

Town of Jerusalem
Zoning Board of Appeals

December 8th, 2016

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Thursday, December 8th, 2016 at 7 pm by Chairman Glenn Herbert.

Chairman G. Herbert asked all present to stand for the Pledge to the Flag.

Roll Call:	G.Herbert	Present
	Ed Seus	Present
	Earl Makatura	Present
	Rodgers Williams	Present
	Joe Chiaverini	Present
Alternate	Kerry Hanley	Excused
Alternate	Ken Smith	Present

Others present included: Marla Makatura, Richard and Debbie Vega, and Zac DeVoe/Jerusalem CEO

A motion was made by E.Seus and seconded by K.Smith to approve the November Zoning Board minutes as written. The motion was carried unanimously.

COMMUNICATIONS:

There were no communications

AREA VARIANCE/SPECIAL USE REVIEW:

Application #1082 for Richard and Debbie Vega owning property at 3471Brandy Bay PY requesting an Area Variance to build a 10 ft. by 15 ft. addition on to existing home with less set back from the east side yard property line than zoning requires.

Board member, E. Makatura would not take part in this review since he is the contractor for this proposed construction. Alternate Ken Smith will be acting with the rest of the board for this application.

It was noted that lot coverage is not an issue for this request even though it is a small lot. The Vega’s property is one of nine properties that borders the Brandy Bay Rec Club which is an adjacent piece of vacant land that all of these nine properties have a share in and each one has approximately 1,289 sq. ft. from this shared piece of land that they can use along with their own lot sq. footage to calculate lot coverage.

There were concerns from board members about the requested 2 ft. from the east property line as proposed. The question was asked if this distance that was measured included the roof overhang.

It was questioned as to why the applicant could not add on towards the lake since there appeared to be room to move in that direction without encroaching a lot line. It was noted that you couldn't go very far without encountering a drop-off and it was also noted that an addition on the front of the home would not work out well to tie in with the existing roof-line of the home.

There was further discussion from the board members with regards to expansion on an already non – conforming setback towards the lot line and they felt that only 2 ft. from the lot line was just too close.

Chairman G.Hebert then discussed with applicants that they might want to consult for a few minutes with their contractor to see if there was a way to either modify the proposed dimensions of the addition or move the proposed addition one way or the other in order to allow for at least a minimum of 4 ft. from the side yard property line.

Applicants stepped out a few minutes to consult with their contractor/designer, Marla Makatura.

When the applicants returned, Mr. Vega stated that he understood the concerns of the board regarding the requested area variance being too close to the lot line and since they wanted to leave with something, he asked the board if they would consider a request of 4 ft. from the property line and their contractor/designer would work with them on a re-design of the plans for the addition.

The board was willing to consider this since the other side of the home was 4 ft. from the west side yard lot line and it was noted by the contractor that this home which had been removed and replaced at one time had actually been moved away from the east side yard property line at one time to be more conforming. The lot is a pie-shaped lot and the side yard lot line distance actually gets wider as one moves in a northerly direction.

Based on the original requested application, the area variance test questions were read and reviewed with the following results:

- 1.Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance: (4-no, 1-yes). G.Herbert-no, E.Seus=yes, R.Williams=no, J.Chiaverini=no, K.Smith=no.
- 2.Whether the benefit to the applicant can be achieved by some other feasible method than an area variance: (G.Herbert=no, R.Williams=no, E.Seus=yes, J.Chiaverini=no, K.Smith=yes).
- 3.Whether the requested area variance is substantial: 5=yes, 0=no).
- 4.Whether the proposed area variance will have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district: (G.Herbert=no, R.Williams=yes, E.Seus=yes, it sets a new precedence that doesn't exist, J.Chiaverini=no, K.Smith=no).
- 5.Whether the alleged difficulty was self-created: (5=yes, 0=no).

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

G.Herbert made a motion seconded by K.Smith to deny the application for Area Variance as applied for.

The motion was carried with a poll of the board as follows: J.Chiaverini-deny, E.Seus-deny, R.Williams-deny, K.Smith-deny, and G.Herbert-deny.

G.Herbert then made a motion to grant an area variance for an addition to come no closer to the east side yard property line than 4 ft. as measured from the closest point of the home including the roof overhang/eaves. The motion was seconded by K.Smith and the motion was carried with a poll of the board as follows: J.Chiaverini-grant, R.Williams-grant, E.Seus-grant, K.Smith-grant, G.Herbert-grant.

OTHER BUSINESS:

CEO brought up a matter of concern regarding a deck and set of stairs that were in a state of disrepair and had concerns about not being able to locate a prior permit or variance for them. Chairman G.Herbert stated along with the consensus of the board that in the case where a matter of safety is the issue that it is up to the CEO to make the call to allow the repair so that someone doesn't get hurt because repairs were not allowed.

ZAP Secretary stated that there are already two applications for the January 2017 meeting.

Chairman G.Herbert will be leaving for Florida and R.Williams will be chairing the meetings while he is away.

Next Zoning Board meeting is January 12th, 2016.

There being no further business, a motion was made by R.Williams seconded by J.Chiaverini to adjourn the meeting. Motion carried unanimously and the meeting was adjourned.

Respectfully submitted,
Elaine Nesbit/Secretary