

TOWN OF JERUSALEM
ZONING BOARD OF APPEALS

February 14, 2008

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order by Chairman Ron Rubin on Thursday, February 14th, 2008 at 7 pm.

Roll Call:	Ron Rubin	Present
	Glen Herbert	Excused
	Jim Bird	Present
	Jim Crevelling	Present
	Mike Steppe	Present
Alternate	Ed Seus	Present
Alternate	John Hoffer	Present

Others present included: Mr. & Mrs. Larry Orr, Bob Morse, Mr. & Mrs. Edward Lockwood, Peter Agliata, George & Dawn Hullings.

A motion was made by J. Bird and seconded by E. Seus to approve the January 2008 Zoning Board minutes as written. The motion was carried unanimously (5-yes, 0-no).

COMMUNICATIONS

Board members received copy of an email sent to the Zoning Secretary from Clarence Swingle regarding the corrected November 8th, 2007 zoning board meeting minutes.

NEW BUSINESS

Application #923 for Larry and Beverly Orr (sellers) and Darren Morse (buyer) of property at 4133 Skyline Dr. requesting area variances for two side yard and one rear yard variance from existing buildings.

Chairman R. Rubin disclosed to the board and to attendees of the meeting that he was related to applicant Darren Morse. He noted that Darren Morse is his nephew and asked if anyone in the audience had any concerns with him reviewing this application. There were no objections. It was also noted that board member Jim Crevelling would not be participating in review of this application since he was a close neighbor.

Bob Morse stated that he was present to represent his son, who was away on vacation. It was noted that his son was going to be buying the Orr farm except for the 1.108 acre lot as noted on the submitted preliminary survey as Parcel B.

The survey indicated the remaining portion of the farm as Parcel A with 11.292 acres. The subdividing out of Parcel B requires a side variance for both the existing barn and masonry building as well as a rear yard setback variance for the masonry building on Parcel B.

There were questions from board members regarding the tower not having adequate area if it were to fall over. When the special use permit was granted for the Cellular tower, it was noted that the lot size requirement had been waived as a result of newer technology that allowed the design of the tower to be built in such a way that if it were to fall, it would collapse within a radius of 45 ft. of the tower base. A letter to this effect (copy on file) was noted for the board, which was signed and stamped by Stephen Yeo, P.E. for Sabre Communications Corporation that this was how the tower would be built.

B.Morse stated that he was the owner of the other surrounding lands in this particular area, so that he would be the one most affected if the tower did not collapse as designed.

The question was asked if Verizon had been notified that this division of land and subsequent variances were being applied for. It was noted that Attorney Donald Schneider had sent a letter to Verizon since their lease agreement gave them the right of first refusal if the land were ever to be sold. A letter of reply had come back waiving their right to buy this land.

It was noted that the original tower law was written and adopted in 1998 and it was not until the Verizon tower application was applied for in 2005/2006, that the law was put to the test.

It was also noted that the Mr. & Mrs. Orr were keeping 1.108 acres of land to include the 90' by 100 ft. leased land of the tower site so that in the event that the tower were ever to be removed the lot would be conforming as per the current lot size requirements of the Zoning Code for Agricultural-Residential lots.

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

It was noted by Board Member J.Bird that the tower law is very clear about there being enough land for the tower to fall on its own property. * See 3/14/08 ZBA minutes

This action is a SEQR Type II.

A motion was made by R.Rubin and seconded by M.Steppe to grant the area variances as follows: Property as subdivided per the submitted preliminary survey showing Parcel A (11.29 acres) and Parcel B (1.108 acres) with an area variance of 15 ft. being given for a distance of 25 ft. from the existing barn to the proposed north side yard boundary line of

Parcel B, and a variance of 16.6 ft. for a distance of 23.4 ft. from the existing masonry building to the north side yard property line of Parcel B. An area variance of 17.4 ft. for a distance of 27.6 ft. from the existing masonry building to the proposed rear yard lot line of Parcel B. That a copy of the letter to Verizon from Attorney Schneider be obtained for the files.

That the April 2006 Zoning Board minutes be reviewed for confirmation of the motion of the board to waive the lot size requirement per filing of the engineer's letter regarding the design of the monopole cellular tower and the way in which it would collapse within a radius of 45 ft. to the base of the tower.

The motion was carried with a poll of the board as follows: E.Seus-grant, M.Steppe-grant, J.Hoffer-grant, J.Bird-deny due to the request being substantial and the lot size conflicts with the law as written, R.Rubin-* abstain since there are enough for a decision.
***See 3/14/08 ZBA minutes.**

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 the locality.

Application #924 for Mr. & Mrs. Edward Lockwood owning property at 936 East Bluff Dr. to request an area variance to build a small addition (9 ft. by 10 ft.) on to existing cottage with less rear yard setback than zoning allows and with an increase to lot coverage which is currently in excess of what zoning allows.

Mr. & Mrs. Lockwood were present along with their contractor, Peter Agliata, to answer questions for board members. It was noted that the area where the proposed addition is going to be built is the only place that can accommodate an addition. It is also the area where the electrical entrance is located and there are plans to change this.

Chairman R.Rubin asked what the measurement was from the edge of the road right-of-way (rear yard lot line) to the closest part of the existing building. The contractor thought that it was approximately 38 ft. from the center of the road to the existing house. He stated that he had met with CEO Phillips out at the site and that they had measured this distance but he couldn't remember what the measurement was.

Mrs. Lockwood stated that one of the reasons for this addition was to accommodate a washer and dryer as well as more bathroom space.

The Lockwoods stated that they have owned this property for a long time and have been trying to figure out a way to have this addition without significant change to the character of the existing cottage.

Chairman R.Rubin stated that the board needs to have an exact measurement from the rear yard property line to the edge of wherever the proposed addition is to be placed. The measurement is taken from the closest portion of the building including roof overhang.

It was noted that on the submitted survey there are pins located at each end of the retaining wall.

These pins are ten ft. from the road right of way which is also the rear yard property line. If these pins can be located, it should be fairly easy to determine the exact distance to where the proposed addition will be located.

The lot coverage is presently at approximately 23% and the proposed addition will increase the lot coverage to almost 24%.

A motion was made by R.Rubin and seconded by J.Bird to table this application until the March zoning board meeting to give the contractor time to get the exact distance from the rear yard lot line to the proposed building addition. This measurement can then help determine the amount of rear yard variance that will be needed.

The motion was carried with a poll of the board as follows: M.Steppe-table, E.Seus-table, J.Crevelling-table, J.Bird-table, R.Rubin-table.

Application #925 for Greg and Janice Fox owning property at 439 West Bluff Dr. to request an area variance to build a deck and stairway addition with less front and rear yard setback than zoning allows.

A letter from Mr. & Mrs. Fox requesting that review of their application be tabled until the March zoning board meeting was given to the zoning board.

J.Bird made a motion seconded by J.Crevelling to table this application until the March zoning board meeting. The motion was carried unanimously (5-yes, 0-no).

OTHER BUSINESS

Chairman R.Rubin reviewed the email from Clarence Swingle and stated that the Zoning Board had determined after discussion at the January Zoning Board meeting that the Zoning Board had correctly upheld the Town Justice determination that the original deck on the north lot belonging to Mr. & Mrs. Olin was 16 ft. by 16 ft. and appeared to be located centrally on the front of the A-frame.

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There being no further business, a motion was made by R.Rubin and seconded by J.Crevelling to adjourn the meeting. The motion was carried unanimously (5-yes, 0-no). The meeting was adjourned at 8:45 pm.

Respectfully submitted,

Elaine Nesbit/ZAP Secretary