

**Town of Geneseo
Zoning Board of Appeals
Public Hearing for Craig Ferguson, 4565 West Lake Rd.
Tuesday, August 24, 2010**

Appeal by **Craig Ferguson**, appellant, from a decision of the Code Enforcement Officer and application for permission to relocate the existing 160 square feet of DECK to 160 square feet of living space which would alter the footprint of the building (Single Family Residence) which is not allowed as per Section 106-14 E. of the Town of Geneseo Zoning Code on property located at 4919 West Lake Road in the Town of Geneseo, NY.

Board Members Present: **Chairman John Maxwell, Peter Palermo, Soren Thomas, Steven Haigh and Greg Foust.**

Public Present: **Ron Maxwell**, Code Enforcement Officer, **Craig Ferguson**, applicant, and **Joanne Hessney**, 4917 West Lake Rd. (immediate neighbor to the north.)

Chairman John Maxwell opened the meeting at 7:30 and requested the green cards (certified return receipts from adjacent properties to the applicant). Nine were sent out and eight were returned.

Chairman John Maxwell noted a letter from Michael Shaver of the Livingston County Water & Sewer Authority who found no reason to deny this application.

At this time the Board members invited the applicant, **Craig Ferguson**, to the table. All Board members had visited the site.

Craig Ferguson wants to remove the deck and add that square footage to the structure's footprint on the southeast corner of the home. He removed the deck last year when he put in the breakwall. He has pictures to document where it was and its size. He wants to rebuild the house on the existing footprint plus the traded footage.

Greg Foust clarified that this is to be a new two story house over the original footprint with extra footage on the southeast corner.

Ron Maxwell--He can build in the existing footprint now without a variance. According to code, he could build a two story including the deck in that footprint. He doesn't want to do that.

Joanne Hessney, the neighbor to the north, would rather have him build as proposed. Her view won't be blocked. If he built where the deck had been, her view would be blocked.

Peter Palermo Will this be a year round home?

Ron Maxwell These are summer homes for both of these people (Ferguson & Hessney)

Greg Foust The trees shown in the photo are all gone. All the grass is now gravel. Lot coverage is his concern. It is not good for the lake to replace grass with gravel.

Craig Ferguson has placed natural drainage material where grass had been otherwise it would be a sea of mud during construction Grass will be there. Portions will be in grass. Now there is no grass. The floor level of the new structure is to be determined. It will direct his future action regarding parking above, by the road, and placing of paving stones for drainage.

Greg Foust--Our concern is runoff, not drainage. Contaminant is contained by grass. We want more grass.

Chairman John Maxwell-- We want the back yard to be covered with grass as much as possible.

Craig Ferguson--The property next door to the south belongs in his family and that property had standing water in the yard Sunday, after that hard rain but his property had none.

Greg Foust I'd like to know about additional parking. What are his options for parking?

Ron Maxwell 25% of lot coverage which he exceeds but is preexisting. He can have what was preexisting, established by photos, if needed. He requested that the ZBA mark where on the survey map they are to put in grass. He recommends stone be kept along the breakwall.

Craig Ferguson--There has never been overflow over the breakwall. It goes into the weeps in the wall.

All commented that IS the problem. It goes into the lake and isn't stopped by vegetation.

Chairman John Maxwell directed the Board to the SEQRA application and requested the Board to assist with the form. He read the form aloud and the Board made appropriate comments.

The **Board** agreed that the question dealing with surface or ground water had to be addressed with a notation that the problem would be mitigated with the requirement that the applicant be required to provide a specified sq. ft. of green space.

Craig Ferguson--agrees to restore the lawn.

Peter Palermo wanted to know exactly how much grass will be put in. Without an exact amount, Peter will vote to deny.

Steven Haigh clarified that all green means grass plus plantings, not grass alone.

Soren Thomas saw a need to stipulate a square footage of green. He began to calculate how much would be needed.

Steven Haigh suggested to allow applicant 10% leeway from whatever is calculated for the green area to allow for parking, sidewalks, etc. and leave it up to the applicant to decide how he wants to use that 10%.

All discussed how much had been in green before and how much in gravel.

Ron Maxwell said the Board should tell Craig Ferguson how many parking spots he can have and then he can park on the grass after that. 40% of 60% remaining has to be green.

Steven Haigh explained to the applicant that he is exceeding his building coverage of this lot since the lot is not in compliance.

Soren Thomas calculated, with the help of many voices, that the green coverage should be 1500 square feet. The fourteen feet from the breakwall back should be green. That is the critical area.

Steven Haigh noted that the amount of green required on a similar but compliant lot is 1500 square feet.

Craig Ferguson asked for 2000 sq. ft. for hard surface to get cars off the road. He would put grass in front as the ZBA wants.

All the Board agree informally to 1500 sq. ft. to be green.

Greg Foust moved and **Peter Palermo** seconded the motion to approve the SEQRA form as prepared and directing Chairman John Maxwell to sign it, adding 1500 square feet to the green area the applicant will provide to his lot. Carried.

Chairman John Maxwell signed a negative declaration SEQRA form.

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**,
2. Can the benefit sought by the applicant be achieved by some feasible method other than the variance? **Yes**, a variance isn't needed if he builds on the existing footprint.
3. Is the requested variance substantial? **No**, it is really a swap.

4. Will proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? **No**, not with the stipulation that 1500 sq. ft of green space must be preserved.

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

Greg Foust moved to grant the variance as requested at 4919 West Lake Road with the stipulation that a minimum of 1500 square feet remain green space. **Peter Palermo** seconded. The vote was: **Chairman John Maxwell** -aye; **Peter Palermo**-aye; **Greg Foust** -aye; **Steven Haigh** - aye; **Soren Thomas** - aye. **Motion Carried.**

Peter Palermo moved that the hearing be closed and **Greg Foust** seconded. Motion carried. This hearing closed at 8:30 P.M. Respectfully submitted by Carolyn C. Meisel, Secretary, Geneseo Town Zoning Board of Appeals.

Attachment: Liv. Co. Water & Sewer Authority (Not included as you already have a copy)