

December 4, 2013

Zoning Board of Appeals

Proceedings by Authority

State of New York,
City of Jamestown, ss:
Council Chambers

The regular meeting of the Zoning Board of Appeals of the City of Jamestown, New York, was held on Wednesday, December 4, 2013 at 3:30 p.m.

Members Present: Ellen Ditonto, Richard Hanson, Sally Martinez, John Sixbey

Members Absent: Patricia Calanni, Robert Karbacka, Dave Daversa

Others Present: Larry Scalise

Mrs. Ditonto called the meeting to order.

Ellen Ditonto: It's 3:30, so I'd like to call the meeting of the Zoning Board of Appeals to order. We have four members of the Board present. Any, variance request has to be approved by four votes, so it would take all four people to vote either for or against the petition. And housekeeping items, when you're petition is called, please come to the microphone here at one of the tables. Identify yourself by name and address before addressing, the Board, and if you're in the public and you wish to speak, you can go to the microphones that are located at either side of the room. Again, state your name and address before you have your comments. Clerk, would you please read the first petition.

The clerk read the petition of James E. Lee, 54 Lakin Avenue, Jamestown, NY for an area variance to reconstruct the existing 10'6" x 28' 4" carport and shorten the carport 3", so that it doesn't encroach on neighbors' property. It will be zero feet from the south property line on parcel 387.09-4-37 owned by James E. Lee in an R-1 Zone. (Section 300-0305 R-1 Single-Family Residential District. The required setback for the carport is 5'. The existing carport is approximately 3" over the property line. The proposed new carport is to be up to, but not over the property line.)

Ellen Ditonto: Okay. Is somebody here to represent the petition? Please state your name and address and you can tell us a little bit more about the request.

James Lee: Yes. My name is James E. Lee. I live at 54 Lakin Avenue, Jamestown. When we first bought the house, I guess, the lawyer let us know that the carport head was 2 and 5/8" on the neighbor's home. Said it would not be an issue and that was 26 years ago. So now, 26 years later, I'm looking to update it. Tear it down, and rebuild the same kind of a carport. That's about it. Just an update on the area and my property.

Ellen Ditonto: Okay, are there questions from members of the Board?

Sally Martinez: You've discussed it with your neighbor and your neighbor has no problem?

James Lee: No, I haven't talked with him about it. We're not getting along very well.

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Sally Martinez: Okay. Okay. And this is going to be. The neighbor is here. Okay. And this will be up to, it says, but not on, you're not going back on the neighbor's property?

James Lee: Correct.

Sally Martinez: Okay.

Ellen Ditonto: Other questions?

Richard Hanson: You said the carport has been there since you've lived in the house?

James Lee: Yes, sir, it has.

Richard Hanson: Which was 26 years?

James Lee: Yes, I bought it in April of the 1987.

Richard Hanson: Okay, thank you.

Ellen Ditonto: Other questions? Do you have anything else you'd like to add to the request?

James Lee: No. It's just that, you know, I'd like to get a new carport put on, just to upgrade the home and everything, and give him back the 3" that he has that was there before. Which I think is fair.

Ellen Ditonto: One of the things that we have to look at is there any other way construct or modify in order to avoid having to get a variance. So can you describe a little bit, you know, I guess, how come it has to go right up to the property line now? Is there any way to have it a little bit shorter than that? Or a little bit narrower so that.

James Lee: No, not really, because, the construction guy that's going to do it for me, I don't have him here with me. But, you know the house is on the one side and, from the driveway and then it's his property. So I just, I, a couple times already now I've had a, I've broken mirrors just because of, being narrow and hitting the posts. But, like I said, I'm in, so if I could just get it, give him back, it's only 2 and 5/8" anyway, really. But definitely would do 3" back to him.

Ellen Ditonto: Is there an issue now with the drainage off of the carport, existing carport?

James Lee: No.

Ellen Ditonto: Okay. So there would be the same type, you would expect the run-off to go the same.

James Lee: Yes, it was going to go in my driveway. Yes.

Ellen Ditonto: The same, okay. Alright. Other questions?

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Sally Martinez: It does look extremely narrow. Are you going to upgrade the way it looks and everything? Or is it going to be pretty much the same?

James Lee: If anything else, it would probably be up to, I don't know if you have the pictures there?

Sally Martinez: Yeah, I have this.

James Lee: But there's a picture of a. Yeah. See it? It's going to be a little steeper. It would probably, the header would come up by to that window.

Sally Martinez: Okay. Okay. So it would be steeper so water will flow more down.

James Lee: Yeah. And it does now.

Sally Martinez: Right.

James Lee: And, and, you will see the eve trough in the front there.

Sally Martinez: Right. Would you have a drain on that at the bottom. A gutter?

James Lee: I have a gutter down there, yes.

Sally Martinez: To take it away?

James Lee: Yes.

Sally Martinez: Okay.

James Lee: As it goes now, it flows right into my driveway. And then on down.

Sally Martinez: And what's exactly right next to it on their property?

James Lee: Yeah, that's his home made driveway.

Sally Martinez: Okay.

Ellen Ditonto: Questions? We do not have any correspondence, people who were given a letter often send correspondence and we do not have any correspondence that's been sent to the Clerk, but at this time we do open this up to the public. Again, members of the public can state their name, address, and make a comment at either one of the microphones. Please limit your comments to five minutes or less and address the variance request if you would. Is there anybody who would like to speak?

Jeff Anderson: Hello. My name is Jeff Anderson and I live at 58 Lakin, and I just have a couple concerns about the carport. The biggest one is that we don't have any objections to him rebuilding it. But we would like it built to, on his property, not ours. There's a difference on the surveys. Mine says

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it's 4", his is just a couple inches less than that's and that's my one, one concern about this. It's totally on his side of the property.

Ellen Ditonto: Okay. Thank you. Anyone else in the audience who would like to address the petition that's on the floor? One more time, is there anyone in the audience who would like to speak about the petition?

Ellen Ditonto: You have go to the microphone. I'm sorry, you have to go to the microphone again. State your name and address for the record.

Jeff Anderson: Jeff Anderson again. I just want to know if you want a copy of my survey?

James Olson: I can take it and could make a photocopy or is that a copy for me?

Jeff Anderson: I've got the original and one copy.

James Olson: Alright, I can take that.

Ellen Ditonto: And the question, I guess, for Larry on, Jim, since the City Attorney isn't here, who would handle any kind of a dispute in the survey?

James Olson: The attorneys for the, both participants.

Ellen Ditonto: Okay.

Larry Scalise: Well, I mean, I can look at it too. I don't know who his surveyor was..

Larry Scalise: George has been retired for a number of years. I don't know who has his records.

James Olson: Shreck & Goss.

Larry Scalise: Shreck & Goss did Mr. Lee's. For an inch, and if I have both surveys I could work with Mr. Lee. I don't see why we couldn't get it back another inch to just.

James Lee: I could do whatever's good with you guys and with my neighbor.

Larry Scalise: Yeah, I mean, we're talking an inch, not a foot, and.

Ellen Ditonto: Right, and the request.

Larry Scalise: And I think he can push that back easy enough.

Ellen Ditonto: The request for the variance says that the new carport would be up to, but not over the property line. So if we can come to some agreement about where the property line is and up to, then the variance request is stated correctly.

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James Lee: I would do that, too. If I have to get a new survey, I will do that, too.

Ellen Ditonto: Okay. Any other questions from members of the Board?

Sally Martinez: I like the idea that you've worked together to make sure that you're doing it right, so. Even though that is terribly narrow. I can see that on the picture.

James Lee: I'll work with you and with my neighbor if you'll let me.

Sally Martinez: that's fine.

Ellen Ditonto: Okay. Seeing no other questions at this time, we would be looking for a motion on the Petition of James Lee, 54 Lakin Avenue, to reconstruct the carport and the language would say the carport would be up to but not over the property line. Is there someone who would like to make that motion?

Sally Martinez: We want to say as negotiated between the Building Inspector and the property owners so that they have to come to some agreement on it?

James Olson: I didn't hear, Sally, I'm sorry.

Sally Martinez: I said, would we also add to the motion that it needs to be, that we would state that it would be an agreement between the Building Inspector and the two property owners?

James Olson: I would, I would say that yes.

Sally Martinez: Okay, then I'd make that motion.

Ellen Ditonto: That motion with the amendment that it be agreed to between the Building Inspector and the two property owners where the property line is so that the carport construction would not go over the property line. Is there a second to that amended?

John Sixbey: I would second it.

Ellen Ditonto: Okay. Thank you Mr. Sixbey. Any points of clarification? Everyone understands the motion as amended? Clerk, please call the roll.

Carried 4-0

Ellen Ditonto: The petition has been approved. We would hope that this would be a quick process to work together to make sure that we get, again, have that clarity on the property line.

James Lee: Curiosity, how long would my time be to have it done now?

Larry Scalise: You would have to obtain a permit within six months.

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James Lee: Okay, so I'll just come down and visit with you.

Larry Scalise: In the spring when the weather gets better.

James Lee: Sounds, sounds fine. I did.

Sally Martinez: Maybe you guys could work together, though, since you're all here at one time, right now.

James Lee: I could do that right now, if you wanted to.

Sally Martinez: Okay. Can you do that right now as well?

Jeff Anderson: I think so.

Ellen Ditonto: Great. Okay. You will get official notification from the Clerk's office about the approval of this and you can work with the Building Inspector and, again, with the other property owner.

James Lee: Thank you.

Ellen Ditonto: Thank you very much. That's all we have on our agenda.

There being no further business, the meeting was adjourned.

James N. Olson, Secretary
Zoning Board of Appeals