

Approved

TOWN OF JERUSALEM
ZONING BOARD OF APPEALS
August 8th, 2019

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Thursday, August 8th, 2019 at 7 pm by Chairman Glenn Herbert.

The meeting opened with everyone standing for the pledge to the Flag.

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

Others present included: Tom & Marie Walters and Marvin Hoover.

A motion was made by R.Williams and seconded by L. Overgaard to approve the July Zoning Board minutes as written. The motion was carried unanimously.

COMMUNICATIONS:

There was a letter written to the Zoning Board members from the property owner located at 5311 East Bluff Dr. regarding the Area Variance granted for Application #1158 at the July meeting. Copies distributed to board members and one on file with Area Variance #1158.

AREA VARIANCE/SPECIAL USE REVIEW:

Application #1159 for Marvin Hoover for property located at 2202 Sutton Rd., Penn Yan, NY requesting a Special Use Permit to own and operate a dog kennel which his grandfather has owned and operated for many years at 2670 Coates Rd., PY. If approved, he will move the dog kennel operation from Coates Rd. to 2202 Sutton Rd. This property is located in the Agricultural Residential Zone.

Mr. Hoover was present to talk about his plans for where he would have the dogs. The lady he has talked with, Kaitlyn Hallan, is a NYS Animal Inspector and has told him what he needs to do regarding the building specifications and how he needs to set up his facilities to house the dogs and how the dog pens should be set up. He noted that she or someone from her Department would be coming to inspect his facility, if he is granted the Special Use Permit, to give him a certificate of authorization that he is approved according to their specifications before he will be able to have the dogs on his property at 2202 Sutton Rd. and start operating his dog breeding facility.

Mr. Hoover stated that he had visited the dog kennel owner facilities that were granted Special Use Permits within the last 3 years here in the Town of Jerusalem, the one on Adams Rd. and the one on Italy Friend Road to see how their facilities had been set up and maintained.

He had also visited other dog kennel facilities within Yates County that are under the review of the NYS Professional Pet Breeder's Association. This NYS Professional Pet Breeder's Association operates under the authority of the NYS Department of Ag & Markets and more specifically Article 26-A of the Ag & Markets Law.

Mr. Hoover noted that the dogs he will be breeding are smaller dogs like the size of cocker spaniels much like the dog kennel owner of Adams Rd., Kevin Zimmerman. The dog kennel owner of Italy Friend Rd., Matthew Sensenig, had the larger dogs at his facility.

When asked if he had talked to a Veterinarian about his facility, Mr. Hoover stated that he had in fact talked with his neighbor, Glen Fahnstack, who is a veterinary at Eastview Vet Clinic and he has already given Marvin some suggestions on exercising the dogs in a pasture type facility instead of individual dog runs so that they have an opportunity to socialize and get more interaction with each other as well as the exercising.

Chairman G. Herbert noted that there are new Dog Kennel regulations that are being proposed that have not been approved yet and at this time the Zoning Board is still under the current Zoning Code regulations and what the Board has granted to other applicants for Dog Kennel Permits.

The board members have reviewed the decisions for the Special Use Permits that were granted within the last 3 years and noted the guidelines that were given to the previous applicants for dog kennel special use permits.

The Jerusalem Planning Board gave Site Plan approval for this application at their meeting on August 1st, and based on the information submitted, it was determined by the Planning Board that the proposed action would not result in any significant adverse environmental impacts and thus a negative declaration was given for the SEQR.

There being no further discussion, a motion was made by R.Williams and seconded by G.Herbert to grant the Special Use Permit for Marvin Hoover to operate a dog kennel at 2202 Sutton Rd. and to have 10 breeding females. That Mr. Hoover would meet all the requirements for NYS Bldg. and Fire Code and the requirements as per the NYS Ag & Markets & NYS Professional Pet Breeders Association. That he would have a waste disposal plan as per his submitted application materials. It was also stated that in approximately a year's time if Mr. Hoover is successful with his Dog Kennel Operation and there are no complaints or issues with his facility that he may come back to the Planning and Zoning boards to request to amend the special use asking for an additional number of breeding females.

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

Application #1160 for Thomas and Marie Walters for property at 3751 Italy Hill Rd., Branchport, NY requesting an Area Variance for a deck and a swimming pool that does not meet the required 25 ft. rear yard setback for an accessory structure on a small residential lot in the Agricultural Residential Zone.

Mr. & Mrs. Walters were present to answer questions for board members regarding the location of their swimming pool and deck. It was noted that the swimming pool had been in this location for many years and in fact was a replacement swimming pool that had also been in this same location. The deck and pool, however, do not meet the required 25 ft. rear yard setback from their lot line, although there are only trees and a grassy bank area behind it with a vacant lot to the west.

It was noted that their property is a small residential lot although it is located in the agricultural residential zone.

Board members had visited the site and had no concerns with this 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 variances: (5-no, 0-yes).

2)Whether the benefit sought by the applicant can be achieved by some other feasible method than area variances: (5-no, 0-yes).

3)Whether the requested area variances are substantial: (4-no, 1-yes), G.Herbert-no, R.Williams-yes, J.Chiaverini-no, E.Seus-no, K.Smith-no).

4)Whether the proposed area variances 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: (0-no, 5-yes).

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

Chairman G. Herbert made a motion which was seconded by K.Smith to grant application #1160 as requested with the deck and pool to be no closer to the rear yard lot line than 10 ft. as measured from its closest point. The motion was carried with a poll of the board as follows: J.Chiaverini-grant, E.Seus-grant, R.Williams-grant, K.Smith-grant, G.Herbert-grant.

OTHER BUSINESS:

Chairman G.Herbert briefly discussed the letter from the property owner at 5311 East Bluff Dr., PY and the implications of the letter. Briefly the property owner stated that she did not receive notification of the Area Variance application for Application #1158 which was heard, reviewed and approved at the July Zoning Board meeting. In fact, the owner did receive notification, the Post Office attempted delivery with no one home and then notification was sent that there was mail to be signed for at the Post Office.

The Area Variance Applicant had given proper certified mailing with proper time and had a tracking number to substantiate the time of attempted delivery notice. The affidavit of mailing also verified proper mailing and proper mailing time (copies of paperwork on file with application). The property owner's daughter, however, was at the meeting and heard the area variance proposal. Chairman G. Herbert had received a phone call the day after the Zoning Board Meeting from the daughter asking their recourse as they were in opposition to the Zoning Board decision and he stated that an Article 78 was their option.

Next month's board meeting will be September 12th, 2019.

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

Respectfully submitted,
Elaine Nesbit/Secretary