

TOWN OF JERUSALEM
ZONING BOARD OF APPEALS

February 12, 2015

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Thursday, February 12th, 2015 at 7 pm by Vice-Chairman, Jim Crevelling.

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

Others present included: Marla Makatura, Gloria Long, Jason Inda for Inda Contracting, and Art Hunt.

A motion was made by E. Seus and seconded by J.Crevelling to approve the January Zoning Board minutes as written. The motion was carried unanimously. Minutes approved.

Communications: Letter from Yates County Planning Board regarding Application #1040. Letter from Jerusalem Planning Board regarding Application #1040. Letter from Yates County Soil and Water with list of concerns regarding Application #1040

AREA VARIANCE/SPECIAL USE REVIEW:

Application #1040 for Brian and Susan Friguliette as owners of Java-Gourmet at 2080 State Rte. 54A Penn Yan, NY 14527, requesting an expansion of their Special Use to consolidate the operations of their coffee roasting business at one location, to replace the existing building with a larger building that would accommodate a small seating area, with an expanded retail area, a small bistro with limited hrs.

As part of the site plan, the access drive would be widened and eleven new additional parking spaces to be added to the site location.

Mr. Dan Long, Architect representing Mr. & Mrs. Friguliette was present to answer questions and to present the board members with an updated site plan drawing of the proposed expansion.

The Yates County Planning Board, in January, motioned to approve this Special Use Expansion and Site Plan subject to the concerns of the Yates County Soil and Water Department and Wastewater Regulations being satisfied.

Mr. Long stated that he had been to the February Jerusalem Planning Board meeting, and had presented them with the same new site plan drawing.

He noted for the board that he had reviewed and addressed many of the concerns listed from the Yates County Soil and Water Department. The new revised site plan dated 2/3/15 is based on a corrected survey map, which shifted the site plan approximately 50 ft. back so as to match up with the GIS Map in which the first site plan map (dated 11/30/14) did not match up with the separation topo distances in the field.

This shift in the site plan does not change the slopes it just puts the existing building and the proposed new building in the correct existing contours where they should be.

There is a question about showing post construction topographic contours. These are shown on the site plan drawings. The only area that is actually being disturbed is the area immediate adjacent to the access driveway which will be widened and there will be additional details provided for this access driveway for the final site plan review scheduled for the March Planning Board meeting.

Erosion and sedimentation control plans are provided on the second page of the revised site plan and there is a storm-water management plan which shows the use of silt fencing and they will also be paving a section of the entrance according to the NYS DOT guidelines to prevent tracking of debris out onto 54A. The majority of the parking area will be stoned, pervious area with the only impervious area being the roof of the new building. This is taken into account as part of the storm-water management system.

A preliminary septic construction plan has been drawn and deep hole test has been done but a shallow hole test still needs to be done when the weather breaks to provide the additional information needed to complete the wastewater plans. The planned system is to be an aerobic system. With treatment of the wastewater prior to its going into the septic field. A proposed curtain drain will be provided around the septic field to prevent any drainage from the access drive and sloped area above onto this area.

The Jerusalem Planning Board will be provided with additional information to show that the concerns of the Yates County Soil and Water Dept. have been satisfied.

The Friguliettes were also present to answer questions for Zoning Board members. They stated that they would be maintaining hours similar to what they have had over the past two plus years. There would probably be a couple of weeks in the winter when they would be closed.

It was also noted that they would not be widening the entrance. At the start-up of their business they had met with DOT officials to widen the existing entrance according to the specifications of the NYS DOT and would not be making any further changes with this regard. The widening of the access drive will take place beyond the entrance to this location.

The board having no further concerns, a motion was made by J.Crevelling and seconded by J.Chiaverini to approve the expansion of this Special Use for Java-Gourmet as applied for per the revised set of plans dated 2/3/2015 with the condition that the SEQR review and determination for any Environmental Impacts for the Special Use and Site Plan be made at the March Planning Board meeting by the Jerusalem Planning Board and the review and approval of the Site Plan for this Application #1040, meeting and satisfying the conditions of the Yates County Soil and Water Department.

The motion was carried with a poll of the Board as follows: E.Seus-grant, R.Williams-grant, J.Chiaverini-grant, J.Crevelling-grant.

Board Member, E. Makatura abstained from voting on this application; he stated that should this application be approved, he could possibly be a contractor bidding on this project.

Application #1041 for Tyler Wolk owning property at 929 Old Pines Trail, Penn Yan, NY requesting Area Variances for removal of an existing garage which was damaged due to flooding and replace it with a larger garage that is closer to the rear yard lot line than zoning allows and requesting to build the new garage with a height not allowed by zoning in the R3 Zone District.

Jason Inda of Inda Contracting was present to represent Mr. Wolk and answer questions for the board members. The existing garage was a pre-existing, non-conforming garage, built prior to zoning, having only a 16.2 ft. rear yard set-back from the rear yard property line and zoning requires a 20 ft. rear yard set-back. The proposed new garage will be 23 ft. by 23 ft. to be built in the same place with the increased size to extend along the same line having the same setback distance from the rear yard lot line of 16.2 ft. as the existing garage. The height of the existing garage is nineteen ft. with a proposed increase of height to 22 ft. 10 in. The requested additional size to the garage is to allow for the storage of two cars in the garage and the storage of other things upstairs in the garage.

There were two letters from neighbors that had been notified of the requested Area Variances and they wrote in favor of the proposed project (copies on file with application). One neighbor was present to voice a concern about the location of the proposed garage, asking if it could be shifted laterally one way or the other and if that would make any difference to the zoning board. The neighbor's property is located across the road and the height of the garage would affect their view of the lake from this lot.

It was noted by the contractor that there had been a discussion with the home owner about shifting the garage from one side to the other, however, there would be a considerable cost to the homeowner to move the garage location due to the grade where the garage is currently located. The neighbor stated that she would not make any objections to the project.

The area variance test questions were reviewed 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, 5=no).

2)Whether the benefit to the applicant could be achieved by some other feasible method than an area variance: (2=yes, 3=no) J.Crevelling-no, E.Makatura=yes, E.Seus=yes, R.Williams-no, J.Chiaverini-no. Mainly because of the tree in the back, by keeping it to help maintain stability of the site.

3)Whether the area variance is substantial: (1=yes, 4=no) J.Crevelling=yes, E.Makatura-no, E.Seus-no, R.Williams-no, J.Chiaverini-no. The variance is substantial but not adverse due to the similar lot sizes in the area and similar structures on the lots.

4)Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district: (0=yes, 5=no).

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

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

J.Crevelling added that he would like to see a condition be added that there be no living space in the garage.

A motion was made by E.Seus seconded by J.Crevelling to grant this application as applied for with the existing height being raised to a maximum height of 22 ft. 10 in. (a 7 ft. 10 in. variance starting with 4 ft. of the pre-existing 19 ft. high garage and adding 2 ft. and 10 in. more for the proposed garage height) and increasing the garage size to 23 ft. x 23 ft. having the same setback of 16.2 ft. from the rear yard property line as the pre-existing garage was. The condition is added that this garage not be used for living space. The location of the garage could be moved 2 ft. laterally either way from its present location if the homeowner is agreeable and the board has no problem with this as long as the 10 ft. side yard set-back is met.

The motion was carried with a poll of the board as follows: R. Williams-grant, J.Chiaverini-grant, E.Makatura-grant, J.Crevelling-grant, E.Seus-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.

OTHER BUSINESS:

Vice-Chairman J.Crevelling recognized Art Hunt who wished to address the Zoning Board. Mr. Hunt started out by saying that they have been in business for many years as a Farm Winery and when they, Hunt Country, first started out there were only like 25 wineries in the entire state, and now there are more like 140 to 150 in the Finger Lakes and something like 400 in the state. In the last few years the number of wineries, breweries continues to grow, but the numbers of businesses has dropped off. Mr. Hunt stated that they are a business and they have quite a few part-time employees. He mentioned the large number of W2's they made out this year. In order to keep the business flowing, Mr. Hunt stated that they realized that they need to become more than a Farm Community we need to become a Destination in order to keep our business growing and to keep jobs available. The first thing they are wanting to do is to offer prepared sandwiches and soups for lunch and this would be starting out maybe three days a week but mostly during the busier season hopefully starting in May.

Mr. Hunt stated that he had spoken to the Health Department and to Mr. Wyant, who deals with Food inspection, who was very helpful and he stated that they basically would need a three bay sink.

Mr. Hunt stated that he had talked to CEO John F. Phillips about this and he wasn't sure that they could do it. He, John Phillips, referenced the Code regarding the Agriculture District that did not list in the permitted or special permitted use sections, the type of thing that Mr. Hunt wanted to do.

Mr. Hunt then stated that he went to the February Planning Board meeting and presented what he wanted to do to the Planning Board, and their suggestion was that he might apply for a Special Use Permit under Small Retail Service Business.

Mr. Hunt stated that he wishes to apply to the Zoning Board for a Special Use Permit for a Small Retail Service Business.

Vice-Chairman J.Crevelling stated that the Zoning Board cannot take any action on anything without an application. They have had past legal counsel that the Zoning Board does not make any decision or take any action on any subject without proper paperwork that has been submitted to them for review.

There was further discussion from Mr. Hunt as to how he should proceed and to summarize, it was basically suggested that he should make an application to the Zoning Board explaining exactly what he wants to do and request to be placed on the Zoning Board Agenda.

There being no further business for discussion, a motion was made by E. Makatura and seconded by J. Chiaverini to adjourn the meeting. The motion was carried unanimously. The meeting was adjourned.

Respectfully submitted,

Elaine Nesbit/Secretary