

Approved

TOWN OF JERUSALEM  
ZONING BOARD OF APPEALS

September 8, 2011

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Thursday, September 8<sup>th</sup>, 2011 at 7 pm by Chairman Glenn Herbert.

Roll Call:	Glenn Herbert	Present
	Jim Crevelling	Present
	Mike Steppe	Present
	Ed Seus	Present
	Dwight Simpson	Present
Alternate	Jack Hoffer	Present
Alternate	Jim Bird	Excused

Others present included: Virginia Turner, Max Parson/Town Bd., Jamie Sisson, Dan Long, Barbara & Gerald Sullivan, Chuck Sullivan, Dave Covert, Robert Anderson, Margaret Cadden, and Art Hunt.

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

COMMUNICATIONS: There were communications from both the Yates County Planning Board and the Jerusalem Town Planning Board regarding application #986. Board members had also been copied on a letter from a neighbor regarding the Bed & Breakfast Facility along with a copy of Ms. Turner's response letter addressing these concerns (copies on file with the application).

AREA VARIANCE/SPECIAL USE REVIEW:

Application #986 for Virginia Turner owning property at 2893 West Lake Rd. PY requesting a Special Use Permit for an owner occupied Bed & Breakfast Facility at this location. Parking for the B& B shall be located across the road in a lot owned by the applicant. These properties are both located in the R1 zone.

Ms. Turner as well as her architect, Dan Long, were present to answer questions for board members.

Chairman G.Herbert read the definition of the Bed & Breakfast Facility from the zoning code noting the requirement of a minimum of three but not more than five sleeping rooms offered by the owner for pay as overnight lodging facilities for not more than 10 transient guests. Breakfast is the only meal provided. The dwelling must meet all NYS Uniform Fire Prevention & Building Code requirements.

Ms. Turner noted that she would have five guest rooms and one owner's suite.

Board member J.Creveling asked if there were communications from the Jerusalem Planning Board. It was noted, first of all, that the Yates County Planning Board was to review this application at their August meeting but had not taken any action, but voted to consider this application as incomplete because of lack of information describing the proposal. The applicant and her architect will attend the September 22<sup>nd</sup>, County meeting and hopefully answer any questions as to whatever information the County felt was missing from the submitted material.

The Jerusalem Planning Board reviewed the submitted material at their September 1<sup>st</sup> Planning Board meeting. They reviewed the short form SEQR and based on the submitted material determined there would be no significant adverse environmental impacts from this project and therefore a negative declaration was made.

The Jerusalem Planning Board gave Final Site Plan Approval as per the submitted site plan subject to the following conditions: 1) use of directional downward lighting on both sides of the road; 2) subject to Yates County review and approval; 3) following the Dock & Mooring Regulations for use by B& B guests of any docking facility on the premises; 4) the granting of the Special Use Permit for the Owner occupied Bed and Breakfast facility by the Jerusalem Zoning Board.

There were some concerns by board members about the use of the dock and boat tie-ups for anyone coming to stay for one or two nights. The concern would be if the B& B owner would have enough places for the boats. Ms. Turner stated that there would be rules and regulation for their B& B guests. In addition, as guests arrive, if they come by boat, there will be arrangements made ahead of time as to how many guests will be coming and if there are enough spaces for the guest boat(s) at the dock.

Ms. Turner and her architect stated that a Bed & Breakfast Facility is a lot different than a rental facility. When a property is being rented there is not always an owner present or around to supervise what is actually happening on the property. This is many times the cause for neighbor concerns when there is loud noise, property that is not kept up by those who are renting (i.e. trash around, etc.)

The Bed & Breakfast Facility, which is required in the Zoning Code to be owner occupied, would have the owner on premise when the facility is being used for this purpose.

There was some concern by a neighbor about the lot on the upper side of the road which is to be used for the B&B parking and a building which is to be built at the upper west side of this lot.

Ms. Turner is planning to build a garage for storage with an apartment on the second floor on this lot. This lot which is a separately deeded parcel has no other buildings on it at the present time. This building would require a building permit but is not part of the Special Use Application that is being applied for by Ms. Turner.

There was a brief discussion about signs and whether Ms. Turner would be putting up signs. She stated that she does intend to have signs advertising her Bed and Breakfast facility and recognizes that there are sign requirements in the zoning code.

There being no further discussion, a motion was made by G.Herbert and seconded by D.Simpson to grant this special use permit for the Bed & Breakfast Facility noting that the applicant adhere to the Dock and Mooring regulations and that with respect to the signs that they get together with Code Enforcement to make sure that they meet the Code regulations for signage.

The motion was carried with a poll of the board as follows: M.Steppe-grant, J.Crevelling-grant, E.Seus-grant, D.Simpson-grant, G.Herbert-grant.

This approval is subject to the Yates County Planning Board's review of this application at their September 22<sup>nd</sup> meeting.

Application #987 for Gerald and Barbara Sullivan owning property at 5405 East Bluff Dr. requesting an Area Variance to add a small addition (12' x 15') on west side of existing home and to build a porch/deck with roof on east side of home towards the lake that would cover existing edge of the break-wall. This would bring porch/deck to or slightly beyond the approximate high-water mark. A front yard area variance is needed as well as an area variance for lot coverage. With the proposed deck and small addition, the total lot coverage will exceed what is allowed by zoning in the R1 zone.

Mr. & Mrs. Sullivan were present along with their son, Chuck, to answer questions for board members.

It was noted that the current lot while pre-existing non-conforming, has a lot coverage of approximately 16%. Zoning allows lot coverage of 20% for properties located in the R1 Lake-Residential Zone.

Chairman G. Herbert stated that this application would be handled in two parts A & B. Part A would be the small addition on the west side of the home and Part B would be the deck/porch addition on the front of the home (east side) towards the lake.

Part A: Board members asked if the dimensions listed on the site map for the small addition on the west side of the house (12 ft. by 15 ft. included the roof overhang). This calculation is important for purposes of lot coverage.

It was noted that it probably did not include the roof overhang. After looking at the proposed addition and the way in which the roof line would be built, it was determined that the dimensions should be 13 ft. by 15 ft.

The area variance test questions were reviewed as follows:

- 1) Could granting of the Area Variance change the character of the neighborhood? (5-no, 0-yes).
- 2) Are there alternatives that would not require an area variance? (5-no, 0-yes).
- 3) Is the request substantial? (5-no, 0-yes).
- 4) Would the granting of this variance have potential adverse impacts on physical or environmental conditions in the neighborhood? (5-no, 0-yes).
- 5) Is the alleged difficulty self-created? 5-yes, 0-no).

Board members were in agreement that this is a SEQR Type II Action.

A motion was made by E.Seus and seconded by G.Herbert to grant Part A of this application to build an addition on the west side of the house not to exceed 13 ft. by 15 ft. including the roof overhang.

The motion was carried with a poll of the board as follows: M.Steppe-grant, D.Simpson-grant, J.Crevelling-grant, G.Herbert-grant, E.Seus-grant.

Application #987 Part B: to build a deck/porch addition on the east side of the house to cover over the cement area between the house and the existing break-wall. This area variance request is for a front yard variance since the existing break-wall is actually located lake-ward of the high-water mark of 715.15. An additional area variance for lot coverage is also needed since the requested deck/porch proposed square footage added to the existing and granted sq. footage will exceed the allowed 20% lot coverage for this R1 zoned lot.

There was much discussion about the actual location of the high-water line with respect to the retaining wall. It was noted that while the cement covered patio can exist and not be counted as lot coverage, anything that is fabricated out of wood (deck/porch) would count as lot coverage. Board members noted that they as a board have been very restrictive in granting variances for decks/porches with at least a 5 ft. (at a minimum) set-back from the high-water mark. The board also stated that they have no jurisdiction to grant anything lake-ward of the high-water mark. This area is the jurisdiction of the Department of Environmental Conservation District.

There was discussion about where the actual pins were located with respect to the high water mark and if a 5 ft. set-back is maintained then how much of a deck will this allow to be built on the front of the house. There was a question about whether the applicant could just build a roof attachment over the cement patio, but it was noted that this would count as lot coverage and it would also require a front yard set-back variance even though it is at roof level.

After further discussion, Chairman G.Herbert asked if the Sullivans would like for the Board to table taking any action on Part B of this application, to give them time to find the pins, run a string line to see how much of a deck they might be able to build. This would not guarantee that area variances will be granted, but it gives the applicants a little more time to review the situation and maybe come up with some alternative solutions.

A motion was made by G.Herbert and seconded by M.Steppe to table this application until the October board meeting. The motion was carried unanimously as follows:  
J.Crevelling-table, E.Seus-table, D.Simpson-table, M.Steppe-table, G.Herbert-table.

Application #988 for Christopher & Margaret Cadden owning property at 3313 West Bluff Dr. requesting an Area Variance to build a deck on the front of an existing house located on the east side of West Bluff Dr. The proposed deck will not meet the required front yard setback of 40 ft. required for a lot in the R1 zone that is located on the upper side of the road away from the lake.

Mr. Robert Anderson, contractor for the Cadden's was present along with Margaret Cadden to answer questions for board members. The site map that was submitted with the area variance application shows that the proposed deck will extend along the front of the house and over to the end of the retaining wall that already exists in the front of the house.

The proposed deck is to be 14 ft by 38 ft.. The deck posts would be kept back within the existing retaining wall. There was a brief discussion about the removal of some of the existing brush and myrtle on the side of the road bank in order to have the view from the deck. Mrs. Cadden stated that they would be replanting the bank area with more of the myrtle and other types of ground cover to hold the bank.

The area variance test questions were reviewed as follows:

- 1) Could granting of the Area Variance change the character of the neighborhood?  
(5-no, 0-yes).
- 2) Are there alternatives that would not require an area variance? (5-no, 0-yes).

- 3) Is the request substantial? (3-no, 2-yes). J.Crevelling-yes, M.Steppe-no, E.Seus-no, D.Simpson-yes, G.Herbert-no. Ed Seus stated that he felt that this request was not substantial given the circumstances of the request in that this proposed deck will be very high up on the bank where the house is not down close to the road.
- 4) Would the granting of this variance have potential adverse impacts on physical or environmental conditions in the neighborhood? (4-no, 1-yes). M.Steppe-no, J.Crevelling-yes, E.Seus-no, D.Simpson-no, G.Herbert-no. Jim Crevelling stated that he did not feel that there was any good way to build a 14 ft. wide deck on this vertical bank without compromising the bank, the road, the lake shore below or the properties adjacent to it.
- 5) Is the alleged difficulty self-created? (3-no, 2-yes). G.Herbert-no, J.Crevelling-no, M.Stepper-yes, E.Seus-no, D.Simpson-yes.

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

A motion was made by G.Herbert and seconded by E.Seus to grant this application with posts to be put in at 12 ft. and the deck to be a 14 ft. wide deck as applied for with setback from the center of the road to be no closer than 29 ft. as measured from the center of the road to the closest point to the front of the deck.

The motion was carried with a poll of the board as follows: M.Steppe-grant, J.Crevelling-deny, D.Simpson-grant, E.Seus-grant, G.Herbert-grant.

#### OTHER BUSINESS:

Art Hunt was present as a representative of the Town of Jerusalem Hydrofracking Impact Study Committee. He discussed what the committee had been charged with which was to study both sides of natural gas drilling within the township. The committee has been taking an objective look at both the industry's position and the anti-drilling interests in the formulation of a set of recommendations to be presented to the Town Board based on this analysis.

The recommendations provided by this committee will become part of the action plan to be decided at the local municipality level. This process remains viable under New York State Law.

In other matters, Zoning Board Alternate, John (Jack) Hoffer, announced that this would be his last meeting, as he and his wife would be going south. Jack stated that he had been given a job offer down in Florida for the winter months and because of his wife's health this was going to work out for them.

They will come back in the Spring, but this was too good of an opportunity to pass up. Jack thanked the board for the time and opportunity to have served as a member with them on the Zoning Board.

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

The meeting was adjourned at 8:50 pm.

Respectfully submitted,  
Elaine Nesbit/Secretary