

Village of Geneseo
Zoning Board of Appeals
Public Hearing for
Neal R. Moynihan
17 Court Street, Tax Map # 80.12-3-51
December 01, 2009, 4:30 p.m.

Present:

Carolyn Meisel, Chair
Marlene Hamilton
Gail Dorr
Paul Schmied
Thomas Wilson

Code Enforcement Officers:

Ronald Maxwell
Dean O'Keefe

Applicant:

Neal Moynihan

Public Present:

Susan Richardson, Village Planning Board
John Gilpin

Secretary:

Debra Lund

Chair C. Meisel opened the public hearing at 4:30 p.m. She noted proper notification had been published and eight certified letters were sent and receipts returned. N. Moynihan wished to obtain an area variance when Section 96-17 [B] and 96-6 [A-C] (5) does not allow an owner to enter into a rental agreement with or cause a dwelling unit to be inhabited by more than four persons unless such persons are a family as defined in this chapter of the Zoning Code of the Village of Geneseo. It was further noted Livingston County had sent a letter stating they found no county wide or inter-municipal significant impact. Board members were introduced.

C. Meisel asked N. Moynihan to state his case. N. Moynihan noted he had purchased the property in 1991 and has always had five (5) students in the rental. Copies of cancelled rental payments had been submitted with the variance request showing the property to be a five person rental before the Rental Law took effect. This proves the property is a pre-existing non-conforming use. It is well maintained and even though a rental, is not treated as such. He referred to the color picture of the house and explained it is an upper echelon rental that does not look like a rental but like a family home. He was originally part of the Landlord organization in the law suit with the Village but had friends on both sides of the argument and eventually dropped out so is not on the Rental Properties list. He is asking for "grandfathered status".

C. Meisel invited CEO D. O'Keefe to speak. He noted he had issued rental housing permits for two (2) of the three (3) rental units owned by N. Moynihan. All three (3) meet the requirements of the Rental Housing Law and the New York State Code accept for the 17 Court Street property not meeting the four persons per unit rule. N. Moynihan would like to have five (5) unrelated people living there. As this is not allowed within the Code, D. O'Keefe could not issue the permit for that property.

M. Hamilton stated she thought after the previous conversation with Village Attorney T. Reynolds, these rental housing issues would go to the Planning Board. CEO R. Maxwell responded that this is a Zoning Board ruling.

C. Meisel asked if any in the audience would care to address the Board. Those present noted they were waiting for the following public hearing. With no further discussions, the questions were reviewed.

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? Yes ___ No X
2. Can the benefit sought by the applicant be achieved by some feasible method other than a variance? Yes ___ No X
3. Is the requested variance substantial? Yes ___ No X
4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? Yes ___ No X
5. Is the alleged difficulty self-created? Yes ___ No X due to a new law being passed.

G. Dorr moved to grant the area variance when Section 96-17[B] and 96-6[A-C](5) does not allow an owner to enter into a rental agreement with or cause a dwelling unit to be inhabited by more than four persons unless such persons are family and when said code allows the legal occupancy of any rental building existing on the date of adoption of this chapter to be permitted to continue without change (Section 96-5[B]) with up to five unrelated person per rental unit due to the fact that it is a long-standing pre-existing non-conforming condition and as such is “grandfathered”. M. Hamilton seconded the motion. The vote was as follows: Chair C. Meisel- aye; M. Hamilton – aye; G. Dorr – aye; T. Wilson – aye; and P. Schmied – aye. The motion carried.

N. Moynihan thanked the Board and exited the hearing at 4:37 p.m.

Minutes of the 10-06-2009 Carson hearing were reviewed. T. Wilson moved to accept the minutes; M. Hamilton seconded the motion. All were in favor and the motion passed.

G. Dorr moved to close the public hearing; M. Hamilton seconded the motion. All were in favor and the motion passed. The hearing closed at 4:40 p.m.

Debra Lund
Secretary