

TOWN OF JERUSALEM
ZONING BOARD OF APPEALS

October 8th, 2020

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Thursday, October 8th, 2020 at 7 p.m. by Deputy Chairman Rodgers Williams.

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

Roll Call:	Glenn Herbert	Excused
	Rodgers Williams	Present
	Earl Makatura	Present
	Joe Chiaverini	Excused
	Lynn Overgaard	Present
Alternate	Jim Bird	Present
Alternate	Steve Schmidt	Excused

Others present included: Liudy & Pamela Bukys, Steve and Nancy Boisvert, Bill Groves/Grove Engineering, Alex Gabrielsen, Jim Coots, Daryl Jones/Town Bd., and Tim Cutler/Planning Bd.

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

Communications:

The only communication was a verbal/telephone call from a neighbor regarding application #1178 and the neighbor planned to attend the Zoning Board meeting.

Area Variance/Special Use Review:

Application #1177 for Liudy & Pamela Bukys for property at 4704 East Bluff Dr., Penn Yan requesting an Area Variance to install a new large block retaining wall system on the portion of their lot that is between the road and the lake. The proposed retaining wall will not meet the setback from the highwater mark, the rear yard lot line and the south side yard property line. This property is located in the (R1) Lake-Residential Zone.

Mr. & Mrs. Bukys were present to answer questions for board members and to describe the plan for the retaining wall.

The Steep Slopes plan for this project has been to the Jerusalem Planning Board for Steep Slopes review. The Seqr review was completed with a determination that based on the materials submitted any erosion risk would be mitigated by the Steep Slopes Plan that was approved with conditions and therefore the proposed action would not result in any significant adverse environmental impacts.

It was noted that while the area variance requests were significant, the actual installation of the block retaining wall was a good thing in that it would be a support system for the road (East Bluff Dr.) itself along with shoring up the steep embankment that lies between the road and the beach front at this location.

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, 0-yes).

2)Whether the benefit sought by 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: (0-no, 4-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: (4-no, 0-yes). The action will actually improve the situation.

5)Whether the alleged difficulty was self-created: (3-yes, 1-no), R. Williams-yes, E. Makatura-yes L. Overgaard-yes, J. Bird-no because the site is what it is.

A motion was made by R. Williams and seconded by J. Bird to grant the area variance as requested with the new retaining wall being 25 ft. from the center of the traveled way or just out of the road right-of-way; 5 ft. from the high-water mark where 15 ft. is required; and 1 ft. from the south side yard property line where 10 ft. is required. It was again noted that while the area variance is significant, it will be a support system for the road and the steep embankment at this location and also noted that there are other ones like this that have been installed along the lake and have been very beneficial.

The motion was carried with a poll of the board as follows: E. Makatura-grant, L.Overgaard-grant, J. Bird-grant, R. Williams-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 location.

Application #1178 for Frank Guerrieri (The Rapha Group LLC) owning property at 1064 Esperanza Dr., Keuka Park, requesting an Area Variance to build a new boat house with less setback from the high-water mark than zoning allows for a lot located in the (R1) Lake-Residential Zone.

Bill Grove of Grove Engineering was present to represent Mr. Guerrieri and to describe the plans and area variance request for board members. The site plan and building permit submitted as part of the area variance application showed the existing cottage to be demolished and replaced with a new single-family cottage with a single car garage storage under it.

In addition, the proposed new boat house would be built down near the beach area and into the bank proposed to be 4.7 ft. from the highwater mark where 15 ft. is required.

The neighbor to the north of the Guerrieri property was present and had some concerns about the boat house location asking about its height and if it could be moved to the south side of the property. He had spoken briefly with Frank Guerrieri (who was in Florida) the evening before.

Engineer Grove stated that while the boathouse itself would be 2-story, the upper part would be for storage with the bottom part the walkout at the beach level. The boat house itself at beach level is at 716 and at the peak it is at 729 so from the beach level to the peak it is approximately 29 ft. however, the height is determined from average grade of the lowest side elevation, and therefore their proposal would meet the allowed height for an accessory structure for a lot on the lake side of the road.

Engineer Grove stated that the Steep Slope Plan has already been to the Planning Board and received Steep Slope approval. He noted, for the neighbor's benefit that there were two large trees that would be taken down and while the new boathouse would extend farther out towards the lake than the existing boathouse, the actual roofline would be lower than the two trees that are there now. The view to the beach might be somewhat diminished but the overall view over the boathouse to the south and southwest should be improved.

In addition, the Seqr review was completed and based on the materials submitted, it was determined by the Planning Board that the erosion risk would be mitigated by the approved Steep Slopes plan and its conditions and therefore it was determined that the proposed action would not result in any significant adverse environmental impacts.

Board members were agreeable that if the area variance were denied or the boat house moved further back into the bank it would only make the height matter worse.

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: (2-no, 2-yes) R.Williams-no, because even if the area variance is denied the applicant could still build it further into the bank and make the visual height worse., E. Makatura-no, for the same reason, L. Overgaard-yes, J. Bird-yes, it is a detriment to the neighbor to the north.

2)Whether the benefit sought by the applicant can be achieved by some other feasible method than an area variance: (0-no, 4-yes). The applicant could make it a one-story boathouse and could move it further into the bank.

3)Whether the requested area variance is substantial: (0-no, 4-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: (4-no, 0-yes).

5)Whether the alleged difficulty was self-created: (4=yes, 0=no).

A motion was made by J. Bird and seconded by R. Williams to grant the application of 4.7 ft. from the highwater mark as applied for due to the fact that if the area variance were denied the applicant could have the boathouse built further into the steep bank but it would make the height of the building even greater. Allowing the area variance is determined to be the best solution for maintaining the lowest height and for keeping the integrity of the steep bank as much as possible.

The motion was carried with a poll of the board as follows: L. Overgaard-grant, E. Makatura-grant, R.Williams-grant, J. Bird-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 location.

Application #1179 for Steve & Nancy Boisvert owning property at 4188 West Bluff Dr., Keuka Park, NY requesting an Area Variance to demolish an existing cottage and to replace it with a new single-family home with a walk-out basement that does not meet the rear yard setback on a lot that is located between the road and the lake. This property is located in the (R1) Lake-Residential Zone.

Mr. & Mrs. Boisvert were present to answer questions for the board. Mr. Boisvert noted that he had been practicing Civil Engineering for 34 years, working for a Civil Engineering Firm as their facilities director and had put together the plan layout for the proposed new home and its proposed location.

It was noted that the requested set back was 32.8 ft. from the center line of the traveled way, where 44.75 ft. is required or an area variance of 11.95 ft.

Mr. Boisvert also noted that the proposed placement of the new home would be in the same area where the old cottage is located and this location was also chosen to keep as many of the mature trees on this lot as possible. In addition, the home's foundation comes to the top of the steep slope area without disturbing any of the steep slope area.

The Steep Slopes plan for this proposed new home has been to the Planning Board for Steep Slopes review and has been approved with conditions upon area variance approval.

The Seqr review was completed by the Planning Board having determined by the submitted material that the erosion risk would be mitigated by the approved Steep Slope plan with conditions listed and therefore a determination was made that the proposed action would not result in any significant adverse environmental impacts.

It was noted, however, that if the area variance were not granted, the applicant would need to return to the Planning Board for a proposed new location for the home that would require Steep Slopes approval.

Board members discussed the highway superintendent's request of keeping area variances at 35 ft. from the center of the traveled way. The applicant noted that there were many homes that were closer than the 35 ft., however, board members noted that each application is decided on its own merit.

There was additional discussion about how to reduce the setback another 2.2 ft. to get the rear yard setback to 35 ft. from the center of the traveled way. The 35 ft. setback from the center of the road was what the board was willing to consider.

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, 0-yes).

2)Whether the benefit sought by the applicant can be achieved by some other feasible method than an area variance: (2-no, 2-yes). R.Williams-yes, E.Makatura-no, L. Overgaard-no, J. Bird-yes. The alternative would require the applicant to disturb steep slopes.

3)Whether the requested area variance is substantial: (0-no, 4-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, 1-yes). R.Williams-no, E. Makatura-no, L. Overgaard-no, J. Bird-yes.

5)Whether the alleged difficulty was self-created: (4-yes, 0-no).

There being no further discussion, a motion was made by J. Bird and seconded by L. Overgaard that the application be modified and the area variance be granted that the new home come no closer than 35 ft. to the center of the traveled way and this measurement is taken from the closest part of the building including roof overhang. It is also noted that as long as the applicant can modify the house plans with no disturbance to the steep bank, he does not have to return to the Planning Board for additional approval and can work with the CEO on meeting the granted area variance requirement.

The motion was carried with a poll of the board as follows: E. Makatura-grant, R.Williams-grant, L. Overgaard-grant, J. Bird-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 location.

OTHER BUSINESS:

Zoning Board Minutes
10/8/2020

The next zoning board meeting is November 12th, 2020. Board Secretary noted that there are 4 applications to come before the board.

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

Respectfully submitted,
Elaine Nesbit/Zoning Secretary