

Approved

TOWN OF JERUSALEM
ZONING BOARD OF APPEALS

May 13, 2021

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called together on Thursday, May 13th, 2021 at 7 PM by Vice-Chairman Earl Makatura.

The meeting opened with everyone standing for the pledge to the Flag.

Roll Call:	Rodgers Williams	Excused
	Earl Makatura	Present
	Glenn Herbert	Present
	Joe Chiaverini	Present
	Lynn Overgaard	Present
Alternate	Jim Bird	Present
Alternate	Steve Schmidt	Present

Others Present included: Mahlon & Heidi Esh, Phil & Nancy Williams, Scott Smith, Mike Steppe, Tom Sudek, Brian & Susan Tolbert, Tom Johnson, Mary Beth Gamba, Susan & Brian McKinnon, Austin Lapp, Bill Sutherland, Bruce Warfield, Galen & Nancy Burkholder, and Daryl Jones/Town Bd.

A motion was made by J. Bird and seconded by E. Makatura to approve the April Zoning Board minutes as written. The motion was carried unanimously.

COMMUNICATIONS:

Board members had received an email request from M. Coriale regarding the Keystone Special Use under review. (copy on file with Special Use).

AREA VARIANCE/SPECIAL USE REVIEW:

Revisit-Special Use #1188 Mahlon Esh-Keystone Custom Decks for property located in the Agricultural-Residential Zone and the Scenic Overlay District.

Vice-Chairman E. Makatura noted that this Special Use was back for a review of the former decision that had been made by the Zoning Board at their March meeting, at which time the motion was to deny the Special Use. At the April Zoning Board meeting a unanimous decision was made by the Zoning Board members to re-visit their decision along with having Mr. Esh (Keystone Decks) come up with a different design for the front of the building that would be facing Rte 54A. Certified letters were re-sent to property owners informing them of the scheduled May Public Hearing to re-visit this decision.

Mr. Esh was present and provided the Zoning Board members with 3 different options of how the front of the building could be re-designed (copies on file).

Board members were appreciative of the efforts by Mr. Esh and were approving of option 3 which has two dormers on the front evenly spaced apart and a small A-shaped roof over the middle front entry door. Signage would be on the building directly over the front door.

There was discussion of the concerns of the one neighbor which were addressed and that included low level lighting, no outdoor storage of decking or decking materials, and there would be vegetation screening between this property and the neighbors' property.

There was no more discussion or concerns by the board and no one present from the audience wanting to speak on this subject. J. Bird stated that he had sent a note to the Town Board regarding his concerns about this listed use and having a better definition for offices in the code. He did state, however, that he had no concerns with this particular building or this business. J. Bird then made a motion which was seconded by E. Makatura to reverse their decision on this Special Use and to grant the Special Use with Option 3 being the re-design used for the face of the building towards State Rte 54A and subject to the following conditions: that the lighting would be low level lighting, there would be no outdoor storage of decking or decking materials, and there would be vegetation screening between this property and the neighbors' property as per the site plan submitted.

The motion was carried unanimously with a poll of the board as follows: G. Herbert-grant, L. Overgaard-grant, J. Chiaverini-grant, E. Makatura-grant, J. Bird-grant.

Application #1189 for Thomas Sudek for property at 7486 West Bluff Dr. requesting an Area Variance to remove and replace a 6 ft. by 6 ft. storage shed with a 6 ft. by 12 ft. storage shed that is currently 2 ft. off from the north side yard property line. Mr. Sudek would like to keep the storage shed in its present location extending the length of the new shed in the westerly direction keeping the shed just 2 ft. off from the north property line. This property is located in the (R1) Lake-Residential Zone.

At least two board members had been out to visit the sight and one board member had actually been down to the beach area although he stated that the stairs were in very poor shape and could be considered unsafe. He stated that they should probably be replaced and if that were the case, then Mr. Sudek could expand the building in the northly direction to get the extra length to the storage building that he was looking for.

Mr. Sudek was concerned about having to remove the trees on the beach area and causing erosion to that area. Board members did not think any of the larger trees needed to be cut just one or two smaller ones to make room for the building to have room to expand in that northerly direction.

There was discussion again about whether an area variance was needed if he just removed the building and replaced it with the same sized building or if he just added on to the existing building and expanded towards the south.

The area variance test questions were read and reviewed as follows:

- 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: (3-no, 2-yes). G. Herbert-no, E. Makatura-yes, J. Chiaverini-no, L. Overgaard-no, J. Bird-yes, expanding it to be more non-conforming.
- 2) Whether the benefit sought by the applicant can be achieved by some other feasible method than an area variance: (0-no, 5-yes)
- 3) Whether the requested area variance is substantial: (0-no, 5-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, 2-yes). G. Herbert-no, L. Overgaard-no, E. Makatura-yes, J. Chiaverini-no, J. Bird-yes, because it is close to the neighbor's lot line.
- 5) Whether the alleged difficulty was self-created: (0-no, 5-yes).

There being no further discussion, a motion was made by J. Bird and seconded by E. Makatura to deny the application as applied for. The motion was carried with a poll of the board as follows: J. Chiaverini-deny, L. Overgaard-deny, G. Herbert-deny, E. Makatura-deny, J. Bird-deny.

Application #1192 for Brian & Susan McKinnon for property at 693 Beechnut Rd., Branchport requesting Area Variances to build an addition to their existing year-round home to construct a Master bathroom as part of increasing the size of the Master bedroom. The proposed addition would increase the degree of non-conformity by extending the addition along the north property line at a distance of 2.5 ft. from the property line and increasing the lot coverage by 1.4 % from 24.6% to 25.6%. This property is located in the (R1) Lake-Residential Zone

The main reason for the request for the increase in bathroom size was for handicap accessibility for Mrs. McKinnon's dad who is unable to get around without the help of a walker or wheelchair.

It was suggested that perhaps the storage shed could be removed, however, as Mr. McKinnon noted, they had downsized from their former home when they moved here over thirteen years ago and there was a lot of their things stored in this building because there was no other storage space.

Board member J. Bird stated that he did not think that the amount of gain from removal of the storage building was as of much significance when compared to the need for bathroom handicap accessibility.

The area variance test questions were read and reviewed as follows:

- 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 sought by the applicant can be achieved by some other feasible method than an area variance: (2-no, 3-yes), G. Herbert-no, E. Makatura-yes, applicant could remove the shed or do something else; J. Chiaverini-yes, L. Overgaard-yes, J. Bird-no.

3) Whether the requested area variance is substantial: (0-no, 5-yes); two area variances are being requested.

4) Whether the proposed area variance will have an adverse effect or impact on the physical or environmental condition of the neighborhood or district: (5-no, 0-yes). Applicant is actually leaving some land open that he could be building on.

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

There being no further discussion and no one being present to speak to this application, a motion was made by J. Bird and seconded by L. Overgaard to close the public hearing. Carried unanimously.

L. Overgaard made a motion to grant this application as requested based on the applicant's request for the additional bathroom area needed due to a family member that requires handicap accessibility. The motion was seconded by J. Bird and carried by a poll of the board as follows: E. Makatura-deny, G. Herbert-deny, J. Chiaverini-grant, L. Overgaard-grant, J. Bird-grant.

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 minimal variance that will accomplish this purpose. This variance will not be injurious to the neighborhood nor alter the essential character of this location.

Application #1193 for Galen Burkholder for property at 4571 Belknap Hill Rd., Branchport requesting a Special Use Permit to operate a kennel facility for eight breeding females at his farm at 4571 Belknap Hill Rd.

Mr. & Mrs. Burkholder were present to answer any questions for board members. One question that was asked as to what type of dogs they would be raising. Mr. Burkholder stated that they would be raising Labrador Retrievers.

Board members commended Mr. Burkholder on the plans that he had submitted to them with regards to the proposed dog kennel facility. The site plan having been approved by the Jerusalem Planning Board at their April 3rd, 2021 Planning Board meeting with a determination based on the materials submitted that the proposed action would not result in any significant adverse environmental impacts.

Board member J. Bird and R. Williams had attended the April Planning Board Zoom meeting and the question had been brought up by Jerusalem Planning Board asking how many dog kennel facilities the Town should have. There was a brief discussion about how this could be done without getting into discrimination issues. This is a matter for the Town Board to consider.

A motion was made by E. Makatura and seconded by J. Chiaverini to grant the Special Use as requested. The motion was carried with a poll of the board as follows: L. Overgaard-grant, G. Herbert-grant, J. Bird-grant, J. Chiaverini-grant, E. Makatura-grant.

Application #1194 for Brian Tolbert for property at 8124 Broadview Heights, Keuka Park requesting an Area Variance to remove an existing 944 sq. ft. deck and replace it with a smaller 880 sq. ft. deck with deck to be 8 ft. 9 in. from the side yard property line where 10 ft. is required.

It was noted by Mr. Tolbert that he also owns the adjacent property, although the area variance request is still needed.

The area variance test questions were read and reviewed as follows:

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 sought by the applicant can be achieved by some other feasible method than an area variance: (1-no, 4-yes), G. Herbert-yes, E. Makatura-yes, J. Chiaverini-no, L. Overgaard-yes, J. Bird-yes. The deck could be made smaller.

3)Whether the requested area variance is substantial: (5-no, 0-yes); two area variances are being requested.

4)Whether the proposed area variance will have an adverse effect or impact on the physical or environmental condition of the neighborhood or district: (5-no, 0-yes). Applicant is actually leaving some land open that he could be building on.

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

A motion was made by E. Makatura to grant the application as requested and seconded by J. Bird. The motion was carried with a poll of the board as follows: G.Herbert-grant, J. Chiaverini-grant, L. Overgaard-grant, J. Bird-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 nor alter the essential character of this location.

OTHER BUSINESS:

Next Zoning Board meeting is June 10th, 2021.

There being no further business before the board a motion was made by G. Herbert and seconded by J. Bird to adjourn the meeting. The motion was carried unanimously and the meeting was adjourned.

Respectfully submitted,

Elaine Nesbit/Zoning Secretary