

**TOWN OF JERUSALEM  
ZONING BOARD OF APPEALS**

**December 14, 2023**

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Thursday December 14, 2023 at 6:59 pm by Chair Rodgers Williams.

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

Roll Call	Rodgers Williams	Present
	Randy Rhoads	Present
	Earl Makatura	Present
	Lynn Overgaard	Present
	Steve Schmidt	Present

Alternates	David English	Present
Alternates	Donald Wright	Present

Others present included: Jim Bird. Daryl Jones, Town Board Liaison. Residents Robert and Sandra Payne, Guy Christiansen and Contractor Mahlon Esh.

**COMMUNICATIONS:** None

**AREA VARIANCE/SPECIAL USE PERMITS:**

Area Variance request for **Robert Payne App #23-2023**. 3423 Brandy Bay

Tax Map: 72.52-1-3. Requested variance: 43.5% lot coverage where 20% is permitted. Existing lot coverage is 43%.

Resident **Robert Payne** explained his request for variance is to bring roof line of garage and house together on second story utilizing attic space, which later may be turned into bedrooms. Proposed renovations would require a .5% increase to lot coverage. Building would not get closer to driveway/road or neighbors boundary lines.

**R. Williams** states that traditionally on Brandy Bay, the center field lot has been divided between nine homes to be included in parcels for lot coverage. If the 1/9 parcel is added to the coverage of Payne's parcel, they are at 20% lot coverage. All nine residents on Brandy Bay each own 1/9 of this center lot.

**R. Payne** explained, if approved they will have approved drawings done.

**D. English** stated the picture is a rendition for viewing purposes of before and after.

**D. Wright** asked if there will be additional entry ways into the home in the proposed renovations.

**R. Payne** states a new door may be included, that will be determined when approved drawings are done. He does not want to spend money on drawings yet, in case the variance is not approved for the small coverage requested.

**L. Overgaard** reiterated that when including the center lot with current parcel, it is only a 20% coverage currently.

**R. Williams** asked if the center lot could be built on

**L. Overgaard** asked if the center lot can be divided

**R. Rhoads** asked it was decided in that the lot cannot be built on

**R. Payne** states that all nine residents in the Corporation that own the center lot would need to approve of building on the center lot

**R. Rhoads** states it is a 1.93 acre lot, that is large and a recreation house could be built on the lot

**R. Payne** states he does not foresee that happening

**L. Overgaard** states that the field lot is a separate parcel from all other nine residents parcel's, it has its own tax number and theoretically it could be built on

**R. Rhoads** states it (Payne house) is already a very nice house that is close to northern neighbors and the house to the south is much smaller

**R. Payne** states they have 1300' of living space, the alcove in the current breezeway collects water and animals and with the proposed renovation that alcove would be eliminated and utilized for living space. There has been multiple other variances/permits granted using the center lot at coverage for other Brandy Bay properties

**R. Rhoads** inquired about deed restrictions

**R. Payne** states there is nothing in writing. The 'rec group' of all nine residents gets together a couple times a year and there are three of the residents that are three board members of the corporation, themselves being members since the corporation was created and knows that one person alone cannot build on the center lot. He feels his request is minor

**E. Makatura** states it should be in writing that the center lot cannot be built on

**R. Rhoads** states the center lot was used for additional coverage when Payne's built their garage

**R. Williams** asks if there are any further questions and there is not.

**R. Williams** makes a motion to approve the variance requested as a .5% increase to lot coverage. **R. Rhoads** seconds.

The board answered the 5 area variances questions.

**1. Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance?**

- R. Williams – No, small addition
- E. Makatura – No, agrees with R. Williams
- S. Schmidt- No, will make house look better
- R. Rhoads- No
- L. Overgaard- No

**2. Can the benefit sought by the applicant by some method, feasible for the applicant to pursue, other than an area variance?**

- L. Overgaard- No, cannot connect house and garage another way
- S. Schmidt- No
- E. Makatura- No
- R. Williams – No, agree with L. Overgaard on another feasible way to connect
- R. Rhoads- No, section between house and garage that collects water is hard to maintain, that is a hardship

**3. Is the requested Area Variance substantial?**

- R. Rhoads- No, small change, yet large coverage
- L. Overgaard- No
- S. Schmidt- No
- E. Makatura- No, but the lot coverage is already over by a lot
- R. Williams- No, in total big area but small request

**4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?**

- E. Makatura- No, it will look nicer and clean it up
- R. Williams- No, agrees with E. Makatura it is an improvement
- L. Overgaard- No
- R. Rhoads- No
- S. Schmidt- No

**5. In the alleged difficulty self-created, which consideration shall be relevant to the decision of the ZBA, but shall not necessarily preclude the granting of the Area Variance?**

- R. Rhoads- No, preexisted zoning laws, it is a large house
- S. Schmidt- Yes
- R. Williams- Yes, you are improving it, so you're the one to create the difficulty
- L. Overgaard- Yes
- E. Makatura- Yes, if garage wasn't there, wouldn't have to create the difficulty

The board was polled as follows:

- L. Overgard- Grant
- E. Makatura- Grant
- R. Williams- Grant
- S. Schmidt- Grant
- R. Rhoads- Grant

**R. Payne** thanks the board and he and Sandra exit.

Area Variance request for **Guy Christiansen App #24-2023**. 519 Acorn Rd

Tax Map: 83.82-1-3

Requesting 12' front setback where 15' is required from mean high water. 3' variance request.

Request 25.93% lot coverage where 20% is permitted. Existing lot coverage is 24.83%

Resident **Guy Christiansen** explained he is replacing his deck and increasing the current width from 12' to 16'.

**R. Williams** states the current 12x30 deck is already slightly over code

**R. Rhoads** states decks are included in the coverage of a lot and is requesting a 12' set back where a 15' setback is required. He asks if there was a variance for the existing deck

**G. Christiansen** states he bought the house in 2015 and it was built in 1999

**D. Wright** asks why he is increasing the deck

**G. Christiansen** states they spend a lot of time on the deck, there are tables and chairs for use, the railing is failing so he wants to replace that with higher railing for safety purposes

**R. Williams** agrees the railing needs replacement and asks if it will affect neighbors sightline

**R. Rhoads** asks if there are alternatives, stairs to a stone patio, stone patios are not included in lot coverage

**G. Christiansen** states he would prefer to keep it level with door to walk out on for easier accessibility

**M. Esh** presents photo and states they are using vertical cable for rail to minimize sightline issues

**L. Overgaard** has no questions but notes that the neighbors are not near by and should not have any affect on their sightline. The deck is closer to mean high water.

**D. English** asks where basement door is

**G. Christiansen** states it is on the side of the house

**L. Overgaard** asks if any neighbors have approached him about the deck

**G. Christiansen** states that none of his neighbors have any issues with his project

**R. Rhoads** makes motion to approve a 12' set back from mean highwater where 15' is required for a 3' variance and increase lot coverage from 24.83% to 25.93% where 20% is required. **L. Overgaard** seconds.

The board answered the 5 area variances questions. \*\* for setback and coverage

**1. Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance?**

R. Williams – Yes, little concerned with extending out with the sightlines

E. Makatura – No, concerned with adding to lot coverage

S. Schmidt- No

R. Rhoads- No, not a huge change in relation to neighborhood

L. Overgaard- No, improving the lot

**2. Can the benefit sought by the applicant by some method, feasible for the applicant to pursue, other than an area variance?**

L. Overgaard- No, talked about patio, but need deck on same level and cannot achieve that another way

S. Schmidt- No

E. Makatura- Yes, doesn't need to extend the deck

R. Williams – Yes, could do patio but doesn't want to. 4' extension is desirable but not necessary

R. Rhoads- Yes, agrees with R. Williams, could do something different

**3. Is the requested Area Variance substantial?**

R. Rhoads- No, already over, assuming numbers are correct, it is not a huge change and deck is up away from the mean high water

L. Overgaard- No

S. Schmidt- No

E. Makatura- No, it is over, but not by a lot

R. Williams- No, not much increase

**4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?**

E. Makatura- No

R. Williams- No

L. Overgaard- No

R. Rhoads- No, will not change neighborhood significantly

S. Schmidt- No

5. **In the alleged difficulty self-created, which consideration shall be relevant to the decision of the ZBA, but shall not necessarily preclude the granting of the Area Variance?**

- R. Rhoads- Yes, self-created, don't have to do it
- S. Schmidt- Yes
- R. Williams- Yes
- L. Overgaard- Yes
- E. Makatura- Yes

The board was polled as follows:

- L. Overgaard- Grant
- E. Makatura- Grant
- R. Williams- Deny
- S. Schmidt- Deny
- R. Rhoads- Grant

**G. Christiansen** thanks board and exits.

**NEW BUSINESS:**

**J. Bird** states they will need chair and vice chair for organizational meeting January 3<sup>rd</sup>, 2024.

**E. Makatura** makes motion to keep R. Williams as Zoning Chair and R. Rhoads as Vice Chair. **S. Schmidt** seconds. All approve; motion carried.

**D. English** will be resigning from Zoning Board effective today, and moving to the Planning Board. A new alternate will be needed.

Next meeting: Thursday December 14<sup>th</sup>, 2023

**R. Williams** makes motion to close the meeting at 7:44 pm. **E. Makatura** seconds the motion.

Emily Gillett/Zoning Secretary