

Approved

Town of Jerusalem
Zoning Board of Appeals

October 11th, 2018

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Thursday, October 11th, 2018 at 7 pm by Chairman Glenn Herbert.

Chairman G. Herbert opened the meeting by welcoming everyone present and asking all to stand for the pledge to the flag.

Roll Call:	Glenn Herbert	Present
	Rodgers Williams	Present
	Ed Seus	Present
	Earl Makatura	Present
	Joe Chiaverini	Present
Alternate	Ken Smith	Present

Others present included: Jeanette McConnell, David Smith, Joshua Henderson, Mr. & Mrs. Dennis Kemp, Marie Bercume, Jamie Sission/Town Bd. and Daryl Jones/Town Bd.

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

COMMUNICATIONS:

It was noted as before from the September Zoning Board meeting that the Yates County Planning Board had reviewed Application #1139 for the Area Variance and had also reviewed this application for the Site Plan and Special Use request.

The Jerusalem Planning Board had also reviewed Application #1139 for Site Plan and SEQR and had approved the Site Plan with conditions and had determined a negative declaration for the SEQR review for both Site Plan and Special Use Review.

AREA VARIANCE/SPECIAL USE REVIEW:

Application #1139 for LyonSmith Brewing Company having property at 2597 Assembly Ave., Keuka Park, NY requesting a Special Use Permit to construct and operate a Brewery under non-farm (for zoning purposes) but located in a county-adopted New York State-certified agricultural district. This property is located in the Agricultural-Residential Zone and the Scenic Overlay District.

This property received an Area Variance for the location of their proposed parking lot at the September Zoning Board meeting and the review of the Special Use Permit portion of the application was tabled to be reviewed at the October Zoning Board meeting after the Jerusalem Planning Board reviewed and made a determination on the Site Plan and the SEQR for both the Site Plan and Special Use.

As noted earlier, the Yates County Planning Board reviewed this application for Special Use, Site Plan and Area Variance noting that this will have a positive county-wide and/or inter-municipal impact due to the referral being consistent with the Town's Comprehensive Plan with regards to development of the Kinney's Corners / Route 54A district.

Mr. Smith, who was present to represent LyonSmith Brewery, noted that there were conditions of the approved Site Plan set by the Planning Board that stated that all permits must be received from Keuka Park Sewer & Water Dept. as well as the NYS Department of Health for before any certificate of occupancy and operating permit can be issued. An onsite pre-construction meeting is to be held with the Town Engineer, CEO, Representatives from the TOJ Highway Dept., from YC Soil & Water, and the Planning Board Chair or an alternate representative, and the contractor.

There was a discussion about signage and these signs will meet the requirements of the Zoning Code. The one large sign that the Brewery will have up near Rte 54A will have minimal lighting from solar power supply.

The parking area will have little to no lighting since the Brewery has no plans to be open after 8 pm in the evenings. The lights that will be on the building itself will be down-lighting which should give enough light to see without be excessive.

Hours of operation at this time are planned to be Tuesday thru Saturday from noon to 8 P.M. and Sundays from noon to 4 P.M.

The other area of concern is for the additional traffic that this new proposed business will generate. It was noted that there are additional side lanes on both sides of State Rte 54A to pull off onto before the turn-off to Assembly Ave. and coming south onto Kinney Corners Rd.

A local resident spoke to the fact that she has lived in that area over 30 years and there have been several serious accidents at that location. If the speed limit could be reduced to 45 miles per hour through that area, it could help to prevent any future serious or fatal accident.

D.Jones spoke to the fact that a speed study would probably have to be requested through the Yates County Highway Department. Chairman G.Herbert stated that if the traffic becomes of concern in this area, then it should be reported to the CEO who would then forward the concerns to the appropriate responsible Departments.

There being no further discussion a motion was made by G. Herbert and seconded by E.Seus to grant the Special Use Application as applied for subject to the conditions listed by the Planning Board that all permits must be obtained from Keuka Park Sewer and Water and the NYS Health Department. That the connection of the Brewery is made to public water and public sewer, all prior to the issuance of a certificate of occupancy and operating permit. All the pre-construction conditions will be met and adhered to.

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

Application #1140 for Dennis Kemp for property at 4396 West Bluff Dr., Keuka Park, NY requesting an Area Variance to build a 36 ft. by 34 ft. garage to be located with less setback from the front yard property line than zoning requires when the portion of the lot is located on the east side of West Bluff Dr. The required setback is 40 ft. and the requested setback is to be 10 ft. from the front yard property line or 30 as measured from the center of West Bluff Dr. to the closest part of the building including the roof overhang. The road in this area of West Bluff Dr. is fairly straight which gives good view for anyone coming out of a garage at this location to see any cars coming from both the north and south.

Mr. Kemp was present to explain the reason for his requested area variance and the main reason has to do with the slope of the lot. The area where he is proposing to build the garage is an area that will need the least amount of excavation and tree removal in order to get the garage built with some area away from the road right-of-way. If he were to move the garage and farther back into the hillside it would require a lot more trees to be removed and much more excavation making for greater destabilization of the hillside and cause more erosion and sedimentation run-off problems.

Board members had been out to the sight and generally did not have any issues with this request.

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: (5-no, 0-yes).

2)Whether the benefit to the applicant can be achieved by some other feasible method than an area variance: (1-no, 4-yes). G. Herbert-yes, E. Seus-yes, E. Makatura-yes, J.Chiaverini-no, R.Williams-yes. The benefit could be achieved by moving the garage back farther, but would not be feasible from an environmental standpoint.

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

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

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

There was no further discussion and the board members were in unanimous agreement that this is a SEQR Type II action.

A motion was made by G. Herbert and seconded by R.Williams to grant the Area Variance application as applied for with the proposed garage to come no closer to the center of West Bluff Dr. than 30 ft. as measured from the center of the road to the closest part of the garage including the roof overhang.

The motion was carried with a poll of the board as follows: E.Makatura-grant, E.Seus-grant, J.Chiaverini-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 minimal variance that will accomplish this purpose. This variance will not be injurious to the neighborhood not alter the essential character of this locality.

Application #1141 for Joshua Henderson for property at 2905 State Rte 54A, Bluff Pt. requesting an Area Variance to build a 30 ft. by 40 ft. pole-framed type garage with attic for storage space with a rear yard setback of only 2 ft. where 45 ft. is required for an accessory building that is located in the agricultural-residential zone.

Mr. Henderson was present to explain about his area variance request. He noted that there is a propane tank located in the yard area that does not allow him to come to many feet forward towards his house and still fit the pole barn in this area. It was also noted that there is a smaller building that is right on the property line almost in the same location. The current building is smaller than the one that he wants to build. The smaller building was there prior to his purchasing the property. Mr. Henderson plans to remove the smaller building.

Board members were concerned about the building being only 2 ft. off the rear yard property line particularly for the purposes of maintenance on the building itself if it were to be needed. Mr. Henderson stated that he could move it forward a few feet more without being a problem with the propane tank. Board members wanted to see a minimum of 5 ft. between the building and the rear yard property line as measured from the closest point including the roof overhang. Mr. Henderson was agreeable to the 5 ft.

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: (5-no, 0-yes).

2)Whether the benefit to the applicant can be achieved by some other feasible method than an area variance: (3-no, 2-yes). G.Herbert-no, R.Williams-yes, E.Makatura-no, E.Seus-no, J.Chiaverini-yes.

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

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

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

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

A motion was made by E.Makatura and seconded by E.Seus to grant the Area Variance with a modification that the set-back of the pole-type framed garage to be at a minimum of 5 ft. from the rear yard property line as measured from the rear yard line to the closest part of the proposed building including the roof overhang.

The motion was carried with a poll of the board as follows: J.Chiaverini-grant, R.Williams-grant, G.Herbert-grant, E.Seus-grant, E.Makatura-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 minimal variance that will accomplish this purpose. This variance will not be injurious to the neighborhood not alter the essential character of this locality.

Application #1142 for Larry Wilkins for property located at 454 West Lake Rd., Branchport, NY requesting an Area Variance to build a pole barn 32 ft. by 64 ft. by 15 ft. high with less set-back from the front yard property line than zoning requires. The required setback at this location is 30 ft. from the front yard property line or 63 ft. as measured from the center of State Rte 54A.

Marie Bercume was present as representative for this application and to answer questions for board members. It was noted that with the location of this lot in the Branchport Service Park District that the required rear yard setback is 20 ft., which they will meet. The requested area variance from the front yard lot line is for 14.5 ft.

This area variance application was reviewed by the Yates County Planning Board and determined to have no significant county-wide or inter-municipal impact.

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: (5-no, 0-yes).
- 2)Whether the benefit to the applicant can be achieved by some other feasible method than an area variance: (5-no, 0-yes).
- 3)Whether the requested area variance is substantial: (0-no,5-yes).
- 4)Whether the proposed area variance will have an adverse effect or impact on the physical or environmental condition of the neighborhood or district: (5-no, 0-yes).
- 5)Whether the alleged difficulty was self-created: (5-yes, 0-no).

There being no further discussion, a motion was made by G. Herbert and seconded by E. Seus to approve Area Variance Application #1142 to allow the pole barn to be built as applied for and to come no closer than 15.5 ft. as measured from the closest part of the proposed building including the roof overhang to the front yard property line and edge of the road right-of-way.

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

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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 minimal variance that will accomplish this purpose. This variance will not be injurious to the neighborhood not alter the essential character of this locality.

OTHER BUSINESS:

A motion was made by G.Herbert and seconded by R.Williams to request the Planning Board to be the Lead Agency for SEQR Review for Special Use and Site Plan Application #1143 for Russell Hoover that will be on the November Planning and Zoning Board agendas. The motion was carried unanimously.

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

Respectfully submitted,
Elaine Nesbit/Secretary