

**Town of Geneseo
Zoning Board of Appeals
Public Hearing for Megan Kelly, agent for John Kelly
Tuesday, March 25, 2008**

Appeal by **Megan Kelly, agent for John Kelly**, appellant, from a decision of the Code Enforcement Officer and application for permission to construct a Garage which fails to meet the front yard setback requirement of 32 feet from the NYS right-of-way and side yard setback of 10 feet, both, on both regulations as per Schedule II of the Town of Geneseo Zoning Code on property located at 5413 West Lake Road in the Town of Geneseo, NY.

Board Members Present: Chairman John Maxwell, Vice-Chairman Rick Taylor, Soren Thomas, Peter Palermo and Steven Haigh. Public Present: Ron Maxwell, Code Enforcement Officer, John and Mary Kelly

Chairman John opened the meeting at 8:30. Ron Maxwell, Code Enforcement Officer, went on record to note the Kellys have gone out of their way to comply with all regulations but their situation is unique.

Chair John asked if all had been to visit the site. YES. And green cards? 23 went out and 18 were returned.

Chair John read letters: The Conesus Lake Sewer Dept. had no problems with the application; The County Planning Board recommended "Approval".

John Kelly explained he now resides in Monroe County and plans to build onto his cottage and move in full time. The garage is far back from the road but still needs a variance to comply. He trimmed some from the cottage design so that the total lot coverage will be @25%.

John Kelly had a letter from the State of New York concerning the right-Of-way that crosses his property. The State will not sell the right-of-way but they don't mind if he encroaches it (I need to see that letter to make this correct)

Rick asked if the garage is 24 x 28? Yes. And is the property located 72' from the centerline of the highway? John Kelly thought it was. He relied on the map but didn't actually measure.

Rick measured and came up with 58'. After much discussion all agreed that 58' is correct, according to the map and to Rick's measurement. Now the variance has changed. It needs to be 27' (84.3%).

The Board then went through the 5 questions for a side yard setback variance: (*1 foot*)

1. Will an undesirable change be produced in the character of the neighborhood or

will a detriment to nearby properties be created by granting the variance? *No.*

2. Can the benefit sought by the applicant be achieved by some feasible method other than the variance? *Yes. Shorten it a couple of inches.*

3. Is the requested variance substantial? *No*

4. Will proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? *No*

5. Is the alleged difficulty self created? *Yes*

Steven moved and Rick seconded the motion to grant a one foot south side yard setback variance to construct a proposed garage at 5413 West Lake Rd. The vote was unanimous: John, Rick, Steven, Peter and Soren.

Chair John asked the Board to consider the second variance request for a front yard setback. (27' is needed)

1. Will an undesirable change be produced in the character of the neighborhood or will a detriment to nearby properties be created by granting the variance? *No*

2. Can the benefit sought by the applicant be achieved by some feasible method other than the variance? *No. It was the first time in Board memory that another method could not be found.*

3. Is the requested variance substantial? *Yes- 84.35%*

4. Will proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? *No.*

5. Is the alleged difficulty self created? *Yes*

Peter moved to grant a 27' front yard setback variance for construction of a garage at 5413 West Lake Road. Second by Steven. The vote was unanimous: John, Rick, Steven, Peter and Soren.

Peter moved that the hearing be closed and Steven seconded. Motion carried. Meeting closed at 8:50. Respectfully submitted by Carolyn C. Meisel, Secretary, Geneseo Town Zoning Board of Appeals.