

Approved

Town of Jerusalem
Zoning Board of Appeals

April 12th, 2018

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Thursday April 12th, 2018 at 7 pm by Deputy Chairman, Rodgers Williams.

R.Williams asked all to stand for the pledge to the Flag.

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

Others present included: Julie and Christopher Hawk, Laurie Tappel, R.Parker Reynolds, Marc Race, James Brawdy, Don Stevens, Chip Stevens, and Jamie Sisson/Town Bd.

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

COMMUNICATIONS:

No new communications had been received regarding any of the Area Variance applications.

AREA VARIANCE/SPECIAL USE REVIEW

Applications #1116 for Laurie Tappel and Application #1117 for Julie & Christopher Hawks for property at 12471 & 12473 East Bluff Dr. requesting Area Variances to subdivide the properties into two separately deed lots so that each dwelling will be on its own deeded lot.

Applicants are also requesting, as a result of the proposed new property line division, an area variance for 12473 East Bluff Dr. from the new north side yard property line which will have less than 10 ft. as measured from the roof overhang of the cottage to the proposed north side yard property line and an area variance is also requested for 12471 for a side yard setback from the cottage roof overhang to the proposed south side yard property line which will not be 10 ft. as required. The property of Laurie Tappel at 12471 is pre-existing zoning in its location to the current north property line and is only approximately 2 to 3 ft. off of the side yard lot line. The applicant wishes to construct a second story on the cottage coming no closer to the north side yard property line than where the cottage is currently located but which is still only 2 to 3 ft. off the lot line.

Both applicants were present to answer questions for the board members

This application was tabled from the February meeting so that the board could contact the Attorney for the Town to review the survey information regarding the creation of the two lots and if they would be considered as conforming lots, and would this allow for a second story to be added to the northern most cottage.

The applicant was unable to attend the March Zoning Board meeting due to scheduled out-of-town business, thus the application was tabled until the April meeting.

Board members had reviewed the application material and had reviewed the information provided them by the Attorney for the Town and the result of this information was to refer them back to Article XIII, Section 160-56 (B) No nonconforming building shall be enlarged, extended or increased unless such enlargement would tend to reduce the degree of nonconformance." Therefore, even if the property could be divided (by a division of the property into two separate conforming lots) the end result would be that a second story added to the north cottage would be an expansion of a non-conforming building.

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: (2-no, 2-yes) R.Williams-no, E. Makatura-no, E.Seus-yes, J.Chiaverini-yes.

2)Whether the benefit to the applicant can be achieved 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: (3-no, 1-yes) R.Williams-no, E.Makatura-no, E.Seus-yes, J.Chiaverini-no.

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

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

A motion was made by E.Seus and seconded by J. Chiaverini to deny the application as applied for. The motion was carried with a poll of the board as follows: E.Makatura-deny, R.Williams-deny, J.Chiaverini-deny, E.Seus-deny.

Ms. Tappel had some questions with regards to what she still might be allowed to do with this property and it was noted that she should get together with the Code Enforcement Officer to review and discuss any other plans she might have. It was noted that the Zoning Board acts on an appeal from an applicant after a building permit application has been denied by the Code Enforcement Officer and the reason(s) have been set forth in the area variance application.

Application #1122 for Don Stevens for property at 9523 East Bluff Dr., PY requesting an Area Variance to build a 34 ft. by 32 ft. deep pole barn structure that would be 17 ft. high with a set-back of only 45 ft. as measured from the center of East Bluff Dr. when 64.75 ft. is required when the proposed building is to be located on the west side of East Bluff Dr. This property is located in the (R1) Lake-Residential Zone.

Mr. Don Stevens and his son Chip Stevens were present to answer questions for board members.

The proposed location for the pole barn is in a fairly level area and board members were asking why the applicant could not move it back to the required setback distance. Chip Stevens, speaking for his father, stated that there were a lot of nice trees, many of them walnut trees that they didn't want to have to take down and would like to leave as many as possible. Board member E.Makatura stated that the area was not a steep slopes area and while he could understand about keeping the trees, he saw no reason why the building could not be moved back another 10 ft. or 55 ft. as measured from the center of East Bluff Dr. Other board members concurred with this. There was more discussion with Mr. Stevens regarding this additional setback and he stated that they could move it back another 10 ft.

It was noted that the door would open on the north side of the building.

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 some other feasible method than an area variance: (0-no, 4-yes).

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

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.

There being no further discussion, a motion was made by E. Makatura and seconded by R.Williams to grant an area variance allowing for the pole barn to be built no closer than 55 ft. to the center of East Bluff Dr.

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

Application #1123 for R. Parker Reynolds for property at 1685 West Lake Rd., PY requesting an area variance to construct a two-garage 26 ft. by 30 ft. or 780 sq. ft. overall with a requested height of 16 ft. 9 in. where the allowed height for an accessory structure in this location for a lot between the road and the lake in the (R1) Lake-Residential Zone is 15 ft. high.

Mr. Reynolds was present to answer questions for board members. Mr. Reynolds noted for the board that there were no neighbors behind him to obstruct anyone's view.

The small attic area was not going to be used at all. He stated that the height of the roof would be east to west and would not be an obstruction to the neighbors across the street. The design of the garage and its layout was to match the house.

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 some other feasible method than an area variance: (0-no, 4-yes).
- 3)Whether the requested area variance is substantial: (0-yes, 4-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).
- 5)Whether the alleged difficulty was self-created: (4-yes, 0-no).

There were no concerns from any neighbors. The board members were in unanimous agreement that this is a SEQR Type II action.

A motion was made by R.Williams and seconded by E.Seus to grant the Area Variance application as applied for allowing for the garage to be 16 ft. 9 in. in height.

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

Application #1124 for Marc Race for property at 3146 Kinney Corners Rd., Bluff Pt., requesting an Area Variance for placement of an above ground pool to be placed 20 ft. from the north side yard property line which is closer than what zoning allows for an accessory structure in the Agricultural Residential Zone. The required setback is 40 ft. for a side yard setback for an accessory structure.

Mr. Race was present to answer questions for the board members.

R.Williams noted that this property is a smaller residential type property and that the applicant does not have the room at this location to meet the required setback for an accessory structure. E.Seus was concerned about whether or not there would be a deck around the pool or if it would be connected to the house.

Mr. Race noted that there would be a deck of required height around the pool and that it would have the required gate for safety purposes as required. E. Seus stated that his main concern was for the safety factors being met.

E.Makatura stated that his concern was that if the pool failed that it would either be repaired or if no longer used it would be taken down.

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

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 some other feasible method than an area variance: (4-no, 0-yes).
- 3)Whether the requested area variance is substantial: (1-yes, 3-no) R.Williams-no, E. Makatura-yes, E.Seus-no, J.Chiaverini-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
- 5)Whether the alleged difficulty was self-created: (4-yes, 0-no).

A motion was made by E. Makatura and seconded by J.Chiaverini to grant the application as requested due to the lot being a smaller residential type lot allowing the pool to come no closer to the north side yard property line than 20 ft. and will have the deck around it to meet the safety requirements and with the added condition that if the pool fails it will be repaired or if it is no longer to be used that it will be taken down.

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

Application #1125 for James Brawdy for property at 6245 East Bluff Dr., PY requesting an Area Variance to build a new garage with a first floor having 960 sq. ft. and the second floor having 590 sq. ft. with a requested area variance for height to be 22 ft. 6 in. and a requested area variance for the rear yard setback to be measured at 29 ft. from the center of East Bluff Dr. to the roof overhang where 44.75 ft. is required for a lot between the road and the lake. This property is located in the (R1) Lake-Residential Zone.

Mr. Brawdy was present to answer questions for the board members. He stated that it was his intent to be moved down here permanently in about six years and his house does not have sufficient room for everything that he has. The proposed new garage has been designed to fit with the overall design of the house and other structures on his property. He noted also that the reason for the proximity of the garage and its closeness to the rear yard property line is because of the grade of his driveway and wanting to utilize the existing driveway with the new garage.

Board members were concerned with the height that was being requested as being too high and they were also concerned with the proximity of the proposed building to the road.

It was noted that while an area variance had been granted for a garage down the road from this one, it was stated that the other property was down over a bank and the top of the garage was hardly visible from the road. Every application is different and must be considered on its own merits.

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: (0-no, 4-yes)
- 2)Whether the benefit to the applicant can be achieved some other feasible method than an area variance: (0-no, 4-yes).
- 3)Whether the requested area variance is substantial: (4-yes, 0-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: (0-no, 4-yes).
- 5)Whether the alleged difficulty was self-created: (4-yes, 0-no).

The board members were not in favor of the application as it was presented and Mr. Brawdy asked if he was willing to reduce the height of the building if the board would allow the building to remain in the proposed location.

Mr. Brawdy asked the board to table his application until the May meeting so that he could redesign the building and lower the height area variance for the garage and move the building farther away from the rear yard lot line and closer to the lake for the area variance of rear yard setback.

Zoning Board Minutes
April 12th, 2018

A motion was made by R.Williams and seconded by E.Seus to table application #1125 until the May meeting when Mr. Brawdy will present revised drawings for the board.

The motion was carried unanimously.

OTHER BUSINESS:

Next Meeting: May 10th, 2018

There being no other business before the board, a motion was made by J. Chiaverini and seconded by E. Makatura to adjourn the meeting. The motion was carried unanimously.

Respectfully submitted,
Elaine Nesbit/Secretary