

Approved

TOWN OF JERUSALEM
ZONING BOARD OF APPEALS

March 14th, 2019

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Thursday, March 14th, 2019 at 7 pm by Vice-Chairman Rodgers Williams.

The meeting opened with a welcome to everyone by Vice-Chairman R. Williams as he asked everyone 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	Lynn Overgaard	Present
Alternate	Ken Smith	Excused

Others present included: Richard & Carolyn Clouser, Monica Cleveland, Ronald & Cheryl Page, Daryl Jones/Town Bd. and Russell Dack.

A motion was made by L. Overgaard and seconded by J. Chiaverini to approve the February Zoning Board minutes as written. The motion was carried unanimously.

COMMUNICATIONS: Board members had received a letter from a neighbor regarding Area Variance Application #1153 (copy on file with application).

AREA VARIANCE/SPECIAL USE REVIEW:

Application #1151 for David & Monica Cleveland for property at 9675 East Bluff Dr. requesting an Area Variance to replace an existing shed with a larger shed that will be 18 ft. wide by 30 ft. long and 13 ft. high but placing the new proposed shed 25 ft. from the center of the road right-of-way whereas the existing shed is in the right-of-way and having the new proposed shed at 6 ft. from the north side yard property line whereas the existing shed is 5 ft. 3 in. from the north side yard property line. This property is located in the (R1) Lake-Residential Zone.

Monica Cleveland and her neighbor Dick Clouser were present to talk about the proposed new storage shed and its proposed placement. Mr. Cleveland was out of town. The location of the proposed new building would be moved back away from a large existing oak tree, in order to not disturb the tree roots or cause damage to the tree itself. In addition, this placement of the building would be out of the road right-of-way and by placing the building length-wise on the lot would not block the existing driveway.

While some board members questioned the size of the building and questioned the need for a variance for the side yard setback it was noted that if the 10 ft. were to be met the proposed building would be up next to the Cleveland's house. It was also noted that the neighbor's house to the north was about on the property line and therefore board members were concerned about the length of the storage shed.

When Mrs. Cleveland was asked if the building length could be reduced to 24 ft. in length she thought that they could make that work.

The board members then discussed the building length at 24 ft. by 18 ft. wide 13 ft. high with a minimum setback of 28 ft. from the center of the road and 6 ft. from the north side yard property line with all measurement to be taken from the closest part of the building including roof overhang.

The 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-yes, 1-no) E.Seus-yes, R.Williams-yes, J.Chiaverini-no, E.Makatura-yes, L.Overgaard-yes.

2)Whether the benefit sought by the applicant can achieved by some other feasible method than an area variance: (3-no, 2-yes) E.Seus-yes, R.Williams-no, J.Chiaverini-no, E.Makatura-yes, L.Overgaard-no.

3)Whether the requested area variance is substantial: (3-yes, 2-no) E.Seus-yes, on the road side R.Williams-yes, E.Makatura-no, the side yard is not substantial, just on the road side. J.Chiaverini-no, L.Overgaard-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: (5-yes, 0-no).

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

A motion was made by R.Williams and seconded by J.Chiaverini to grant the Area Variance with the following modification that the proposed replacement building would be 18 ft. wide by 24 ft. long and would be no closer than 28 ft. to the centerline of East Bluff Dr. and would be no closer than 6 ft. to the north side yard property line with all measurements being taken from the closest part of the building including the roof overhangs.

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

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Application #1152 for Megan Atkinson for property at 662 Crescent Beach Rd., Branchport, NY which is located in the (R1) Lake-Residential Zone, requesting an Area Variance to subdivide a small piece of their property located to the east of their neighbor's property and then sell it to the neighbor.

Russ Dack was present to represent Ms. Atkinson. The Zoning Secretary had received an email from Ms. Atkinson requesting that Mr. Dack be their representative since they live in the State of Washington and don't get back to Branchport except for the summer months. (Copy on file with application).

Mr. Dack gave a brief history about the two properties and how they were owned by the same person and they were able to buy the smaller cottage and lot. Mr. Dack noted that each cottage has its own septic tank and there are easements for the septic pipes and water pipes.

Board member J.Chiaverini was concerned about the water and sewer lines for the respective properties and wanted to be sure that there would be access for these lines.

Mr. Dack stated that this had already been discussed between the Atkinsons and themselves with regards to the easements and they would be verified prior to the transfer of the property.

Board members received a copy of the proposed division of small piece of land (.0361) being divided from the Atkinson property located on the east side of the Dack property (copy on file with application).

The Atkinson property and the Dack property are both pre-existing non-conforming but the Dack property will become slightly more conforming with the addition of this small addition of property and the Atkinson property will be slightly reduced in its non-conformance, however, it will still be more conforming in size than the Dack property.

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 sought by 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: (5-no, 0-yes).

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

A motion was made by E.Makatura and seconded by R.Williams to grant the Area Variance as applied for allowing for the approval of the transfer of this small piece of property from the Atkinson & Lindquist Tax parcel to be sold to the Dacks and merged into their existing tax parcel.

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

Application #1153 for Ronald and Cheryl Page for property they own giving them lake access which is located on the east side of East Bluff Dr. across the road from 4500 East Bluff Dr. The requested area variance is to provide a 10 ft. by 12 ft. deck along with a set of stairs which will give them lake access with the deck being larger than the allowed landing size of 16 sq. ft. and the deck being closer to the rear lot line and the north side yard lot line than zoning allows.

Mr. & Mrs. Page were present to discuss with the board members their reason for wanting the larger deck area built in with the stairs to the beach area.

It was noted by Mr. & Mrs. Page that this is a steep area along the lake and some of the board members are very familiar with the terrain and difficulties of maintaining the road in this area as the shoreline tends to undermine the embankment and the highway department has spent a lot of time and money in shoring up this area with the stone work and the gabion baskets to try and maintain the integrity of the road through this area.

Mrs. Page noted that one of the most important reasons for the larger deck area was so that her elderly parents would be able to at least come and sit on the deck and even though they would not be down at beach level they could watch and be part of the activity going on down by the water.

The letter of concern from the neighbor to the north having the deck closer than the required 10 ft. setback was discussed and Mr. & Mrs. Page were comfortable with having the deck moved to the south 5 more ft. to meet the required 10 ft. set back.

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 sought by the applicant could be achieved by some other feasible method than an area variance: (5-no, 0-yes). There are other similar stairs and decks along this part of East Bluff Dr.

3)Whether the requested area variance is substantial: (1-no, 4-yes) E.Seus-yes, R.Williams-yes, J.Chiaverini-yes, E.Makatura-yes, L.Overgaard-no. The deck size is much larger than the allowed landing size.

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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, 1-yes) E. Seus-no, R.Williams-no, J. Chiaverini-no, E.Makatura-yes, L.Overgaard-no. The placement of the deck should not impact the physical or environmental condition of the neighborhood.

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

After reviewing the test questions and further discussion continued, it was noted that the survey drawing showing the dimensions to the property line and high-water mark did not indicate that the deck could meet the required 15 ft. setback from the high-water mark. It was determined that a rear yard area variance and a front yard area variance would be needed for the deck by moving the deck to meet the 10 ft. side-yard setback.

Board members stated that they needed to know for sure what the distance was from the two front corners of the east side of the proposed deck to the high-water mark before they could grant an area variance. Mrs. Page stated that she would have her contractor and surveyor check on these numbers and would provide them by next month's meeting.

A motion was then made by R.Williams and seconded by E.Makatura to table making a decision on this application until the April Zoning Board meeting in order for Mrs. Page to have time for her surveyor to provide the information needed for the front yard variance. The motion was carried with a poll of the board as follows: J.Chiaverini-table, L.Overgaard-table, E.Makatura-table, E.Seus-table, R.Williams-table.

OTHER BUSINESS:

Zoning Secretary passed out more information regarding a court case on the Area Variance test questions and how the wording after each test question can be summoned up depending on the majority of the answers as each test question is read and answered by each board member. Copies of information (passed out) available in the Zoning Office.

Board members were given copies of the Spring 2019 Regional Local Government Workshop scheduled for Friday, May 17th, 2019 at Burgunday Basin Inn in Pittsford. There are several good classes scheduled this spring that would be good credit hours for board members who might be able to attend. The cost is \$75 for registration and upon successful completion of the training and submitted voucher to the Town this cost may be reimbursed.

Next month's zoning board meeting will be on Thursday, April 11th.

There being no further business, a motion was made by E.Seus and seconded by R.Williams to adjourn the meeting. The motion was carried unanimously and the meeting was adjourned.

Respectfully submitted,
Elaine Nesbit/Secretary

