

TOWN OF JERUSALEM
ZONING BOARD OF APPEALS

April 10, 2008

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order by Chairman Ron Rubin on Thursday, April 10th, 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. Edward Jones, Mr. Ron Williams, Greg and Janice Fox, Rhett Nelson, and Mr. Don Schnapp.

A motion was made by J.Bird and seconded by J.Crevelling to approve the March 13th. 2008 Zoning Board minutes as written. The motion was carried unanimously (5-yes, 0-no).

COMMUNICATIONS

Board members received a copy of a letter from Mr.& Mrs. Jones and Mr.& Mrs. Rosenbloom, adjacent property owners with concerns for Application #928, property at 767 East Bluff Dr.

OLD BUSINESS

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.

Mr. & Mrs. Fox were present to answer questions for board members and to briefly explain the reasons for the requested variances. This application has been tabled due to the fact that the Foxes were purchasing more land across the road from their neighbor so that they would not need to ask for an area variance for excessive lot coverage. The land has been purchased, a copy of the Quit Claim Deed being submitted at this meeting. The additional land purchased being approximately .76 acres ± and to become part of the lake side lot of .284 acres for a total of 1.04 acres minus the road right-of-way.

The property has been recently remodeled with the original deck remaining as a deck. This deck was given legal status by area variance #811 granted on 7/8/2004 allowing it to remain as built. At a previous meeting, a question had been raised by board members as to whether the work being done on the cottage per building permit #2007-208 issued on 11/08/07 would be considered new construction. A memo from CEO Phillips to Board Members, dated 3/26/08 (copy on file with application) states that the way in which the work has been done does not constitute new construction for purposes of building and watershed review.

The request for stair access along with the new deck on the north side of the cottage would be to provide for a way to go inside the cottage without having to go all the way around the cottage. Applicant wishes to start the edge of the stairway just out of the road right-of-way. The front part of the deck will be 12 ft. from the high water mark.

The deck on the south side of the existing cottage would also be 12 ft. from the highwater mark.

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

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

A motion was made by M.Steppe and seconded by E.Seus to grant the following area variances, that the stairs for access shall be no closer to the center of West Bluff Dr. than 25 ft. That no part of the new proposed deck area on the front of the cottage shall come any closer to the high water mark than 12 ft.

The motion was carried with a poll of the board as follows: J.Bird-grant, J.Crevelling-grant, R.Rubin-grant, E.Seus-grant, M.Steppe-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 minimum variance that will accomplish this purpose. This variance will not be injurious to the neighborhood nor alter the essential character of the locality.

NEW BUSINESS:

Application #927 for Eric Johnson and Karen Calveric owning property at 220 Lower West Lake Rd., PY to request area variances for front yard setback and for excessive lot coverage.

Mr. Rhett Nelson, contractor for the applicants, was present to answer questions for board members.

Board members had questions with regards to the existing deck being enclosed and the addition of the new deck moving closer to the highwater mark even though the shoreline extends slightly beyond the surveyed highwater mark.

It was noted that this deck is to be attached as a cantilevered deck at the third floor level of the cottage. The old cottage was recently removed and replaced with the new existing cottage. This was allowed since it was being rebuilt on the same footprint. The pre-existing cottage along with the stairs and landings exceed the lot coverage by 7%. The request for the new deck addition would increase the lot coverage to approximately 30%.

The Yates County Planning Board reviewed this application and recommended that the application be denied. It was noted by the Contractor that the local paper had carried a story about the dueling decks. In his opinion, there was only one deck involved and he did not understand the publication. Board Member, J.Crevelling, stated that in his opinion, the County Planning board was making inference to the fact that if one neighbor is allowed to build out close to the high water mark, then the next person will want to go out farther. The local board needs to follow the zoning law as close as possible giving only the minimum variance necessary to allow reasonable use of the property.

ZAP Secretary reminded board members that when they are ready to make a decision on this application and do not concur with the County Planning Board, they must override the County decision with a majority plus one vote and give reasons for overriding the County decision.

A neighbor with property adjacent to the south spoke on behalf of the applicant's request stating that if one looks up and down the lake at this point, all the cottages in their proximity to the lake shore line up quite evenly. The cottage at 220 WLR being back farther from the shore than the neighbors. He did not have a problem with this variance request.

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

Mr. Nelson stated that in his opinion, this deck would not infringe on the rights of the cottages to the north, nor would it be a problem for the neighbor to the south. The Contractor stated that there was also a problem with the rubber roof over the living room having a leaking problem. By enclosing this existing deck and making it part of the living room would resolve the leaking roof issue and by adding the deck, would allow the sliding glass doors to be utilized.

A motion was made by J.Bird and seconded by R.Rubin to deny this application based on the requests being made are substantial in that the lot coverage is already 7% over the allowable 20% and would increase to approximately 30%. In addition, the close proximity to the high water mark is also excessive.

The fact that the property owner was allowed to remove and replace this cottage on the same footprint was only because of its being there pre-existing zoning and would probably not have been allowed except for that fact.

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

Mr. Nelson asked the board what his next step would be as he was in disagreement with the board's decision. Chairman R.Rubin stated that he should probably seek legal council and could appeal their decision in court.

Mr.Nelson asked if he could go ahead and enclose the existing deck and make it part of the living room. It was noted that this question should be directed to the Code Enforcement Officer.

Application #928 for Ron Williams owning property at 767 East Bluff Dr. to request an area variance to increase a non-conforming building and to determine what portions of the existing cottage and boathouse were in existence prior to zoning and what was added without a building permit and/or variance.

Mr.Williams was present to answer questions for board members. It was noted by Mr. Williams that he was requesting a variance to extend the living room walls, due, in part, to a leaking roof, and then move the existing deck forward. This would then line up over the lower level existing wall.

It was noted that there were discrepancies in the Town records as to what was existing prior to zoning and what exists today, without finding any building permit records, and/or variances granted. Mr. Williams stated that when he purchase the property in 1991, the building including the boathouse and 2-story living space attached to the one story frame living space was already built.

Mr. Jones, an adjacent neighbor to then north, was present to see the applicant's requested application plan. A letter, was written and received from the adjacent neighbors, and copied to the board members (copy on file with application).

The letter indicates that in the fall of 1975, a boathouse was to be built at 767 East Bluff Dr. by the prior owner. When the Jones and Rosenblooms returned in the Spring, a three story permanent home had been erected on their property line and beyond. The third story was removed leaving the second story addition over the boathouse.

It was also pointed out and noted by board members that according to the prior owner's survey approximately half of the structure lies between the highwater mark and the low water mark.

The retaining wall (copy of DEC permit on file with application) was redone in 1999 by the current owner of the property. In accordance with the survey, the retaining wall fronts on the low water mark.

Chairman R.Rubin stated that the board should seek legal council from the Town Attorney before proceeding with this application. It was suggested that this application be tabled until the May 8th zoning board meeting.

Mr. Williams then asked what would be his course of action if he wished to remove and replace this cottage? This question will also be reviewed with legal council.

A motion was made by J.Bird and seconded by M.Steppe to table this application until the May meeting allowing board members time to review this matter with the Town Attorney. The motion was carried unanimously (yes-5, no-0).

OTHER BUSINESS

Due to the Zoning Board Secretary not being available for the regular, Thursday night Zoning Board meeting in June, it was agreed that it would be held on Wednesday, June 11th, for just this one month. Notice will be posted for this change.

There being no further business for discussion, a motion was made by R.Rubin and seconded by J.Crevelling to adjourn the meeting. The motion was carried unanimously and the meeting was adjourned at 8:30 pm.

Respectfully submitted,

Elaine Nesbit/Secretary