

Approved

Zoning Board of Appeals
November 8th, 2018

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Thursday, November 8th, 2018 at 7 p.m. by Chairman Glenn Herbert. Chairman G.Herbert opened the meeting by welcoming everyone and asking everyone to stand for the pledge to the flag.

Roll Call:	Glenn Herbert	Present
	Rodgers Williams	Present
	Ed Seus	Excused
	Earl Makatura	Excused
	Joe Chiaverini	Present
Alternate	Ken Smith	Present

Others present included: Tim Driscoll, Heather Thompson, MJ Herson, Adele Middaugh, Kim D'Amore, Danny Brown, Bill Bohnert, Russell Hoover, Ira Goldman, Jamie Sisson/Town Bd., Ron Miller, Earl Peck and Scott Hall.

A motion was made by R.Williams and seconded by K.Smith to accept the October Zoning Board minutes as written. The motion was carried unanimously.

COMMUNICATIONS: There was a letter and an email both in support of Area Variance #1145 that were distributed to Zoning Board members (copies on file with the application).

AREA VARIANCE/SPECIAL USE REVIEW:

Application #1143 for Russell Hoover for property at 4539 Italy Hill Road requesting a Special Use permit for a Low-Impact Wholesale Business which will consist of making laminated post-beams for use in the construction of large buildings such as pole barns. In addition, Mr. Hoover is also applying for an Area Variance to build a larger facility, 80 ft. by 160 ft. which will allow for the large post-beams to be made and moved around inside of the building, whereas the zoning only allows for a new building to be 3000 sq. ft. in size and this would not be large enough to handle these 30 ft. post-beams.

Mr. Hoover was present to answer questions for the board members and noted that he would also be building his home at this location.

There were questions about how the post-beams would be put together and Mr. Hoover stated that they are put together with glue which is sprayed on before the pieces are put together. G.Herbert asked if there would be issues or monitoring at their site by DEC with the use of the glue and Mr. Hoover stated that would have like one barrel of glue that would be in use and one on hand. He stated that the beam joints would be tested for strength.

Regarding the truck traffic that would be bringing in lumber and taking out the post-beams, it was noted by Mr. Hoover that there would be a circular driveway that would allow the trucks to drive in on one side of the building and load or unload and drive around the other side to drive back out onto Italy Hill Road in a safe manor.

The driveway is located farther to the east than the former house driveway was located which would give more sight for driver's coming from the west to see trucks that would be pulling out of the driveway at this location.

It was noted that the Yates County Planning Board had reviewed this application for Area Variance, Site Plan and Special Use Permit and for all three applications the County determined no significant impact.

The Jerusalem Planning Board reviewed the SEQR for the Site Plan and the Special Use application and determined a negative declaration for both Site Plan and Special Use.

The Jerusalem Planning Board also approved the Site Plan application for this project.

The area variance test questions for this project were read and 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: (0-no,4-yes).

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

5) Whether the alleged difficulty was self-created: (4-yes, 0-no).

The board was in unanimous agreement that this is a SEQR Type II action.

A motion was made by G. Herbert and seconded by K. Smith to grant the area variance application as proposed to allow the 80 ft. by 160 ft. (12,800 sq. ft.) building which will allow for the post-beams to be built inside of the building as part of the low-impact, whole sale business.

The motion was carried by a poll of the board as follows: J.Chiaverini-grant, R.Williams-grant, K.Smith-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 minimal variance that will accomplish this purpose. This variance will not be injurious to the neighborhood not alter the essential character of this locality.

A motion was then made by G. Herbert to grant the Special Use application as written and it was seconded by K.Smith. The motion was carried with a poll of the board as follows: J.Chiaverini-grant, R.Williams-grant, K.Smith-grant, G.Herbert-grant.

It was noted that if the applicant plans to have any signs for his business that he will need to see the Code Enforcement Officer regarding any permits and the rules regarding signs.

Application #1144 for Heather Tompkins for property at 2732 Wager Hill Road, Penn Yan, requesting an Area Variance to add a 2nd floor deck on the south side of the existing garage/barn that will not meet the setback from the front yard property line. The deck will not extend any closer to the front yard property line than the existing roof that is already in place above the first floor of the garage/barn.

The setback required is 60 ft. and the proposed deck to be no closer to the front yard property line than 50.6 ft. which will require an area variance of 9.4 ft.

It was noted by Ms. Tomkins that there would be a door from the deck that would enter into the barn/garage at the second floor level. The deck would not be covered it is to remain an open deck.

The deck would not be used for purposes of allowing any of the music to be set-up outside.

The area variance test questions for this project were read and 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: (4-no,0-yes).
- 4) Whether the proposed area variance will have an adverse effect or impact on the physical or environmental condition of the neighborhood or district: (4-no, 0-yes).
- 5) Whether the alleged difficulty was self-created: (4-yes, 0-no).

The board was in agreement that this would be a SEQR Type II action.

A motion was made by R.Williams seconded by G.Herbert to grant the Area Variance application as requested with the deck to be no closer to the front yard property line than 9.4 ft. as measured to the closest part of the deck.

The motion was carried with a poll of the board as follows: J.Chiaverini-grant, K.Smith-grant, G.Herbert-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 minimal variance that will accomplish this purpose. This variance will not be injurious to the neighborhood not alter the essential character of this locality.

There were concerns from adjacent neighbors to the 2732 Wager Hill Property which were not addressed during the review of the Area Variance application process. These concerns had to do with whether or not there would be any lighting added to the deck, and concerns about the continued noise that the neighbors have been hearing all summer from the weekend events that are held at this location.

It was noted that enforcement of the noise ordinance is to be handled through the Yates County Sheriff's Department. The neighbors noted that they had called the 911 dispatch office only to be told that Crispin Hill has a Special Use Permit to hold the events and have their music and there is nothing they can do about it. The neighbors asked the Zoning Board members to come out to the sight and listen to the music from their houses.

Another issue that was brought up had to do with the lights and it was noted that this issue had been resolved through the Code Enforcement Officer and then had been discussed with both Planning Board and Zoning Board that this was a safety and security issue to add the lights for the parking area and along the walkway. The first set of lights for the parking area were too tall and they were removed and replaced with lower lights which were directed in a downward position to cast their light onto the parking area. Again, the board members had no concerns for the use of these lights for the purposes of security and safety.

It was suggested by Chairman G. Herbert to have the ZBA Secretary talk with the Code Enforcement Officer and find out when would be a good time for the neighbors to come in and sit down with him to go over their concerns and see if there could be a way to come to some resolution with their issues.

It was also noted that the applicant would be advised that there would be no lights added to the deck until such time as they would be coming back in before the Planning and Zoning Board to amend their Special Use Permit and their Site Plan.

Application #1145 for Tim Driscoll for property at 4166 West Bluff Dr., Keuka Park to request an Area Variance to build a single family home at this location with less set-back from the rear yard property line than zoning allows for a lot in the (R1) Lake-Residential Zone when the portion of the lot where the proposed new home is to be built is located between the road and the lake.

Mr. Driscoll was present to answer questions for board members and to explain what his proposed plan was for the single family home.

Mr. Driscoll noted that his home was not going to be lined up in the same way as the other new homes that were built to the north of this property. He noted that his home would be angled in such a way (being perpendicular to the road rather than parallel) that they would not have to remove as many of the trees on this lot as had been removed from the other lots. This would in effect help to maintain the integrity of the lot by keeping as many of the trees as possible and thus preventing soil erosion and sedimentation issues during construction.

One concerned neighbor wasn't sure how this could be done, in that there would still need to be trees removed. Mr. Driscoll invited the neighbor to stop by and walk the property and he also noted that the existing boathouse that was to be removed would be the location for the new basement for his proposed new home. He also noted that around the area of the old boathouse the trees in this location were not mature trees that would need to be removed. The more mature trees that were located on the edges of the property and out away from the former boathouse were going to remain in place.

There was more discussion about the entry way that was proposed for the east side of the home that was under consideration for the area variance setback. The required setback for this location is 45 ft. as measured from the center of West Bluff Dr. to the closest part of the entry way including the roof overhang. The requested setback is to be 24.8 ft. from the center of the road to the entryway roof overhang. Board members did not think that this setback was far enough off of the road right-of-way and there was discussion about moving the whole house closer to the lake which would then require another area variance since it just meets the setback at this time with its proposed location.

The size of the entryway is to be 6 ft. by 8 ft. plus the roof overhang. After much discussion, board members asked Mr. Driscoll if he could downsize the entry way so that the setback request could be reduced by 2 more feet. Mr. Driscoll stated that he could do this by even removing most of the roof overhang and shortening up the entryway just a little bit.

The area variance test questions were read and 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: (1-no, 3-yes) G.Herbert-yes, R.Williams-yes, J.Chiaverini-no, K.Smith-yes.
- 3) Whether the requested area variance is substantial: (2-no,2-yes) G.Herbert-no, R.Williams-yes, J. Chiaverini-yes, K.Smith-no.
- 4) Whether the proposed area variance will have an adverse effect or impact on the physical or environmental condition of the neighborhood or district: (4-no, 0-yes). R.Williams applauded the applicants designed plan to save as many of the trees as possible.
- 5) Whether the alleged difficulty was self-created: (4-yes, 0-no).

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

It was also noted that there was one letter and one email sent in to the Zoning Board members in support of this Area Variance application, copies on file with application.

An interested neighbor who was present was concerned about the zoning code not being adhered to as it has been written.

She was concerned about area variances being given when an applicant could design their plans and adhere to the rules and regulations of the zoning code whether by downsizing or by some other means or methods.

G.Herbert stated that when he built his home he also needed to get an area variance for a setback from the road. He also lives on West Bluff Dr. and he stated that each application is unique and the board looks at each one with very carefully before making a decision that is in the best interest of the property, the property owner and the surrounding neighbors.

A motion was made by G. Herbert and seconded by R.Williams to grant the Area Variance application with a revision that the home come no closer than 26.8 ft. as measured from the center of West Bluff Dr. to the closest part of the home including the roof overhang over the entryway.

The motion was carried with a poll of the board as follows: J.Chiaverini-grant, K.Smith-grant, R.Williams-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 minimal variance that will accomplish this purpose. This variance will not be injurious to the neighborhood not alter the essential character of this locality.

OTHER BUSINESS:

Chairman G.Herbert stated that Lynn Overgaard had been interviewed for the vacant position on the Zoning Board and her name was sent on to the Town Board for approval and appointment at the next Town Board meeting.

A gentleman, Scott Hall, was present and he had stopped to see how the board was progressing with changes to the Zoning code with regards to pre-existing, non-conforming properties. He and his wife had purchased a second property earlier this year and was told by the Code Enforcement Officer that at this time he would not be able to do anything with the house until the code has been modified to deal with some of these issues. J. Sisson of the Town Board stated that a committee has been working on these code changes and it has gone to the Town Attorney, but he is not sure whether the wording and changes are what the Town is ready to adopt as part of these code changes.

There being no further business, a motion was made by G.Herbert and seconded by R.Williams to adjourn the meeting. The motion was carried unanimously.

Respectfully submitted,
Elaine Nesbit/Secretary

