

Approved

TOWN OF JERUSALEM  
ZONING BOARD OF APPEALS

May 10<sup>th</sup>, 2007

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order by Chairman R.Rubin on Thursday, May 10<sup>th</sup>, 2007 at 7 pm.

Roll Call:	Ron Rubin	Present
	Glen Herbert	Present
	Jim Jameson	Present
	Jim Bird	Present
Alternate	Jim Crevelling	Present

Others present included: Reggie O’Hearn, John Mosser, David & Joan Deisenroth,, Ed Zeus, Toni Peterson, Dennis Karalow, Melanie Steinberg, Susan & Efrim Adnopoz, Dale Lane, Mike Folts/Town Bd., and Dwight Simpson.

A motion was made by J.Jameson and seconded by J.Crevelling to approve the April 24<sup>th</sup> minutes as amended. Amendment to read as follows: Pg. 5 third paragraph from the bottom to add the following sentence: Attorney Philip Bailey was in agreement with Attorney Warth’s opinion.

The motion was carried unanimously (5-yes, 0-no).

COMMUNICATIONS

Chairman R.Rubin stated that there was communication from Attorney Warth, but that this would be looked at after the variance reviews were finished.

AREA VARIANCE REVIEW

Application #897 for John Mosser owning property at 306R West Lake Rd., PY to request an area variance to build a two-car garage closer to the rear yard property line than zoning allows.

Mr. Mosser was present along with Reggie O’Hearn who was there to represent Mr. Mosser, and to present the requested application for board members.

Mr. Mosser’s request is for the garage to be 7 ft. from his rear yard property line. The property directly west of Mr. Mosser’s property is the NYS Rte 54A right-of-way. The existing cuts along Rt 54A are already made and the State has said there will be no more cuts made through the existing guardrail. The area then, west of the Mosser property consisting of a bank with grass and trees will remain this way.

It is noted that with the existing house and slope of the property, that the proposed garage location is the best placement for the garage due to its being a flatter area and would look better aesthetically with the rest of the neighborhood.

It was noted that there has already been an area excavated into the bank, and this is the approximate location for the garage. There was concern about the excavated area being in the State R-O-W. This could be determined by the applicant having his Surveyor pin the back corners for the proposed garage location and then to site the rear yard property line.

The Yates County Planning Board reviewed this application being that the property is located within 500 ft. of State Rt 54A. Based on their review of the submitted application they recommended approval of the action noted.

J.Crevelling noted that when Mr. Mosser was given approval for operating a Bed & Breakfast facility at this location, there was a condition that the lawn and maintenance equipment be kept in a storage building. Mr. Mosser stated that after considering this matter, decided to build a garage instead, remove an existing small storage building, thus having only one accessory structure at this location. Part of the garage could then be used for storage of maintenance equipment.

The area variance test questions were read with the following results: #1 (0-yes, 5-no), #2 (4-yes, 1-no), #3 (5-yes, 0-no), #4(0-yes, 5-no), #5(4-yes, 1-no).

There was further discussion about the setback being 9 ft. instead of 7 ft. The applicant stated that 9 ft. was not a problem.

Mr. O'Hearn requested that the variance application be amended to be a 9 ft. minimum rear setback from the property line.

A motion was made by J.Jameson and seconded by G.Herbert to grant the variance with the garage being a minimum of 9 ft. from the rear yard property line. The applicant is to have his surveyor stake the pins for the back corners of the garage and to ensure that it is out of the highway right-of-way and meets the 9 ft. setback. The applicant is to notify NYS DOT to look at the garage site sending a letter that they are okay with the proposal to CEO Phillips prior to the issuance of the building permit for the garage.

The motion was carried with a poll of the board as follows: J.Crevelling-grant, J.Bird-grant, R.Rubin-grant as amended, G.Herbert-grant, J.Jameson-grant.

The board was in agreement that 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 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 #898 for David Deisenroth owning property at 325 West Bluff Dr. to request an area variance for a staircase and landing to existing landing with stairs to access the beach without going through the existing cottage.

Mr. & Mrs. Deisenroth were present to answer questions for board members and to present their application.

The application as presented asks for a variance to begin building the outdoor staircase 18 ft. from the center of the road. Board members stated that they have no jurisdiction to grant any variances within the Town highway right-of-way. The board can grant a variance beyond the highway right-of-way. There were suggestions that perhaps the applicant could use stones, or terrace the ground using landscaping timbers to form steps down to the rear yard property line. Board Member G.Herbert stated that when he was at the site it appeared that there had been some terraced steps on the south side of the property.

The area variance test questions were reviewed with the following results: #1(0-yes, 5-no), #2(1-yes, 4-no), #3(3-yes, 2-no), #4(0-yes, 5-no), #5(5-yes, 0-no).

After the board's explanation about having no authority to grant anything within the Town's highway right-of-way, Mr. Deisenroth requested that his application be amended asking for an area variance for the staircase to be built a minimum of 25 ft. from the center of West Bluff Dr.

A motion was made by G.Herbert and seconded by J.Bird to grant the area variance as amended with stairs structure to come no closer than 25 ft. to the center of West Bluff Dr.

The motion was carried with a poll of the board as follows: R.Rubin-grant as amended, J.Jameson-grant, J.Crevelling-grant, G.Herbert-grant, J.Bird-grant.

Board members were in agreement that 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 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 #899 for Toni Peterson and Robert Rumphrey owning property at 657B West Bluff Dr. requesting an area variance to build a 4' by 19.5 ft. along in front of the slider doors of the beach house.

Ms. Peterson stated that they wanted to tie the deck into the upper open deck on the south side of the beach house. This then would make the requested deck length at 24 ft. J. Jameson stated that this is longer than what is requested on the application. Ms. Peterson stated that she wasn't aware of the additional length needed until earlier in the day after talking with her contractor. It was also noted that with slider doors located at this height on the structure, that it creates a safety issue from the building code standpoint, and either a deck is required or a bar put across the doors on the inside so that it prevents them from being opened. Board member J. Jameson stated that the slider doors could be removed and windows could be put in.

Board members asked about the support posts and Ms. Peterson stated that she would like them to be cantilevered but she wasn't sure if this would be structurally possible.

The area variance test questions were reviewed with the following results: #1(5-yes, 0-no), #2(2-yes, 3-no), #3(3-yes, 2-no), #4(1-yes, 4-no), #5(5-yes, 0-no).

Ms. Peterson formally requested to amend her application asking for a 4 ft. wide by 24 ft. long deck.

A motion was made by J. Bird and seconded by R. Rubin to grant an area variance for a maximum 3 ft. wide by 24 ft. long deck, with no enclosure top or bottom. No portion of the deck or whatever support posts used, are to extend any further than 3 ft. from the existing structure.

The motion was carried with a poll of the board as follows: G. Herbert-grant, J. Jameson-grant, J. Crevelling-deny, J. Bird-grant. R. Rubin-grant.

The board was in agreement that 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 minimum variance that will accomplish this purpose. This variance will not be injurious to the neighborhood nor alter the essential character of this locality.

Jim Bird stated that he would abstain from participating in the last area variance application because of being a neighbor to both buyer and seller of the property which is under review.

Application #900 for Efrim Adnopoos owning property at 820 East Bluff Dr. to request an area variance to purchase property across the road from his 820 East Bluff property, combine the two pieces under one deed then build a garage with less front and rear yard setback.

Dale Lane, contractor for Mr. Adnopoos was present along with Mr. Adnopoos and Dwight Simpson, the seller of the property, to answer questions for board members.

D.Lane discussed with board members regarding the plans for the 2 ½ to 3 bay garage based on the amount of land that Mr. Simpson was willing to sell to Mr. Adnopoos. He noted that the amount of land that Mr. Simpson was willing to sell is 125 ft. long by 68.48 ft. wide at the south end and is much narrower at the north end. The reason that the lot is shaped this way is because Mr. Simpson has an old road bed that borders on the west of this lot and he does not want to give this up.

The proposed garage will meet both side yard setbacks. The area variance application requests the location of the front of the garage to be at 5 ft. off the road right-of-way; it asks for the rear yard setback to be 23 ft. from the rear property line as measured from the closest point of the garage to the rear boundary line.

The garage will be 18 ft. from the south side yard property line due to a gully area that the contractor was trying to stay away from.

The garage will be mostly of concrete (back and side walls) with the front part to be wooden along with a trussed roof system.

Board members discussed the garage construction along with the possibility of moving the whole garage and proposed lot to the north in order to give more distance from the gully to the garage. D.Simpson stated that when the surveyors (Larson & Smolo ) stated that as the survey pins are today, they will be shifted 5 ft. to the north. The preliminary survey that was shown to the board members already reflects the 5 ft. shift to the north.

Mr. Lane stated that where he had put the stakes for the proposed location of the garage had already taken into consideration the shift to the north away from the gully.

Questions were asked about the excavation into the bank for the garage and what was going to be done to maintain the integrity of the bank as well as how the garage was going to be constructed.

The area variance test questions were reviewed with the following results: #1(0-yes, 4-no), #2(1-yes, 3-no), #3(4-yes, 0-no), #4(2-yes, 2-no), #5(4-yes, 0-no).

D.Lane, contractor, asked to officially amend the application map(copy on file with application) showing the garage location shifted to the north with the closest point of the garage to the rear yard lot at a minimum of 18 ft., therefore amending the area variance application to a minimum rear yard setback of 18 ft. as measured from the closest point to the rear yard property line.

A motion was made by G.Herbert and seconded by J.Crevelling to grant the amended area variance application with front yard setback to be 30 ft. as measured from the road center line to the closet point of the front of the garage. The rear yard setback to be 18 ft. minimum as measured from the closest point on the back of the garage to the rear property line. The pins for the final location of the garage are to be shown on the survey. An engineer design plan is required for the foundation of the garage including the drainage and how far back the excess excavation will be behind the garage. Applicant/Contractor is to contact Rick Ayers from Yates County Soil and Water to review the site to be excavated along with a letter of recommendations for stabilization of the site and the area between the rear of the garage and the embankment. The area being purchased by E.Adnopo from D.Simpson is to be combined by deed with the Adnopo property at 820 East Bluff forming one deeded lot and this deed will be filed at the Yates County Clerk's office prior to construction. Attorney Valarie Gardner is the attorney for the buyer who will be combining the lots into a single deeded lot for filing purposes.

The motion was carried with a poll of the board as follows: J.Jameson-grant, G.Herbert-grant, J.Crevelling-grant, R.Rubin-grant.

The board was in unanimous agreement that 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 minimum variance that will accomplish this purpose. This variance will not be injurious to the neighborhood nor alter the essential character of this locality.

#### OTHER BUSINESS

Board members were in receipt of an email from Attorney Thomas Warth, who represents Mr. Bugner. The contractor for Mr. Bugner is wanting to get started back on the job at the Bugner property as per the Zoning Board requirements but the Stop-Work-Order is still in place until the lots have been divided by deed with the respective deeds filed at the Yates County Clerk's office. Attorney Warth asked for the Contractor to be allowed to proceed with the removal of the portion over the deck on the south structure that was noted to be removed by the decision of the Zoning Board at the April 24<sup>th</sup>, 07, zoning board meeting.

In accordance with Attorney Warth's email, he noted that the deeds should be filed no later than May 21<sup>st</sup>, 2007 at the Yates County Clerk's office.

Zoning Board of Appeals  
May 10<sup>th</sup>, 2007

A motion was made by R.Rubin and seconded by J.Bird to leave the condition of the Stop-Work-Order in place as a protection for the Town and their April 24<sup>th</sup>, 07 Zoning Board Decision.

The motion was carried with a poll of the board as follows: J.Crevelling-agree. J.Jameson-agree, G.Herbert-agree, J.Bird-agree, R.Rubin-agree.

Board members discussed having a zoning board workshop on Thursday, May 17<sup>th</sup>, 2007 at 7 pm. ZBA Secretary will note the use of the meeting room on the monthly calendar.

There being no further business, a motion was made by R.Rubin and seconded by J.Jameson to adjourn the meeting. The motion was carried unanimously. The meeting was adjourned at 8:50 pm.

Respectfully submitted,  
Elaine Nesbit/Secretary