

Approved

Town of Jerusalem
Zoning Board of Appeals

July 11, 2013

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Thursday, July 11th, 2013 at 7 PM by Chairman G. Herbert at 7 pm.

Roll Call	Glenn Herbert	Present
	Jim Crevelling	Present
	Ed Seus	Present
	Dwight Simpson	Excused
	Earl Makatura	Present
Alternate	Rodgers Williams	Present

Others present: John F. Phillips/CEO, Joe Chiaverini, James Stapleton, Joan Winters, Barb Sullivan, Dave Hershey, and Mark Stokey.

A motion was made by E.Seus seconded by J.Crevelling to accept the June 2013 Zoning Board minutes as written. The motion was carried unanimously.

COMMUNICATIONS:

No communications had been received for this board meeting.

AREA VARIANCE/SPECIAL USE REVIEW:

Application #1018 for James Stapleton owning property at 9163 East Bluff Dr. requesting an Area Variance to build a barn 48 ft. by 32 ft. with a height of 28 ft. in the R1 zone. The allowed height for an accessory building located on a lot on the west side of East Bluff Dr. is 20 ft.

Mr. Stapleton was present to answer questions for board members. Pictures had been provided as to the type of building and roof style that he was proposing to build. His main purpose for the building was to have storage for his boats, cars, motorcycles and to have a wood-working shop. He also wanted to have the area on the second floor to be for a dry storage area. The barn will be stick built.

There was some discussion about where the actual location of this barn would be and it was pointed out that the proposed build area will be in the R1 zone.

It was also noted that to move the barn up the hill into the Ag-Res zone area, would still require an area variance because in this zone the side yard setbacks required are 40 ft. on the sides so in either zone an area variance would be required because his total lot width is approximately 99.94 ft. wide.

The picture showing the proposed barn showing the type of roof with the bottom section having 10 ft. high space in the lower part could then have knee walls as part of the second floor with some space for storage and depending on the pitch of the roof, a height of 24 ft. high should give adequate storage space and enough roof pitch for proper shedding of snow, etc.

Board members were willing to give some extension to the height particularly in light of the shape of the barn and roof pitch, however, there was a reluctance to go 8 ft. higher in height as requested.

The area variance test questions were read with the following results:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby property owners will be created by the granting of the area variance: (0=yes, 4=no).
2. Whether the benefit to the applicant can be achieved by some other feasible method than an area variance: (1=yes, 3=no) G.Herbert –yes, E.Seus-no, J.Crevelling-no, E.Makatura-no. G.Herbert stated that he could make the barn smaller and comply with the height requirements.
3. Whether the area variance is substantial : (1=yes, 3=no) G.Herbert-no, J.Crevelling-yes, a variance of 40% increase is substantial. E.Seus-no, normally he would say yes, but given the location and there are no buildings located in the surrounding lots close by that would be affected by this building his answer is no. E.Makatura-no.
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions of the neighborhood of district: (0=yes, 4=no).
5. Whether the alleged difficulty was self-created: (4=yes, 0=no).

A motion was made by G.Herbert seconded by J.Crevelling to deny the area variance as requested. The motion was carried unanimously.

A second motion was then made by G.Herbert to grant an Area Variance of 4 ft. to allow the barn to be no higher at its peak than 24 ft. as measured from the average elevation of the proposed finished grade at the building's lowest side elevation to the highest point of the rooftop. The motion was seconded by J.Crevelling and the motion was carried with a poll of the board as follows: E.Seus-grant, E.Makatura-grant, J.Crevelling-grant, G.Herbert-grant.

In granting this 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.

Application #1019 for Gerald and Barb Sullivan owning property at 5405 East Bluff Dr. requesting an Area Variance to build a pergola 24 ft. long by 12 ft. wide on the front side of their existing home with less setback from the high-water mark than zoning requires in the R1 zone and increasing the lot coverage beyond what is allowed for coverage in the R1 zone.

Mrs. Sullivan was present to answer questions for the board members and to present her application.

There was a brief discussion regarding the application fee for this requested Area Variance and whether it should be waived when it seems to be very similar to the application applied for in 2011. It was noted, however, by Chairman G. Herbert, that the previous application was actually withdrawn by the Sullivan's since there were issues regarding lot coverage as well as front yard setback and the requested area variance being excessive. Therefore he stated that this being an entirely new application, the permit fee could not be waived. It was also noted that the previous request for a pergola was a significantly smaller pergola than the one being requested by this application.

The presentation of the application by Mrs. Sullivan was that she was basically looking for an area out in front of her home that could have some shade once the pergola was established with some vines (greenery) so they could sit out there during the day to enjoy the lake. Right now, without some protection, it is usually too hot until some-time after 3 pm to even be out there. It was noted that this would not be very helpful if it was raining because a pergola is not a roof. It is, however, more environmentally friendly, as one board member put it, because a roof is an impervious surface and with a pergola, it would allow the rain to go through seep into the ground rather than just run off and into the lake, especially at this close proximity.

A question came up as to whether there was even a need for a permit for a pergola, however, when a board member read the definition out of the Jerusalem Code book for structure, it seemed very clear that in fact, it is a structure, it does require a permit and therefore does require an area variance.

There was some discussion about where the high-water mark was with respect to the sea-wall/retaining wall. It was noted on the survey map that they seem to be pretty close together. One of the board members who had visited the site and had met with Mrs. Sullivan stated that he had measured the distance to the proposed pergola and was in agreement with the requested variance of being approximately 3 ft. from the high-water mark or a 12 ft. variance.

The other area variance that was being requested was for lot coverage. It was noted that at the time the prior area variance was granted in 2011, the Sullivan's lot coverage actually was at 20% and with the allowed addition being granted, it put them at 22%. The proposed pergola being requested would now be adding more lot coverage which would increase to 25.89%.

Board members pointed out that the Sullivan's do at least have one covered patio that is located on the north side of their home and does provide some view of the lake and some protection from the weather.

A suggestion was made that perhaps the homeowner might consider a retractable awning that would provide a shade covering when they are there and want to use this area to sit outdoors during the day or evening and it is hot or the weather is not favorable.

The area variance test questions were read with the following results:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby property owners will be created by the granting of the area variance: (5-yes, 0-no). It would stick out farther towards the lake than any other adjacent properties.

2. Whether the benefit to the applicant can be achieved by some other feasible method than an area variance: (5-yes, 0-no).

3. Whether the area variance is substantial: (5-yes, 0-no).

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district: (2-yes, 3-no). G.Herbert-no, J.Crevelling-no, E.Makatura-yes, E.Seus-yes, R.Williams-no.

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

A motion was made by J.Crevelling to deny this application for a 10 ft. wide by 24 ft. long pergola due to the fact that a 12 ft. area variance is being requested or 3 ft. from the high-water mark and the lot coverage would increase from 22% to 25.89%. The allowed lot coverage is 20% in the R1 zone and with prior area variance given the lot coverage increased to 22%. This request would increase the degree of lot coverage non-conformity by 3.89%. The motion was seconded by E.Seus and carried with a poll of the board as follows: E.Makatura-deny, R.Williams-deny, G.Hebert-deny, E.Seus-deny, J.Crevelling-deny.

Mrs. Sullivan asked about other properties that had structures close to the lake and even new homes that appeared to be right at the water's edge questioning how they got there. Chairman G.Herbert stated that without knowing each individual property, the only thing he could state was that there were rules in zoning (a grandfather clause) that do allow for remove and replace on the same footprint within a certain timeframe. He also noted that many structures were built prior to zoning.

Other Business:

There was no other business for board members to discuss.

A motion was made by G.Herbert and seconded by J.Crevelling to adjourn the meeting. The motion was carried unanimously. The meeting was adjourned at 8 pm.

Respectfully submitted,

Elaine Nesbit/Secretary

