measurement is taken from the closest point of the shed including the roof overhang. The motion was carried with a poll of the board as follows: J.Chiaverini-grant, K.Hanley-deny, E.Seus-grant, E.Makatura-grant, R.Williams-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 nor alter the essential character of this locality.

Application #1068 for Liudvikas & Pamela Bukys for property at 4705 East Bluff Dr., Penn Yan, NY requesting an area variance to build a new single family home with less setback from the west rear yard property line than zoning requires for a lot that is located on the west side of East Bluff Dr.

Mr. & Mrs. Bukys were present to answer questions for board members regarding their application and the proposed building of their new single family home. The zoning requires a 30 ft. rear yard setback for a dwelling that is built on a lot located on the west side of East Bluff Dr. The Bukys are requesting a 20 ft. rear yard setback for reasons of best placement for the home on this location and also with respect to the neighbors so as not to make an impact on the view they have from their respective homes.

Several of the board members had visited the site and had seen the property. E. Makatura recused himself from taking part in the review of this application since he had met with the Bukys as a possible future contractor for the building of the new home.

Bill Groves, Engineer for the Bukys was present to answer any questions for board members with regards to the site drawing that board members had received a copy of. A question was asked with regards to the overall height of the house and Mr. Groves stated that the height would not exceed the allowed 35 ft.

Mr. Bukys had three emails from neighbors (copies on file with application) and one adjacent neighbor was present, all of which were in support of the proposed area variance.

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 properties will be created by the granting of the area variance: (4-no, 0-yes).

2. Whether the benefit to the applicant can be achieved by some other feasible method than an area variance: (4-no, 0-yes).

3. Whether the requested area variance is substantial: (3-no, 1-yes): E.Seus=yes, R.Williams=no, , J.Chiaverini=no, K.Hanley=no.

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

5. Whether the alleged difficulty was self-created: (2-yes, 2-no): E.Seus=yes, R.Williams=no, J.Chiaverini=yes, K.Hanley=no.

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

A motion was made by R.Williams seconded by E.Seus to grant this area variance for a 20 ft. setback from the west rear yard property line as measured from the closest part of the building including the roof overhand. The motion was carried with a poll of the board as follows: J.Chiaverini – grant, E.Seus-grant, K.Hanley-grant, R.Williams-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 nor alter the essential character of this locality.

Application #1069 for Hunt Country Vineyards LLC for property at 4021 Italy Hill Rd., Branchport requesting a Special Use Permit to convert the north end of the visitor center into a small café (approximately 450 sq. ft.) which will be used for the purpose of serving lunches several days per week during the busy season. This area is located in the winery (visitor 's area for wine tasting and purchase of wine) at Hunt Country Vineyards LLC at 4021 Italy Hill Rd.

R.Williams recused himself from review of this application. E. Makatura took over to continue with the meeting.

Art and Joyce Hunt were present to answer any questions for board members. A question came up about the type of food that they planned to serve. Joyce Hunt noted that it would mostly be soups, sandwiches, salads and desserts. The food types would be nearly all, mostly locally grown products.

Yates County Planning Board reviewed both a Site Plan and Special Use application at their meeting on March 24th 2016 and a motion was made to approve both the Site Plan and the Special Use applications for Hunt Country Vineyards LLC at this meeting.

The Jerusalem Planning Board reviewed the Site Plan application for Hunt Country Vineyards LLC at their meeting on March 7th as well as reviewing the SEQR for both Site Plan and Special Use for this same location. A determination for a negative SEQR was made at the April 7th meeting by the Planning Board (copy on file) and Site Plan Approval was also given at the April 7th meeting (copy on file).

It was noted for Board members that this Special Permitted Use was just recently, newly approved legislation by the Jerusalem Town Board. The Zoning Board in the accompanying application has the new Section 12 addition to Article V §160-27.2 Restaurant associated with a winery, brewery or distillery.

There being no more discussion, a motion was made by E. Makatura seconded by K.Hanley to approve the Special Use permit as requested for the Small Café at Hunt Country Vineyards LLC as per the conditions as set forth by Article V Section 12 §160-27.2 and per the conditions of the Site Plan Approval to meet all requirements of the NYS Building and Fire Code and all zoning regulations in accordance with the Town of Jerusalem Zoning Code.

The motion was carried with a poll of the board as follows: J. Chiaverini -grant, E.Seus-grant, K.Hanley-grant, E. Makatura-grant.

OTHER BUSINESS:

Zoning Secretary noted that there was already one application on the agenda for the May meeting with one other application pending.

There being no other new business, a motion was made by E. Makatura to adjourn the meeting, seconded by R. Williams. The motion was carried unanimously, and the meeting was adjourned.

Respectfully submitted,
Elaine Nesbit/Secretary