

**Town of Geneseo
Zoning Board of Appeals
Public Hearing for James and Linda Brewer
5327 North Point Drive
Tuesday, November 18, 2008**

Appeal by **James and Linda Brewer**, appellants, from a decision of the Code Enforcement Officer and application for permission to construct a single family residence which fails to meet the side yard setback requirement of 15' on both the east and west sides of the property at 5327 North Point Drive, as required by Schedule II of the Town of Geneseo, NY.

Board Members Present: Chairman John Maxwell, Vice-Chairman Rick Taylor, Peter Palermo, Soren Thomas and Steven Haigh.

Public Present: Ron Maxwell, Code Enforcement Officer, Jim and Linda Brewer, Jan and Don Jones, Pat and Brenda Cahill and Anne and John Williams.

Chairman John opened the meeting at 7:30 and asked if all board members had visited the site. All had been there. There were 24 green cards sent and 19 received back.

Jim Brewer explained they want to replace the existing house with a permanent home to be 24' wide, 40' deep with an 8' x 24' porch in front and a 20' x 20' garage in back. It would be a two-story cape. The new home would be 5' from the Williams' house (5329 North Point) and 10' from the Beckwith house (5325 North Point).

There is more room on the Williams side to allow equipment to pass to the lake to remove docks and hoists. It would also allow for emergency access to the lake. The new house is the same footprint as the existing house but 2' closer to each side.

Peter asked about the porch. Jim answered that it is a deck and it will be in line with the houses on either side. It has been moved back from what exists now.

John asked if the west two stakes are for the structure or the end of the deck. They are to show where the end of the new deck is to be.

Soren clarified that just the sides will be 2' wider and the new deck will be smaller than what there is now.

Jim concurred saying that all houses will in line and the decks in line, too.

Soren, referring to the map, clarified that the solid line is the current house foot print and that the new deck is the dotted line and that the old deck will disappear.

Chair John invited the public to identify themselves and make comments:

John Williams spoke. He is comfortable with the plan. The Brewers were gracious to share their plans with them.

Pat Cahill is on the other side of Williams and is ok with the plan.

Don Jones is two houses west and they approve. They are next to Beckwiths.

Soren clarified that the Williams are on the east side of Brewer and Cahill is on the west.

John noted that Beckwiths sent the green card back and they talked to the applicant.

Peter asked if the house would be a cape. Yes

Rick asked if factory built? Don't know yet if stick or factory.

Soren to CEO Ron--what is the west side setback? 8.75

Rick-- Does the variance include the deck for measuring.

Peter --Actually 11.25'

Soren and John What if he shrinks the deck and goes for 5' var. Jim-acceptable

Peter asked about the garage placement. The Williams garage is a car length farther back.

Soren to CEO Ron There is no problem with percentage of lot coverage? Close but not over.

Peter to CEO Ron Overhang issues--No. We assume they are to be 18". Jim agreed.

The Board agreed to decide on a 10' side yard variance on the east side and a second side yard variance of 6' on the west side. The Board then went through the 5 questions necessary for an area variance, Answers for east side are A answers. Answers for west side are B answers.

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?

A. No B. No

2. Can the benefit sought by the applicant be achieved by some feasible method other than the variance?

A. Yes B. Yes

3. Is the requested variance substantial?

A. Yes

B. Yes

4. Will proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

A. No

B. No

5. Is the alleged difficulty self created?

A. Yes

B. Yes

Peter has an issue with the 10' variance on the west side. Many others had the same issue.

Rick commented that using the west side as access is the only mitigating reason he can see. He would prefer to shift it over and get a 50% variance.

Peter pointed out that 8' total is still more than a 50% variance.

Rick said the bump out gives a little more space on that side.

Jim Brewer said two years ago the ZBA turned down his 26' plan and suggested they reduced it to 24' and the Board would look favorably on their plan. So they redesigned the house to 24'. Other structures are similar. Significant variances, yes. In fire code-yes. Increase taxes-yes. Pulling back from lake-yes.

Rick indicated the Board has never gone above 50% on the lake.

Soren pointed out that the existing footprint is over 50%.

Peter wondered why they didn't split the difference and Jim said it was to give room to bring the dock hoist to the water. If split down the middle, the \$8,000 utility pole would be in the way.

John said it is a large variance but the improvements make the positives outweigh the negatives.

Peter said if we grant this variance, it will be an exception rather than the rule.

Steven said this plan is eliminating problems or improving the present site. He would be more comfortable to put the house in the center with 8' variances.

Discussion involved the current bump out and did it meet fire code. CEO Ron indicated if it were close to the neighbors, it must pass fire code and have no windows.

Jim pointed out that the lot is not square. It is farther away (from lot line) in back than by the lake.

Steve asked about the hedge row and utility pole. Jim and neighbors explained what was there.

Peter wondered why the garage wasn't centered. Placed near the entrance to the house.

Peter feels the pluses outweigh the minuses.

John said it will be better looking than what is there now.

Peter moved that **due to the unique positive benefits, to grant a 10' side yard setback variance on the east side and a 6' side yard setback on the west side for new construction at 5327 North Point Drive. Both variance are contingent on approval by the CEO and are to be staked out by a licensed surveyor.** Soren seconded. The vote: John Maxwell-Aye; Rick Taylor-Aye, Soren Thomas-Aye, Peter Palermo-Aye, Steven Haigh-Aye. **Carried.**

The Board then considered the unapproved Hatheway and Book minutes of September 23. Rick moved approval of Hatheway with a second from Steven. Carried. Steven moved approval of the Book minutes with a second from Rick. Carried.

Rick moved that the hearing be closed and Steven seconded. Motion carried. Meeting adjourned at 8:40. Respectfully submitted by Carolyn C. Meisel, Secretary, Geneseo Town Zoning Board of Appeals.