

Village of Geneseo  
Zoning Board of Appeals  
Public Hearing For: Sign Language, Inc. representing Greg O'Connell  
Address: 4500 Millennium Drive  
Tax Map Id. #: 81.10-1-6  
October 07, 2014, 4:30 p.m.

Present:  
Carolyn Meisel, Chair  
Marlene Hamilton  
Robert Meyers  
Paul Schmied

Code Enforcement Officer:  
Ronald Maxwell

Secretary:  
Debra Lund

Absent:  
Thomas Wilson

Applicant:  
Jeff Fitch, Sign Language Inc.  
representing Greg O'Connell, owner

Public Present:  
Patricia Cole, A B Cole Real Estate, Inc.

Lisa Wybron, A B Cole Real Estate Inc.

Chair C. Meisel opened the public hearing at 4:30 p.m. The Board members were introduced. Legal notices were published and eight (8) legal notices had been sent by certified mail to neighbors within one-hundred (100') feet of the property line and seven (7) green cards had been returned. Livingston County Planning Board was informed and responded stating the decision was left up to the Village Zoning Board of Appeals as it was determined there would be no significant County wide or inter-municipal impact in regard to existing County plans, programs, and activities.

The applicant was seeking permission for the erection of a sixty (60) square foot internally illuminated sign when Section 130-91 of the Code of the Village of Geneseo does not specify internally illuminated signs or any type of illuminated signs for MU-2 district property not located on Route 20A; the Section 130-90 for MU-2 on Route 20A allows this type of sign. Interpretation of the Code was being requested by the Code Enforcement Officer as to the legality of a lit sign at this location.

The applicant, J. Fitch- Sign Language Inc., representing Greg O'Connell, was invited to state the reason for the requested variance.

J. Fitch stated the owner, G. O'Connell, would like to replace the current lettering on the building with illuminated signage of similar appearance. The requested signage meets the square footage specified by the Village Code but there is nothing written in the Code stating whether illuminated signage is allowed for buildings in the MU-2 District when not located on Route 20 A; thus he is seeking a determination by the Board.

Code Enforcement Officer R. Maxwell noted illuminated signs are allowed for buildings with road frontage on 20A within that district. The code does not specify whether or not illuminated signs are allowed on buildings in the MU-2 district that do not have road frontage on Route 20A therefor the Board is being asked to interpret the intent of the code and issue a ruling.

M. Hamilton noted the Federal Credit Union has a lit sign. C.E.O. Maxwell replied it had been put up before the changes to the Zoning Code and was "grandfathered in".

Chair C. Meisel expressed her concern that if granted, as the area continued to develop, many more business would also request lit signs. They have been discouraged in other districts in the village. She wondered if G. O'Connell owned the former Hunt Valley Inn. R. Maxwell responded that he believed

so. R. Maxwell noted G. O'Connell had done extensive renovating of his property and was only asking for an individual determination on this particular building.

J. Fitch said they were asking for the least intrusive sign that would call attention to the building from the street. The building is a "little orphan" sitting in a back corner and difficult to locate without the signage. The lot has been extensively cleaned up. R. Maxwell noted the building was in the Town when built and annexed into the Village at a later date.

The question arose as to whether Livingston County would be allowed lit signs and if so, would they need to come before the Board. C. E. O. Maxwell responded he believed the County was exempt and as such, could do as they chose. He suggested the Board consider looking at each request individually or say the code had an oversight in it if they chose to decide lighting off Route 20A was acceptable in the MU-2 District. C. Meisel stated she would prefer the Board to consider each case individually but did not want to "create" zoning.

As a side bar, it was noted there has been discussion of connecting Millennium Drive to Veteran Drive to facilitate the flow of traffic. It is almost impossible to exit Millennium Drive onto Route 20A if one wishes to make a left hand turn; exiting via Veteran Drive would allow traffic to exit at a light. C. Meisel said G. O'Connell had agreed to grant an easement through his property to facilitate connecting the streets.

J. Fitch said G. O'Connell hoped the lit signage would help attract tenants. M. Hamilton asked if there were currently tenants in the building. R. Maxwell stated there were but there was space available for rent as well.

P. Schmied asked Chair Meisel that the Board consider making decisions on an individual basis and not legislate zoning for the whole district. The public voiced concerns when lighting in other districts had come before the Board. He noted the approved signs had been monument signs. C. Meisel commented other signs had been in the area of residential homes and one of the concerns was light spillage. There are no homes facing the building under consideration. One would not be able to see a monument sign for this building. It makes sense to place the lit sign on the building where the previous lettering had been.

With no further discussion, the Board reviewed the questions.

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  X  No \_\_\_\_\_

It was noted this is an area variance and a type two action that does not require a SEQR. C. Meisel stated it was so noted that the proposed action has been considered under SEQR and has met the requirements for a Type II action: the proposed action is not environmentally significant.

R. Meyers moved to approve permission for the erection of a sixty (60) square foot internally illuminated sign when Section 130-91 of the Code of the Village of Geneseo does not specify internally illuminated signs or any type of illuminated signs for MU-2 district property not located on Route 20A; the Section 130-90 for MU-2 on Route 20A allows this type of sign. The Board stipulates that further requests of a similar nature will be considered on a case-by-case basis. P. Schmied seconded the motion. The vote was as follow: Chair C. Meisel, aye; M. Hamilton, aye; R. Meyers, aye; and P. Schmied, aye. The motion carried.

J. Fitch thanked the Board and exited the meeting at 4:43 p.m. P. Schmied moved to close the public hearing at 4:44 p.m., M. Hamilton seconded the motion. The vote was as follow: Chair C. Meisel, aye; M. Hamilton, aye; R. Meyers, aye; and P. Schmied, aye. The motion carried and the public hearing closed.

The August 26, 2014 Irwin minutes were reviewed. M. Hamilton moved to approve minutes as presented. P. Schmied seconded the motion. The vote was as follow: Chair C. Meisel, aye; M. Hamilton, aye; R. Meyers, aye; and P. Schmied, aye. The motion carried.

The August 26, 2014 Schwendy minutes were reviewed. P. Schmied moved to approve the minutes as presented. R. Meyers seconded the motion. The vote was as follow: Chair C. Meisel, aye; M. Hamilton, aye; R. Meyers, aye; and P. Schmied, aye. The motion carried.

R. Meyers exited the meeting at 5:52 p.m.

P. Cole, A B Cole Real Estate, Inc. and her agent, L. Wybron, entered the meeting at 5:52 p.m. to discuss a property they have listed and get suggestions from the Board on how to proceed with a possible variance on the property. The D. Bailor property at 72 East South Street is one of their listings. At the time of the original listing, A B Cole Real Estate was given to believe the property in question was within the commercial MU-2 Mixed-use District. After discussion with C. E. O. R. Maxwell, they discovered it was actually within the R-1 Residential District. P. Cole noted that all other properties on Route 20A in that area are commercial. This piece is the only one that is not. The offers coming in on the property have all been for use as small business offices of one type or another. On behalf of her client, she would like to know what needs to be done to get a variance or change the zoning so that the property will sell.

Chair C. Meisel stated it is difficult to get a use variance and a change of use would be necessary in this instance to allow a business on the property in question. The State of New York rules have made it very difficult to grant a change of use. One would need to establish financial stress and that the home could not be sold as a residence without the owner taking a loss on the property. Does the owner currently reside there? P. Cole replied it is a rental property and the current tenant is moving as the traffic is too loud and it is difficult to deal with it. The owner has not found other tenants to replace the current one and would like to sell.

C. Meisel asked if the property had been on the market in the past and if it could be sold without a loss. P. Cole did not believe so. She noted the house had recently had a fire and the owner believes in hind sight, she should have taken the financial loss and had the house torn down.

R. Maxwell commented Jaycox Creek separates the MU- 2 district from the residential district in that area. P. Cole remarked the Church lot also separates the residential homes from the businesses except for this particular lot. M. Hamilton asked if all the offers were to use the existing building as an office or to tear it down and put up a new building. P. Cole replied the offers were to use the existing building.

P. Schmied stated the Board must consider four questions the State requires the Zoning Board to consider before a change of use may be granted for a property even though the property in question is wedged between two other mixed-use properties.

The questions to be addressed as required by New York State are:

1. Are you, as the applicant, deprived of all economic use or benefit from the property if used for any of the allowed uses in the district?
2. Is the property being affected by unique or highly uncommon circumstances?
3. Will the variance, if granted, alter the essential character of the neighborhood?
4. Is the hardship self-created?

Any questions answered yes, must be followed by an explanation.

Chair C. Meisel felt the Board would probably be o.k. with P. Cole's reasons for the request for questions 2, 3, and 4 but the sticking point would be the first question. If D. Bailor decides to come before the Board, what could she offer the Board to show the property depriving her of economic use as it is currently zoned? P. Cole said D. Bailor is having trouble renting the property to tenants for enough to cover the taxes, repairs and so forth.

The listing agent, L. Wybron, said she had shown the property to a chiropractor, insurance company and other small business but had not had any calls from someone looking to purchase the property as a home. It is listed on MLS as a single family property but all calls have been of a commercial nature.

M. Hamilton asked if there would be enough parking if the property became a business. P. Cole responded the new owner would have to develop one. The type of businesses that have made inquiries usually would not need more than four or five spaces. The property is a great spot for smaller businesses due to the high visibility. C. E. O. R. Maxwell told P. Cole the new owner would need to come before the Planning Board with engineering reports for the installation of the parking area and inspection of the home for compliance with New York State rules regarding load bearing floors; he noted it is different for businesses than for homes and would need to be done before he could allow the business to open. Any signage would need to be approved by the Planning Board as well.

R. Maxwell suggested copies of the offers coming in be presented to the Board if D. Bailor decides to go forward with seeking a variance. C. Meisel added it would be helpful to see copies of the rental papers also. R. Maxwell noted the Cottone Insurance property was formerly residential and precedent in the area had been set. C. Meisel stated D. Bailor must sign the variance papers but A B Cole Real Estate Inc. would be welcome to come before the Board to represent her should she decide to go forward with seeking a variance. The next scheduled meeting of the Board would be on Wednesday, November 5<sup>th</sup>. There is already someone on the agenda that day for 4:30 p.m. but the Board would entertain the Bailor appeal at 4:50 p.m. if they so desired. She asked that the paperwork be completed as soon as possible.

P. Cole thanked the Board for their time and the consultation visit. She and L. Wybron exited the meeting.

M. Hamilton moved to close the meeting at 5:10 p.m. P. Schmied seconded the meeting. All were in favor and the meeting closed.

Debra L. Lund  
Secretary