

Town of Geneseo
Zoning Board of Appeals
Public Hearing for John Violante, 5107 West Lake Rd.
Tuesday, March 24, 2009

Appeal by **John Violante**, appellant, from a decision of the Code Enforcement Officer and application for permission to construct a deck to a Single Family Residence which fails to meet the side yard setback requirement of 15 feet, as per Schedule II of the Town of Geneseo Zoning Code on property located at 6107 West Lake Road in the Town of Geneseo, NY.

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

Public Present: Ron Maxwell, Code Enforcement Officer, John Violante, applicant, and Peter Deming of 5109 West Lake Road.

Chairman John Maxwell opened the meeting at 7:30 and requested the green cards (certified return receipts from adjacent properties to the applicant). Twenty-one were sent out and twenty-one were received.

Chairman John read a letter from Judith Mann Villard, a next door neighbor, who did not approve of the variance. Her concern was the distance between the properties was not up to code.

Board members responded that this property (and hers) were constructed before any zoning was in place. Vice-Chairman Rick had called Town Clerk Jean Bennett who researched back to the 70's and found that no variances had been granted to this property. The property predates the zoning code. Paragraph 2 of the letter is improper.

The cited variance is an incorrect application of that term. The 3' she cited is 5.5' at the northeast corner, according to Chairman John and Vice-Chairman Rick and it is not close to the fire code requirement.

Judith Mann Villard has not applied for a variance and has no basis for her complaint. If she wants a sun porch, she must see the code officer and then the ZBA, if needed.

Chairman John read a letter from Wesley Arnold of 5139 West Lake Road in support of the applicant. Chairman John also noted that the County Planning Board has responded with a neutral response-no approval and no disapproval.

At this time the Board members invited the applicant to the table. John Violante showed a diagram and brought pictures. All Board members had visited the site.

John Violante wants a skirt around the deck with dock storage under it. He has no barn or garage. The proposed area is kind of a dead corner that collects junk.

It was noted that this lot gets wider on the lake side. It was again stressed the need for storage as there is no garage.

Chairman John asked if he might consider a smaller deck to make the variance smaller.

John Violante agreed that to come in 3' off the corner would be ok.

Chairman John stated with 5' off, the request would be a 50% variance.

Vice-Chair Rick said the deck would be 15' if John Violante came in 3' from the foundation corner. and John Violante said that would be fine for the deck size.

Vice-Chair Rick stated a 7' variance would give John Violante his 3'.

Code Enforcement Officer, Ron Maxwell, stated he would go down to see it is ok. They would go 3' from the corner of the house and go straight back to line up the posts.

Peter Deming, the neighbor on the south side stated the house was built in the 30's and recently turned into a year-round home. What John Violante has done is an asset to the neighborhood.

Chairman John summarized: a 7' side yard setback variance on the north side of the property located at 5107 West Lake Road, to construct a deck not to protrude any farther than the house on the east side.

The Board then went through the 5 questions necessary for an area variance:

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, it will be well within fire code of the nearby house.
2. Can the benefit sought by the applicant be achieved by some feasible method other than the variance? No
3. Is the requested variance substantial? Yes, 50%
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

Vice-Chairman Rick Taylor moved the granting of a 7' side yard setback variance on the north side of the property located at 5107 West Lake Road, to construct a deck not to protrude any farther than the house on the east side. Steven Haigh seconded. Carried.

Chairman John asked for approval of the February 23 minutes. Vice-Chairman Rick Taylor moved and Steven Haigh seconded they be approved as amended. Carried.

Soren Thomas moved that the hearing be closed and Steven Haigh seconded. Motion carried. Meeting adjourned at 8:20 P.M. Respectfully submitted by Carolyn C. Meisel, Secretary, Geneseo Town Zoning Board of Appeals.