

Approved

TOWN OF JERUSALEM  
ZONING BOARD OF APPEALS

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order by Chairman Glenn Herbert on Thursday, May 9<sup>th</sup>, 2019 at 7 pm.

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

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

Others present included: Robert Bringley, PE, Cathleen Bringley, Andrew Shirk, and Daryl Jones/Town Board

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

COMMUNICATIONS:

Board members had received an email from an adjacent neighbor in regards to Application #1157 having no concerns with this proposal. Copy on file with application.

AREA VARIANCE/SPECIAL USE REVIEW:

Application #1156 for Judith Mraz for property at 7266 East Bluff Dr., PY requesting an Area Variance to have a set of stairs (on a portion of their lot located on the west side of East Bluff Dr.) that will start at the top of the bank near the road side and go to the bottom of the bank with a five foot removal bridge that will then extend over to the roadside.

A letter from Highway Superintendent R.Martin is on file with the application, approving this set of stairs and then to have the landing at the bottom be removeable without having to remove the stairs. Other conditions regarding the stairs are listed in the letter. Copy on file with application.

Mr. Andrew Shirk, contractor for Ms. Mraz, was present to answer questions for board members. He noted that the main reason for the stairs is that it provides a shortcut as the lake portion of the Mraz property would be almost directly across the road from where the proposed stairs will be built. Having to go out and down the existing driveway and then back towards the south to where the stairs are that go down to the lake is the long way around.

Board members had been out to the sight and did not have any issues with the proposed request.

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: (4-no, 0-yes).
- 2) Whether the benefit sought by the applicant can be achieved by some other feasible method than an area variance: (4-no, 0-yes).
- 3) Whether the requested area variance is substantial: (4-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: (4-no, 0-yes).
- 5) Whether the alleged difficulty was self-created: (0-no, 4-yes).

Based on the fact that the landing at the bottom of the stairs will be removeable and the stairs will be no closer than 7 ft. 6 in. from the edge of the pavement on the West side of East Bluff Dr. and noting that the landing will be kept lower than the edge of the road where it meets the highway, and based on the applicant meeting the other conditions as set forth in the letter from the Highway Superintendent, the board determined that the granting of this area variance will not have an adverse impact or be a detriment to nearby properties.

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

G.Herbert made a motion seconded by E.Seus to approve this Area Variance application as applied for and as per the Town Highway Superintendent's Recommendations.

The motion was carried with a poll of the board as follows: K.Smith-grant, L.Overgaard-grant, E.Seus-grant, G.Herbert-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 #1157 for Joseph & Cathleen Bringley for property located at 4588 West Bluff Dr., Keuka Park, requesting an Area Variance to add a two-story addition, 9ft. by 34.5 ft. to the east side of a pre-existing, non-conforming building; the area variance requested is to come closer to the center of the traveled way than zoning allows.

Mr. Robert Bringley, PE from Marathon Engineering was present to represent his brother Mr. Joseph Bringley and his sister-in-law, Cathleen Bringley, who was also present.

Chairman G.Herbert informed everyone prior to starting the review of this application that the Town Board had recently had the Zoning Code Amended with regards to Article XIII. Nonconforming uses §160-56 Continuance §160-62.1 Nonconformity and §160-62.2 Variance process.

Mr. Bringley presented the proposed 9 ft. by 34.5 ft. addition to the existing cottage and noted that the requested area variance would be 29.7 ft. from the center of the traveled way not including the roof overhang, where the required setback is 44.75 ft. It is also noted on the Area Variance application that there is a small entry way that is proposed as part of the addition, that if allowed, would be 27.8 ft. from the center line of the traveled way.

There was a discussion between board members and Mr. Bringley regarding the ability of the Zoning Board to grant the proposed area variance request since that is what the purpose of the Zoning Board is to consider the Area Variance application as an appeal from the decision of the Code Enforcement Officer's denial of the building permit, to make a determination based on the submitted materials and the review of the area variance test questions as to whether they find sufficient reason to grant minimal relief to the applicant from the strict application of the rules of the zoning ordinance for this property.

Mr. Bringley pointed out that the original cottage on this property was built prior to the adoption of the zoning ordinance. He stated that there are many other cottages that have been built as close or closer to the center of the road than what they are asking for. He noted that they need the extra room as they are a growing family and the original cottage does not have enough room, and the existing stairway is too narrow.

It was also noted that there was an Area Variance granted for this property with regards to a deck and shed to a prior owner back in July of 2002. (Copy on file with application). Copy also given to Mr. Bringley.

The Code Enforcement Officer had provided the Zoning Board with a Certificate of Non-Conformity for this property (copy on file) and one was given to Mr. Bringley at the meeting. Also provided for the zoning board members was a Zoning Conformity Plat of Lands prepared by Licensed Land Surveyor Douglas W. Magde through Marathon Engineering (copy on file) as required by Town of Jerusalem Code Officer, Zac DeVoe. This Zoning Conformity Plat shows existing buildings along with their existing setbacks and it also shows with a dotted line the area on the lot where all setbacks are met and where existing buildings are with respect to this conforming dotted line.

The Zoning Conformity Plat also gives a legend on the side showing Zoning requirements for the R1 Residential-Lakeshore Area along with Existing Lot Coverage.

It was pointed out by a zoning board member that there was some room for expansion of the cottage towards the south and still be in compliance with the required zoning setbacks.

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: (3-no, 1-yes). G. Herbert-no, E. Seus-yes, K. Smith-no, L. Overgaard-no.

2)Whether the benefit sought by the applicant can be achieved by some other feasible method than an area variance: (0-no, 4-yes).

3)Whether the requested area variance is substantial: (0-no, 4-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, 1-yes). G. Herbert-no, E. Seus-yes, K. Smith-no, L. Overgaard-no.

5)Whether the alleged difficulty was self-created: (0-no, 4-yes).

Based on the review of the test questions and review of the application materials submitted, the board finds that allowing the expansion in the direction of going closer to the center of the road right-of-way is setting a new precedence even with the amendment of the Zoning Code.

G. Herbert made a motion that based on a review of the submitted materials to deny the Area Variance application because it makes the expansion of the building toward the center of the traveled way, more non-conforming. The motion was seconded by K. Smith and carried with a poll of the board as follows: L. Overgaard-deny, E. Seus-deny, K. Smith-deny, G. Herbert-deny.

#### OTHER BUSINESS:

There was a brief discussion about an inquiry of a business owner that would like to come to the Town of Jerusalem. There doesn't seem to be any provision for this type of business in the area where they would like to be as far as permitted or special permitted uses according to our current Zoning at this time.

The CEO and ZAP Secretary have been doing some research of this type of business in other Towns and researching the respective zoning codes and will send some information on to their committee members when they have an opportunity to put some wording together that might be passed on for consideration.

There being no further business a motion was made by L. Overgaard and seconded by K. Smith to adjourn the meeting. The motion was carried unanimously and the meeting was adjourned.

Respectfully submitted,  
Elaine Nesbit/Secretary

