

TOWN OF EDEN  
ZONING BOARD OF APPEALS  
2795 EAST CHURCH ST. EDEN, NY 14057

PUBLIC HEARING DATE: November 21, 2019

BOARD MEMBERS PRESENT: Kristin Kent, Chair  
Philip Muck  
Joseph Winiecki  
Drew Riedel  
Doug Scheu  
Curtis Neureuter

BOARD MEMBERS EXCUSED: Candice Pineau

CODE ENFORCEMENT OFFICER: Dave Rice

APPLICANT: Joseph Violanti Jr.

RESIDENTS PRESENT: Julie Violanti

RE: **Appeal No. 2019-9**  
**Joseph Violanti**  
**2233 New Jerusalem Road**

Ms. Kent called the hearing to order at 7:00 p.m. and requested comments on the October minutes. Mr. Winiecki made a motion to approve the minutes from the October 17, 2019 meeting; this was seconded by Ms. Kent; all members present voted "Aye". The minutes were approved.

Ms. Kent then read the Legal Notice for this matter published in the "The Sun":

**Violanti: Application for a variance at 2233 New Jerusalem Road, under Code section 225-32N, to allow construction of a pond on a lot with an area of less than 3 acres.**

Ms. Kent confirmed with Ms. Crowe that the Notice mailing by the applicant was completed.

Ms. Kent noted the denial of the same pond variance request that occurred at the March 2019 hearing. Mr. Violanti is eligible to apply for a variance again because he has provided new information - pond cross section drawings and general drainage information from Erie County Soil & Water.

Mr. Violanti was then asked questions by the board related to the requirements for a variance (*his answers are in italics*):

**Will this create an undesirable change in the neighborhood?**

*No. The pond will alleviate the drainage problem in the neighborhood. There is a large amount of water that goes through my backyard causing pooling in multiple locations. The drainage pipe in my side yard leads to the ditch at the road.*

Ms. Kent asked about the visual impact of a large pond (7200 sq. ft.) on a small lot with a small house. It seems visually unattractive to have a pond so much larger than the house. The board also discussed safety concerns for children and visitors in the neighborhood. There is no fence around the pond and Mr. Violanti did not post 'No Trespassing' signs.

Mr. Rice commented that the Town Highway Department dug out the ditch at the road to help relieve some of the overflow from the pond.

Mr. Riedel questioned the pond drawings – are they for a **proposed** pond with only **estimated** topography for the property? *Mr. Violanti said yes, and that Erie County Soil & Water doesn't consider whether a Town Code would be violated. That is the responsibility of the homeowner.*

**Is there an alternative method that could improve drainage on your property?**

*No. Nothing other than the 4" corrugated pipe that I buried in the side yard.*

Mr. Scheu and Mr. Neureuter noted that creating a swale or other drainage method starting at the back of the lot was suggested at the March hearing. Could that help to solve the drainage problem, without needing a large pond? *Mr. Violanti said that he had not considered any other ways to drain the water, just the pond.* The board discussed various options in some detail, including drain inlets to move the water to the side ditch and then to ditch at the road.

Mr. Rice commented that the side ditch and the pipe to the road alleviated the water problem previously. Initially Mr. Violanti filled in the side ditch, causing severe water problems for the neighbors. He opined that a ditch is the best solution to a water problem: ponds draw water in, a ditch draws water away.

**Will the pond variance be substantial? It is asking for a pond on 33% less property (2 acres) than the minimum acreage required for a pond by the Code (3 acres).**

*Yes - the proposed pond size is now 90' x 80' on a 2-acre lot. (It was about 50' x 50' as built before the March hearing.)*

**Will there be any environmental effects?**

*Yes, a positive benefit to the neighbors on the west side of my property.*

**Was the difficulty that causes the need for the variance self-created?**

*The water problem - no. The creation of the pond - yes.*

Ms. Kent made a motion to deny the application for an area variance at 2233 New Jerusalem Road to allow construction of a pond, based on: a) the variance would be substantial (1/3 less property than the minimum in the Code); b) safety and aesthetic concerns for neighbors; c) no consideration of alternative options for drainage; and d) the self-created need for the variance. The motion was seconded by Mr. Neureuter. The motion was approved unanimously.

Mr. Rice said the next step is to fill in the pond and invited Mr. Violanti to meet him to discuss that.

Meeting was adjourned at 7:40 pm.

Respectfully submitted,  
Jen Crowe, Secretary Eden Zoning Board of Appeals November 24, 2019

The above minutes were reviewed and approved on \_\_\_\_\_, 2019 by

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