

Village of Geneseo
Zoning Board of Appeals
Applicant: John & Catherine Bennett
1 Kimberly Drive
Tax Map #: 81.9-1-68.2
June 2, 2015; 4:45 p.m.

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

Code Enforcement Officer:
Ronald Maxwell

Secretary:
Debra Lund

Public Present:
David Ruskauff

Applicant:
John Bennett

The meeting started at 4:30 p.m. and Chair C. Meisel opened the public hearing at 4:45 p.m. As the applicant had been present when the meeting began, introductions were dispensed with. The notices had been sent to nine neighbors within one-hundred (100') feet per Village Code and nine green cards were returned. The appropriate notices have been posted and printed in the legal paper.

The applicants were seeking 1) a five (5') foot variance of the east side yard setback where a minimum side yard set back of ten (10') feet is needed per Bulk & Use Table 130-131 (R-2 District) and 2) relief from the residential parking where it does not meet Section 130-76A: in all districts, no part of any parking area, other than driveways for ingress and egress, shall be located closer to a street or lot line than the minimum setback required for a principal building in the relevant district, a three (3') foot variance is requested, and also fails to meet Section 123-29 per the Code of the Village of Geneseo: residential off-street parking cannot exceed thirty-three (33') feet in width or thirty-three percent (33%) of the front yard measured at the building setback line which ever is less, a seven (7') foot variance is being sought.

Chair C. Meisel stated the Board had a request from the Code Officer for an interpretation of a driveway versus a parking area. The Code is ambiguous and open to interpretation. Code Officer R. Maxwell noted a parking area must meet the same set backs as any other structure on a lot but driveways may be on the lot line.

J. Bennett said his new improved area will go to the new garage located on the east side of the property and opposite side of the home from the original garage area. He did not have room for the addition on the other side of the home as he only had twenty-two (22') feet to the lot line. He would like to leave the old driveway at the other side of the house for use as a basketball court, not a parking area. The new driveway is necessary to access the new garage.

T. Wilson felt the driveway would be considered as such and not as a parking area as it is necessary for ingress and egress to the garage. R. Maxwell reminded the Board the new driveway would need a curb cut. The current driveway is twenty (20') feet wide and J. Bennett would be over the thirty-three (33') feet in width allowed by the code. J. Bennett said he would also be over the allowed lot coverage limit of thirty-three (33%) percent when the total width of both driveways was combined.

T. Wilson stated in essence the total driveway widths would be approximately forty (40') feet wide and C.E.O. R. Maxwell answered in the affirmative.

Chair C. Meisel asked if the public attending would like to address the Board. D. Ruskauff, a neighbor whose property line abuts the Bennett property, said he originally had reservations but was no longer opposed to the requested variances. He and his wife, Kimberly, live at 137 Lima Road with their children. Their concern was a line of trees by the shared property line. Pictures presented to the Board showed the trees in question. The trees were on the property when he purchased it and are very close to the lot line. His concern is that the construction would negatively impact the trees and possible consequences to his family if the damage caused the trees to fall and injure someone in the future. His chief concern was a potential for a future lawsuit. He and J. Bennett have met and discussed the issue. It has been resolved between them in a very neighborly fashion. J. Bennett has agreed to remove the two trees that might become a future problem. They have a notarized letter of the agreement for their respective records and at this point, he sees no problem with the project going forward.

With no further discussion 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 X No _____
50% of the side yard
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. It was so noted that the proposed action has been considered under SEQR; per regulation #13 – granting of an area variance(s) for a single-family, two-family or three-family residence are not subject to review under SEQR, and has met the requirements for a Type II action: the proposed action is not environmentally significant.

M. Hamilton moved to grant 1) a 5' variance of the east side yard setback where a minimum side yard set back of 10' is needed per Bulk & Use Table 130-131 (R-2 District) and 2) relief from Section 123-29 of the Code of the Village of Geneseo where residential off –street parking cannot exceed 33' in width or 33% of the front yard measured at the building setback line whichever is less, a 7' variance is granted. Furthermore, the Board has ruled an area used as garage egress/ingress is a driveway not a parking area and therefor the variance for relief from the residential parking where it does not meet Section 130-76A is not necessary as the area in question has been established to be an existing driveway with an existing curb cut. R. Meyers seconded the motion. The vote was as follows: Chair C. Meisel, aye; M. Hamilton, aye; R. Meyers, aye; P. Schmied, aye; and T. Wilson, aye. The motion carried.

J. Bennett thanked the Board; he and D. Ruskauff exited the meeting at 5:15 p.m.

Discussion followed regarding possible upcoming issues in the Village.

R. Meyers moved to close the meeting at 5:28 p.m. M. Hamilton seconded the motions. All were in favor and the meeting closed.

Debra Lund
Secretary