

Approved

Town of Jerusalem
Zoning Board of Appeals

February 8th, 2018

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Thursday February 8th, 2018 at 7 pm by Board Member, Earl Makatura.

E. Makatura asked all to stand for the pledge to the Flag.

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

Others present included: Julie & Christopher Hawk, Laurie Tappel, Penelope Frum, Bruce Warfield, James & Amanda Hayes and Jamie Sisson/Town Bd.

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

COMMUNICATIONS:

A letter was sent by email to Zoning Board members from an adjacent neighbor regarding applications 1116 & 1117 (copy on file). Letters of support were received from adjacent neighbors for application #1115 (copy on file). An email was received from Mrs. Lori Moore requesting on behalf of her husband and herself that application, #1112 for Area Variance be withdrawn (copy on file).

AREA VARIANCE/SPECIAL USE REVIEW

Application #1112 for Ed & Lori Moore for property at 9457 East Bluff Dr. requesting an Area Variance to allow 2 existing decks to remain as built. Lot coverage exceeds what is allowed by zoning.

An email (copy on file) from Mrs. Moore was read requesting that on behalf of herself and her husband that their application for Area Variance be withdrawn at this time. They will re-apply at a later date once they have met with their builder/contractor and design engineer as to what they want to take down and what they want to replace and what area variances they will then need.

A motion was made by E. Makatura and seconded by E. Seus to accept the application as withdrawn. The motion was carried unanimously.

Application #1114 for Penelope Frum for property at 311 Cedar Street, Keuka Park, NY requesting Area Variance for attaching a 12 ft. by 24 ft. single car garage to an existing home removing an existing deck at this location, however the garage size will increase the lot coverage so that it exceeds what is allowed in the R2 zone by 4.5 % making the lot coverage 24.5%. In addition, when the house was originally built around 1986, the building permit plot plan (not a survey) indicated that it was to be 15 ft. from the west side yard lot line. In reality, it was placed too close to the west side yard property line. Therefore, the current owner of the property, Ms. Frum, is now asking for a variance since the house is 5.8 ft. from the west side yard property line as measured from the wall of the house plus the roof overhang and 10 ft. is required.

Ms. Frum and Mr. Warfield were present to answer questions for board members.

Board members had been to visit the property and one board member stated that while the lot percent coverage was higher than normal, he noted that for this particular area, he was not as concerned because the lots are smaller, highly residential, but are on public water and public sewer.

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: (3-no, 0-yes).

2)Whether the benefit to the applicant can be achieved some other feasible method than an area variance: (3-no, 0-yes).

3)Whether the requested area variance is substantial: (1-no, 2-yes) E.Makatura=yes, J.Chiaverini=yes, E.Seus=no, while the lot coverage may seem high, the neighborhood has quite small lots and a lot of them are similar with a house and garage on a small lot and it is a highly residential area.

4)Whether the proposed area variance will have an adverse effect or impact on the physical or environmental condition of the neighborhood or district: (3-no, 0-yes).

5)Whether the alleged difficulty was self-created: (3-yes, 0-no).

Board members were 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 to allow the garage addition with lot coverage increased to no greater than 24.5% and granting the area variance for the set-back of the house from the west side yard property line as it exists at 5.8 ft. from the wall of the house plus the roof overhang.

The motion was carried with a poll of the board as follows: E.Makatura-grant, J.Chiaverini-grant, E.Seus-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 #1115 for James Hayes for property at 2932 Rte 54A Penn Yan requesting Area Variances to build a 50 ft. by 30 ft. pole barn to replace a two story older barn that was destroyed by fire. The new barn will be approximately 15 ft. high and is proposed to be placed 30.7 ft. from the rear yard property line and 14.9 ft. from the south side property line. This property is located in the Agricultural Residential Zone and the Scenic Overlay District. The side yard requirement for accessory buildings is 20 ft. and the rear yard setback requirement is 45 ft.

Mr. Hayes was present to answer questions for board members. He had building plans for board members to look at that showed what his building would look like as well as samples of metal siding that would be on the pole barn (earth tones) that would blend in with the surroundings.

There were two letters (copies on file) from adjacent neighbors on both sides of Mr. Hayes property that were in support of his proposed building.

Mr. Hayes stated that he would be using the building for storage of his ('mule'/ small vehicle), lawnmower, his truck, and part of the building he will use as his wood -working shop, as he makes a lot of things out of wood.

It was also noted by one of the board members that there is a porch addition proposed on the side of the pole barn that is not part of the proposed pole barn dimensions. It was noted that this is on the side towards the house and does not affect the sides that are requesting variance setbacks and lot coverage is not an issue. The sq. footage just needs to be noted and added when Mr. Hayes applies for his building permit.

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: (3-no, 0-yes).
- 2)Whether the benefit to the applicant can be achieved some other feasible method than an area variance: (1-no, 2-yes). E.Makatura-no, E.Seus-yes, J.Chiaverini-yes.
- 3)Whether the requested area variance is substantial: (3-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: (3-no, 0-yes).
- 5)Whether the alleged difficulty was self-created: (3-yes, 0-no).

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

A motion was made by E. Seus and seconded by E. Makatura to grant the Area Variance as requested with the barn to have a 15 ft. set-back from the side yard property line or a variance of 5 ft. and a setback of 30.7 ft. from the rear yard property line or a variance of 14.3 ft. These setbacks are measured from the roof overhang. There was a condition added to the motion that no farm animals are to be kept in this barn by this applicant or any future owner of this property.

The motion was carried with a poll of the board as follows: J. Chiaverini-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 nor alter the essential character of this locality.

Applications #1116 for Laurie Tappel and Application #1117 for Julie & Christopher Hawks for property at 12471 & 12473 East Bluff Dr. requesting Area Variances to subdivide the properties into two separately deeded lots so that each dwelling will be on its own deeded lot.

Applicants are also requesting, as a result of the proposed new property line division, an area variance for 12473 East Bluff Dr. from the new north side yard property line which will have less than 10 ft. as measured from the roof overhang of the cottage to the proposed north side yard property line and an area variance is also requested for 12471 for a side yard setback from the cottage roof overhang to the proposed south side yard property line which will not be 10 ft. as required. The property of Laurie Tappel at 12471 is pre-existing zoning in its location to the current north property line and is only approximately 2 to 3 ft. off of the side yard lot line. The applicant wishes to construct a second story on the cottage coming no closer to the north side yard property line than where the cottage is currently located but which is still only 2 to 3 ft. off the lot line.

Both applicants were present to answer questions for the board members.

Currently the two properties share a wastewater system which was upgraded sometime in mid- 2009 and Jerusalem wastewater inspectors have stated that the shared system may continue at this time. Copy of email on file with application.

A right-of-way (private road) goes through the property to an adjacent property owner, but this area is well above the location of the two cottages and this private road is subject to the use in common with others that leads to the town highway.

There was a discussion among the board members regarding the zoning code and the requirements for a lot in the lake-residential zone and the way it reads in the zoning code, i.e. 75 feet at the lakeshore by 100 ft. The board members noted that the survey submitted for review shows that the lot for 12471 East Bluff would be divided in such a way as to have 50.68 ft. of lake frontage and the lot at 12473 East Bluff would have well over 75 ft. of lake frontage. There was a second survey showing the lot at 12471 having 75 ft. of lakeshore, but then narrowing back up so as not to come closer to the cottage at 12473.

This does not allow the property to be in conformance with the code, however, in that it would not be 75 by 100 without taking out part of the cottage at 12473. The zoning code also talks about not granting lake access of anything less than 50 ft. for each dwelling unit served. The property at 12471, being a pre-existing dwelling, in its location, and subdividing the lot so that each parcel has more than 20,000 sq. ft. as is required by the (R1) Lake-Residential Zone; is the area that would be allotted to parcel 12471 East Bluff Dr. which would be 50.68 ft. by 100 allowed under the R1 code regulations for a newly formed lake lot with the parcel at 12473 being over 20,000 sq. ft. and having over 75 ft. of lake frontage.

The other question that the board members were concerned with was the request for a second story on the cottage at 12471 East Bluff Dr. Board member E.Makatura was concerned that even if the lot is legally able to be subdivided by the granting of an area variance then how do you maintain the second story of your home when you are only 2 to 3 ft. from the property line.

Board members were discussed their concerns with the applicants and based on the information they had without seeking counsel from the Town Attorney they would most likely deny the area variance requests.

If, however, the applicants wanted to table the application for another month, the Zoning Board would seek counsel from the Town Attorney on these matters. The applicants requested for their application to be tabled.

A motion was made by E. Makatura and seconded by E.Seus to table applications 1116 & 1117 until the March meeting. The motion was carried unanimously.

OTHER BUSINESS:

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

Respectfully submitted,
Elaine Nesbit/Secretary