

Town of Jerusalem
Zoning Board of Appeals

November 9th, 2017

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Thursday, November 9th, 2017 at 7 pm by Chairman Glenn Herbert.

Chairman G. Herbert asked all to stand for the pledge to the Flag.

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

Others present included: Jan Butler, Jim & Rita Walton for George Simmons, Mark & Susan Nagy, Michael & Karen Paciotti, Craig & Sue Hohm, Matt & Sherrie Davison, Joe Miran, Pete Agliata, Zac DeVoe/CEO and other interested citizens.

A motion was made by E. Seus and seconded by K.Smith to approve the October Zoning Board minutes as written. The motion was carried unanimously.

COMMUNICATIONS:

Zoning Board members had received communication from a concerned neighbor adjacent to the property for Area Variance Application #1109. Copy on file with application.

AREA VARIANCE/SPECIAL USE REVIEW:

Application #1107 for Susan Nagy for property at 3219 West Lake Rd., Penn Yan requesting an Area Variance to place an 8 ft. by 10 ft. storage shed on a lot with less setback from the high-water line than zoning requires. This property is located in the Lake-Residential Zone.

Jan Butler from Connect-A-Service, contractor for Susan Nagy, was present to answer questions for board members and to present the application again as this was tabled from the October Board meeting.

Board members who had been out to visit the site prior to the October meeting, were unsure about the actual location of exactly where the high-water mark really was. Since then, Licensed Land Surveyor, Richard Willson, had been out to the site and had actually marked and located the high water mark.

It was noted, based on the placement of the markers by the surveyor, that there was just about room to place the storage building between the bank and the high-water mark with very little setback at all. This would mean that the area variance would be a request of almost the whole 15 ft. required setback. Board members were in agreement that this was a very huge request and the fact that this is not a boathouse, but just a storage shed that would be right at the water's edge.

Adjacent concerned neighbors were once again present to voice their concerns about the placement of this storage shed to close to the high-water mark along with concerns about the shed being moved back into the bank. The concern about moving the shed back to get the required distance from the high-water mark was how much of the bank would have to be excavated out. What kind of measures would be taken to ensure that the bank would be stabilized if it excavated out for the purposes of meeting the setback?

It was noted by Chairman Herbert and CEO DeVoe that a Steep Slopes application would most likely need to be applied for and with review and approval by the Planning Board before work could begin if it was decided that the property owner wanted to go in this direction.

A neighbor, representing Mr. Simmons, the neighbor directly to the south of the Nagy property had several concerns, one being the excavation into the bank and how it would be stabilized.

Mark Nagy, property owner, was present and asked the board if they would reconsider the 12 ft. to the high-water mark as requested if they could excavate into the bank enough to move the storage bldg. back.

Chairman Herbert stated that the board would decide that upon review of the test questions and further discussion.

The board read and reviewed the Area Variance test questions 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: (3-no, 2-yes) G.Herbert-no, R.Williams-no, E.Seus-yes, J.Chiaverini-yes, K.Smith-no.

2)Whether the benefit to 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: (2-no, 3-yes) G.Herbert-no, R.Williams-yes, E.Seus-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: (5-no, 0-yes).

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

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

A motion was made by G.Herbert and seconded by R.Williams to deny the application as requested for placement of the storage shed at 12 ft. from the high-water mark. The motion was carried with a poll of the board as follows: J.Chiaverini-deny, E.Seus-deny, K.Smith-deny, R.Williams-deny, G.Herbert-deny.

Application #1108 for Matthew Davison for property at 366 Crescent Beach, Branchport requesting an Area Variance for the removal of existing older home and replace with a new home. The existing older home had additional square footage added after 1974 without building permits, which brought the lot coverage to 28%. The replacement lot coverage for the new home would be kept at 24.5%. This property is located in the Lake-Residential Zone.

Mr. Davison was present to answer questions for the board, noting that this property was acquired by his mother and father-in-law with the extra square footage having been added to the cottage prior to their getting the property. Mr. Davison stated that he had obtained a permit for a deck back in 1998 which is along the side of the cottage. Now he is acquiring the property and wants to remove and replace the cottage bringing the lot coverage down from 28% to 24.5 %.

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: (5-no, 0-yes).
- 2)Whether the benefit to the applicant can be achieved by some other feasible method than an area variance: (5-no, 0-yes).
- 3)Whether the requested area variance is substantial: (5-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: (5-no, 0-yes).
- 5)Whether the alleged difficulty was self-created: (3-yes, 2-no). G.Herbert-yes, R.Williams-no, E.Seus-no, J.Chiaverini-yes, K.Smith-yes.

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

A motion was made by G.Herbert and seconded by K.Smith to approve the application allowing for a total lot coverage of 24.5% after the new home is built. The motion was carried with a poll of the board as follows: E.Seus-grant, R.Williams-grant, J.Chiaverini-grant, K.Smith-grant, G.Herbert-grant.

Application #1109 for Peter Agliata for property at 3020 Coates Rd., PY requesting an Area Variance to place a 12 ft. by 24 ft. shed structure 12 ft. from the (east) front yard property line and 12 ft. from the (north) side yard property line. This property is located in the Agricultural-Residential Zone.

Mr. Agliata was present to answer questions for board members and it was noted that he did have a survey, however.

It was noted, however, by Chairman G.Herbert, there were no visible pins in the ground for board members to see to indicate where the actual boundary line was for Mr. Agliata's property to get an idea of the setback distance for the proposed placement of the storage shed.

Chairman Herbert stated that without the pins to go by, the board had no way knowing exactly how much of an area variance they would actually be giving or from where it would be given.

It was also noted by a neighbor that some grading of the proposed site had given them some concerns since there is a creek that lies to the north that had a culvert that had been replaced not too long ago when the area had received several inches of rain and with the side of the creek bank being somewhat lowered, there was concern that should there be another "gully washer" if the water would stay contained within the banks of the creek.

Chairman G.Herbert stated that this is not something the Zoning Board can deal with but that the property owners should contact the highway superintendent to just have him take a look at this area to address any concerns they might have.

Upon further discussion it was decided to table further review of this application until the December meeting to give Mr. Agliata time to see if he could get the surveyor to come up and establish the pins on the north and east side of the property before the next meeting.

A motion was made by G.Herbert and seconded by K.Smith to table this application until the December meeting. The motion was carried unanimously.

OTHER BUSINESS:

A motion was made by G.Herbert and seconded by K.Smith to have the Planning Board act as Lead Agency for review of Special Use Application #1110 for Albert Troisi which will be reviewed at the December Zoning Board Public Hearing. The Planning Board will also be reviewing a Site Plan for this same Applicant and Project at their December meeting. The motion was carried unanimously.

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

Respectfully submitted,
Elaine Nesbit/Secretary