

Approved

**Town of Geneseo  
Zoning Board of Appeals  
Public Hearing for Richard Piccirilli, 5317 West Lake Rd.  
Tuesday May 22, 2012**

Appeal by **Richard Piccirilli**, appellant, from a decision of the Code Enforcement Officer and application to continue use of a second dwelling below the detached garage when a second dwelling is not permitted in the Lake Shore (L) District as per Schedule II of the Town of Geneseo Zoning Code.

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

Public Present: **Ron Maxwell**, Code Enforcement Officer, **Richard and Frances Piccirilli**, applicants, Patricia Dwyer, and Mary Louk (?) 5313 W. Lake Rd., Al Dietrich 5301 W Lake Rd., David Smith, 5353 W. Lake Rd., Carol Lavigne, Geneseo Town Assessor.

**Chairman John Maxwell** opened the meeting at 7:35 and requested the green cards (certified return receipts from adjacent properties to the applicant). Sixteen were sent out and fifteen were returned. A letter from the Livingston County Planning Board was read declaring no concerns.

At this time the Board members invited the applicant to the table. All Board members had visited the site. **Chair John** stressed this is a use variance and this board has not granted a use variance since the rules have become so tight.

**Richard Piccirilli** told that he had asked for a bank loan to help a child and the appraisal came back at \$173,000. He asked if the apartment was included in the appraisal? What apartment? Did you have a permit for it? What permit? We bought in 2000 for over \$300,000 and have paid taxes on that amount ever since and we didn't need a permit.

The appraiser checked with Ron and both were surprised. Ron to learn there was an apartment and the appraiser to learn there was no permit. The result-no bank loan and Mr. P here for a requested variance to allow for the apartment.

The Piccirillis cherish the lake. This apartment makes no noise. They have no problems with the neighbor. They are asking for relief. They have always had one tenant, lately a law person clerking for Judge Wesley and thoughts of the loss of income and the devaluing of their property has been quite stressful.

**Peter Palermo** asked if the tax assessment included the apartment.

**Richard Piccirilli** The assessment is for \$298,000 and he assumed it did. Letters from Patricia Dwyer and Raymond Chamberlin, the neighbors on either side of the Piccirillis, were read into the meeting. Both were in support of the continuation of the apartment on the Piccirilli's property.

**Peter Palermo** asked how long have you lived on the lake? and have you been paying the same tax bill each year?

Approved

**Richard Piccirilli** We've been here twelve years and the tax bill has always been about the same as it is now.

**Chairman John Maxwell** asked if anyone else wanted to speak.

**Ron Maxwell, ZEO**, pointed out the water and sewer will be changed to an additional 1/2 a water and sewer unit for the apartment in the near future.

**David Smith**, said the lake is vastly overpopulated and an immediate neighbor of his made a separate living area but cannot rent it. Why is it fair for this illegal apartment to continue when his neighbor can't use his?

**Ron Maxwell, ZEO**, responded. This apartment was a surprise to him when Piccirilli's appraiser came in looking for permits but he has researched it since then and to the best of his knowledge, this apartment has existed in use since 1994 and was assumed legal by the taxing authorities and by the present owners. In the case you mentioned, that owner knew at the onset the property he was making habitable could not be used as a dwelling but he continued to make it habitable. Therefore he was barred from using it as an apartment, as he knew he would be. They are not the same thing.

**Al Dietrich** supports this variance. This is not a separate dwelling. There isn't a sight problem. It is not a nuisance.

**Ron Maxwell, ZEO** There was a permit for the garage. Whether it meets code for the apartment will come to light next.

**Patricia Dwyer** has lived next door for 10 years with no problems. The tenants have all been very nice. When they were sold that property it was rentable and to be not allowed to use it isn't very nice.

**David Smith** What's to say what will happen down the road?

**Ron Maxwell, ZEO** Limit to one bedroom.

**Chair John Maxwell** Remember, this is a USE Variance

**Peter Palermo** This existing apartment had already been incorporated into the taxes for years. That is the overriding proof.

The Board then went through the 5 questions necessary for a use variance:

**1. The applicant cannot realize a reasonable return, provided that lack of return is substantial, as demonstrated by competent financial evidence.** Twelve years of ongoing tax receipts for the property which included the apartment are based on an assessed value of \$298,000. The recent bank appraisal of the same property without the apartment was \$173,000. Without a useable apartment, the property would be devalued considerably.

Approved

**2. The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood.** This appears to be unique to this area of the lake.

**3. The requested use variance, if granted, will not alter the essential character of the neighborhood.** It has existed since at least 1994 and perhaps before then.

**4. The alleged hardship has not been self created.** It predated this property owner. He bought the property with the apartment already rented. His purchase price included the apartment and his tax bills always reflected the apartment.

**5. The variance will afford the least intrusive solution. YES**

**Peter Palermo** moved to grant a use variance at 5317 West Lake Road with the restriction of one bedroom two person occupancy rental unit. **Greg Foust** seconded.

Peter Palermo-aye; John Maxwell-aye; Greg Foust -aye; Steven Haigh-nay. Carried.

**Greg Foust** moved that the hearing be closed and **Steven Haigh** seconded. Motion carried.

**Chairman John Maxwell** asked for approval of the **Mark Argenta July 26, 2011** minutes. **Peter Palermo** moved and **Greg Foust** seconded. **Steven Haigh** abstained as he was absent. Carried.

**Chairman John Maxwell** asked for approval of the **Emerson March 13, 2012** minutes. **Greg Foust** moved and **Steven Haigh** seconded. **Peter Palermo** abstained as he was absent. Carried.

**Greg Foust** 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.