

Approved as Amended

TOWN OF JERUSALEM
ZONING BOARD OF APPEALS

August 14, 2008

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

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

Others present included: Ron Williams, Kara Sherman and daughters, Mr. Jones, and Mr. Rosenbloom.

A motion was made by J.Bird, seconded by J.Crevelling to approve the July Zoning Board meeting minutes as written. Motion was carried unanimously (5-yes, 0-no).

COMMUNICATIONS

Board members had received copy of a letter from Mr.&Mrs. Rosenbloom and Mr.&Mrs. Jones regarding application #938.

NEW BUSINESS

Application #938 for Ron Williams owning property at 767 East Bluff Dr. to request an area variance for the Town to recognize the structure that exists as being legal.

Mr. Williams was present to answer questions for board members and to state that he had purchased this property in good faith buying what he thought was legal and meeting all the requirements of the Town.

Board members reviewed and discussed this application. There were concerns about the area lying between the high water and low water mark, and who has jurisdiction. There were also concerns about the stability of the structure.

It was noted that the Town of Jerusalem does not require a Certificate of Occupancy (C of O) when property changes hands.

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If the Code Enforcement Officer were asked to visit the property for a C of O, he would look the structure over, making a decision based on the year in which the structure was built as to whether it appears to be structurally sound based on what he can visually see.

Board members continued to discuss the possibilities of what they as a board could or could not grant regarding this application. It was noted that if the board does not grant a variance for this structure then the owner could be told to remove it.

Mr. Jones and Mr. Rosenbloom, adjacent neighbors to the north were present, having sent a letter to the Zoning Board, and they gave a brief explanation of what they remembered as to how the structures that exist today were built back in 1975/76.

G.Herbert started to make a motion. There was continuing dialogue with regards to this application with questions and concerns being raised by other board members. G.Herbert then stated that he felt the board should seek legal counsel from Town Attorney, Mr. Bailey.

It was noted that by the adoption of the new dock and mooring law, the Town has jurisdiction 1500 ft. lake ward from the high water mark with regards to permanent docks, etc. A portion of this existing structure lies landward of the high water mark as well as lake ward of the high water mark.

Board members reviewed the area variance test questions with the results as follows: #1(0-yes, 5-no); #2(0-yes, 5-no); #3(5-yes, 0-no); #4(0-yes, 5-no); #5(0-yes, 5-no).

A motion was made by R.Rubin and seconded by G.Herbert that the requested variance for side yard variance of 0 ft. be granted from the north side yard property line; that the front yard setback be zero ft. from the high water mark; that the original footprint be considered to be 15 ft. by 32 ft., taken from 1974 assessment records, not what exists today; that it be understood that any changes to the existing structure, as a result of fire or tear down, etc. would revert back to having the replacement structure be built in accordance with current zoning regulations of today. This motion is subject to review by the Town Attorney that in fact the Zoning Board does have the authority to grant this area variance with these conditions. * (Amendment - See September 11, 2008 minutes)

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

The motion was carried unanimously with a poll of the board as follows: J.Bird-grant, because without the area variance, applicant could be made to remove this structure, even though he did not build what is currently there, J.Crevelling-grant, M.Steppe-grant, G.Herbert-grant, R.Rubin-grant.

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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 #939 for Kara Sherman owning property at 2991 Williams Hill Rd., Keuka Park to request an Area Variance for an above ground swimming pool with less side yard setback from the south side yard property line than zoning requires.

Mrs. Sherman was present to answer questions for board members. She stated that she had obtained her building permit and did not realize until the neighbor asked if the pool had the proper side yard setback that there was a problem. It was noted that the area that had been leveled for the pool was closer than 40 ft. to the south side yard lot line. It was also noted after the Code Enforcement Officer arrived on site that the actual lot width was 100 ft. across therefore making it impossible to meet the two required 40 ft. side yard setbacks with a 30 ft. diameter pool without getting an area variance. A patio area is to be added with a deck addition added to the pool which will have a gate that can be locked.

It was noted that the building permit should not have been issued without an area variance and the Zoning/Building Department accepts responsibility for having issued the building permit when it should have been denied and the area variance obtained first.

There was no correspondence from any neighbors and all were notified in a timely manner.

The area variance checklist was reviewed with the following results: #1(0-yes, 5-no), #2(1-yes, 4-no); #3 (1-yes, 4-no); #4(0-yes, 5-no); #5(5-yes, 0-no).

The wood deck attached to the pool will be no closer to the lot line than the existing frame garage which is 21.7 ft. from the south side yard property line. The pool will be approximately 18 ft. from the south side yard property line.

Mrs. Sherman submitted a letter explaining the site preparation work that has already been done, along with the removal of three walnut trees which was expensive for their removal

(see attached letter).

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

A motion was made by J.Bird and seconded by M.Steppe to grant the area variance application with the pool to come no closer to the south side yard property line than 18 ft. and the wooden deck shall come no closer to the south side yard lot line than 21.7 ft. The motion was carried with a poll of the board as follows: J.Crevelling-grant, R.Rubin-grant, G.Herbert-grant, J.Bird-grant, M.Steppe-grant.

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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 this locality.

OTHER BUSINESS

Board members were copied Section R302 from the Residential Code of New York State regarding Location on Lot of structures, and the separation distances as required by this code (copy of R302.1 on file).

There being no further new business, a motion was made by J.Crevelling and seconded by J.Bird to adjourn the meeting. Motion carried unanimously (5-yes, 0-no).

The meeting adjourned at 8:15 pm.

Respectfully submitted,

Elaine Nesbit/Secretary

