

Approved

Town of Jerusalem  
Zoning Board of Appeals

May 12, 2016

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Thursday, May 12<sup>th</sup>, 2016 by Chairman Glenn Herbert at 7 p.m.

Roll Call:	Glenn Herbert	Present
	Ed Seus	Present
	Earl Makatura	Excused
	Dwight Simpson	Excused
	Rodgers Williams	Present
	Joe Chiaverini	Present
	Kerry Hanley	Excused

Others present included: Gary Dinehart/Town Bd., Wendy Meagher, Cathy Fisher, Robert Bryan, Denise Toomey, Steve & Jane Smith.

A motion was made by R.Williams seconded by G.Herbert to approve the April Zoning Board minutes as written. The motion was carried unanimously.

COMMUNICATIONS:

There were no communications

AREA VARIANCE/SPECIAL USE REVIEW:

Application #1070 for Robert Bryan for property at 2800 Keech Rd., Branchport, NY requesting an Area Variance to build a pole barn/garage 30 ft. by 24 ft. with less set back from the north side yard property line than zoning requires for an accessory structure in the Ag Residential Zone.

Mr. Bryan was present to answer questions regarding his application and as was noted by the board, this is a small residential that is slightly larger than one acre. The zoning requires a 40 ft. side yard setback for accessory buildings in this zoning district. Mr. Bryan noted that with the location of his home in the center of the lot and with the two large ponds in the back of his lot behind his home, it does not leave much room for the garage behind his home and it would make it hard to get to in the winter months. He noted that the best location was to the side and ahead of the home so that it would make it easier and more accessible in the winter months.

Board members had visited the site and had no issues with the proposed location for this building. It was noted by G.Herbert that while the variance request seemed to be substantial, the lot is a residential lot and the zoning board has noted this in the past that the setback requirements for accessory structures are quite stringent in the Ag Residential Zone when the lots are small like this one.

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 properties will be created by the granting of the area variance: (4-no, 0-yes).

2. Whether the benefit to the applicant can be achieved by some other feasible method than an area variance: (4-no, 0-yes).

3. Whether the requested area variance is substantial: (2-yes, 2-no). G.Herbert-no, E.Seus-yes, R.Williams-yes, J.Chiaverini-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: (4-no, 0-yes).

5. Whether the alleged difficulty was self-created: (1-yes, 3-no). G.Herbert-yes, E.Seus-no, R.Williams-no, J.Chiaverini-no.

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

A motion was made by G.Herbert seconded by R.Williams to grant application #1070 for an Area Variance for the proposed garage 24 ft. by 30 ft. to come no closer than 17 ft. to the north side yard property line as measured to the closest part of the building including the roof overhang.

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

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.

Application #1071 for Todd and Cathy Fisher owning property at 6637 East Bluff Dr., Penn Yan, NY and represented by Meagher Engineering, requesting an area variance to replace an existing home at this location with a home that is larger in size and increasing the lot coverage by 11.2%.

Wendy Meagher, P.E. of Meagher Engineering was present to explain about the requested area variance and answer questions for board members.

Ms. Meagher noted that the garage which is not in conformance, being that it was located into the road right-of-way is going to be removed. It was also noted that the dock and areas down by the water, are not going to be disturbed and the noted right-of ways that appear on the site plan maps would not be altered nor would there be anything built in the right-of-ways.

It was noted that by the removal of the garage, it would improve the line of sight along East Bluff Dr. and the area where the garage had been would be an area that would provide an area for the owners to park their cars.

Ms. Meagher stated that there are plans to re-locate the driveway and to add a trench drain and bring all of the downspouts into a stormwater management system that will bring all of the storm water into an area at the side of the property that will be treated before going into the lake. The idea being that although they are adding slightly more impervious surface, the runoff is being collected into the area for treatment as explained earlier before being released into the lake.

Ms. Meagher showed pictures of the proposed home as it will appear when built from different views, i.e. north, south, etc. Ms. Meagher stated that with the removal of the garage, it would give the property owners across the road a better view of the lake. Chairman G. Herbert asked how the engineers calculated the height. Ms. Meagher stated that the grade around the home the front, back and sides was averaged and calculated to come up with the proposed height of the new home to be at 34.9 ft.

Board members were very concerned about the requested lot coverage. The request is for a 50% increase in lot coverage. It was noted that this is a pre-existing, non-conforming lot that is at 21.6% lot coverage which is 1.6% over the allowed 20% lot coverage. Chairman G. Herbert stated that the requested 11.2 % increase is substantial and since he has been on the board he cannot remember a lot coverage variance of this amount being granted. Board member E. Seus stated that the code talks about not increasing a non-conforming property unless it can be done without increasing the degree of non-conformity. He mentioned that if they removed the garage and tried working with the existing house footprint rather than increasing to such a larger footprint the board could maybe consider the request.

Ms. Meagher then introduced Cathy Fisher, the property owner, who stated that both she and her husband were from New York. Mr. Fisher was from the Thousand Islands and she was from Long Island and had gone to Genesee College. They would like to make this their retirement home. They would like to have their family come to visit and stay with them and be able to accommodate everyone at their home.

G. Herbert stated that other examples of ways to reduce the lot coverage would be to use pavers or bricks for decks instead of wooden decks, etc. Chairman G. Herbert stated that he understood that Meagher Engineering was using Leeds (a type of construction that centers around the use of building materials and products and ways of construction that are environmentally safe and ecologically friendly).

Ms. Meagher asked the board to consider tabling the application so that they could go back and review ways that they might be able to reduce the lot coverage and come back with a revised plan that would lower the amount of lot coverage over what is allowed that is being asked for.

A question came up about the letters that went out to the property owners within 200 ft. of the Fisher property and Ms. Meagher stated that her Certificate of Mailing that she had sent in along with the affidavit of mailing was proof that the letters were sent out.

A motion was made by G.Herbert and seconded by J.Chiaverini to table application #1071 until the June meeting at which time the board would continue review of this application. The motion was carried with a poll of the board as follows: E.Seus-table, R.Williams-table, J.Chiaverini-table, G.Herbert-table.

OTHER BUSINESS:

ZBA Secretary stated that a Special Use Application for Kevin Zimmerman would be coming before the Zoning Board in June and that it would also be requiring a Site Plan Review by the Planning Board. A motion by the Zoning Board was needed to have the Planning Board do the SEQR review for this project.

G. Herbert made the motion seconded by E.Seus to have the Planning Board review the SEQR for the Site Plan and Special Use for the Zimmerman Kennel at their June Planning Board meeting. The motion was carried unanimously by all members.

It was noted by Chairman G.Herbert that board member D.Simpson has resigned from the Zoning Board effective immediately due to job changes. We appreciate the time that Dwight Simpson has given to the Zoning board along with his insight.

There being no further business a motion was made by G.Herbert seconded by R.Williams to adjourn the meeting. The motion was carried unanimously and the meeting was adjourned.

Respectfully submitted,  
Elaine Nesbit/ZBA Secretary