

Village of Geneseo
Zoning Board of Appeals
Applicant: Palace Properties of Geneseo LLC
Representative: Don Livingston
Property Address: 3 Center Street
Tax map Id. #: 80.12-2-40.1
November 10, 2015; 4:30 p.m.

Present:

Marlene Hamilton, pro-tem
Robert Meyers
Paul Schmied
Thomas Wilson

Code Enforcement Officer:

Ronald Maxwell, Absent

Secretary:

Debra Lund

Absent:

Carolyn Meisel

Applicant:

Palace Properties of Geneseo LLC
Rep.: Don Livingston &
James Sullivan

Public:

Ted Hershey
Barry Caplan

Chair Pro-tem M. Hamilton opened the public hearing at 4:30 p.m. Board members were introduced. It was noted proper legal notices were published and the County was notified; the County responded there would be no significant countywide impact so the decision is a matter of local option. Eight certified return receipt requested legal notices were sent and seven green cards were returned. The applicant is seeking permission to erect a fence that fails to meet Section 130-55C per the Zoning Code of the Village of Geneseo; a fence may not exceed six (6') feet in height; a two (2') foot variance is being requested for the fence on the western and northern boundaries of the property. Acting Chair M. Hamilton asked the applicants to make their case.

Palace Properties of Geneseo, LLC is asking forgiveness for an erected fence that they did not realize did not meet code. Fences six (6') feet and under do not require a permit so they did not originally apply for one. Once Code Enforcement Officer R. Maxwell saw the fence, he advised them they would need to take the fence down or come before the Board for a variance.

D. Livingston asked if Board members had been able to visit the site. Some indicated they had not. D. Livingston outlined the fence on a map for those who had not been able to visit the site. He commented he had sent a letter (appended) to the Board previous to the meeting outlining his reasons for the need for an eight (8') foot fence. Previously, he had a six (6') foot chain link fence between his rental property and the property previously know as "Kelly's Bar". The party area of the bar backs up to his property and he noted the place was seldom monitored by the business or the landlord.

Trash was constantly tossed over the fence onto his or the "Touch of Grayce" and "Idle Hour" properties. His A/C units have been climbed on, cigarette butts create a potential fire hazard, and the area has been used as a public toilet. The latest problem has been with people climbing the fence and

on the A/C units and “peeping” into his rental units. This is very disturbing to the girls living in his apartment units. The Police have done a great job doing stakeouts and coming when called but have not been able to catch anyone in the act. T. Hershey, “Touch of Grayce” and the “Idle Hour” have been great about helping with the constant clean-up. D. Livingston hopes the eight (8’) foot fence will help control the situation before something worse happens.

T. Hershey stated he was representing another adjacent property owner, Nancy Cleveland, who was unable to attend. He noted she has had to replace a broken window three times and is constantly cleaning up empty beer bottles. They have tried to address their concerns with the proprietor of “Kelly’s Bar” and have not been happy with the lack of response. T. Hershey did note it is not just college students who are the problem. The traffic in and out of the back area that he sees is a combination of local residents and college students.

D. Livingston said the fence is raw pine, installed vertically and he is hoping the rough surface will be a climbing deterrent. It should also make it more difficult for the “peeping toms”. It provides some protection for N. Cleveland’s air conditioning unit as well. He noted there is already graffiti on the fence.

B. Caplan, owner of the “Touch of Grayce” building said he had given permission for the fence to continue along his property line as well. D. Livingston and J. Sullivan installed the whole fence. A call to the Village Attorney confirmed that as long as Palace Properties of Geneseo, LLC had installed the entire fence and that B. Caplan was in agreement with the installation, another public hearing for the portion of the fence on his property would not be necessary.

Chair pro-tem M. Hamilton read a letter received from S. Burnette, owner of the “Kelly’s Bar” property into the minutes (appended). He was not opposed to the eight (8’) foot fence as long as there was egress to the alleyway. He felt another method could be made to protect the A/C unit and that the taller fence will not stop anyone who is determined to scale it.

Code Enforcement Officer R. Maxwell was unable to attend the meeting but sent a memo asking the Board to consider that if approval is given, the motion contains wording stating the alley way path of egress must not be blocked – this would be a fire hazard as a safe means of egress must be maintained under the New York State Fire Code.

With no further comments from the audience, 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 The Zoning Board has approved other eight (8’) foot fences erected on boundaries shared by residential and commercial properties.
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 #10: construction, expansion or placement of minor accessory/appurtenant residential structures,

Approved: 01-05-2016

including garages,...fences, barns,...not changing land use or density are not subject to review under SEQR, and has met the requirements for a Type II action: the proposed action is not environmentally significant.

P. Schmied moved to grant permission to erect a fence that fails to meet Section 130-55D per the Zoning Code of the Village of Geneseo; a fence may not exceed six (6') foot in height; a two (2') foot variance to allow an eight (8') foot high fence on the western and northern boundaries of property is granted provided the fence does not block egress from the alley way. R. Meyers seconded the motion. The vote was as follows: Chair Pro-tem M. Hamilton, aye, R. Meyers, aye, P. Schmied, aye, and R. Wilson, aye. The motioned carried. D. Livingston and J. Sullivan thanked the Board and exited the meeting with the public that had been present.

T. Wilson moved to approve the July 07, 2015 Livingston County Historical Society Museum minutes. P. Schmied seconded the motion. The vote was as follows: Chair Pro-tem M. Hamilton, aye, R. Meyers, aye, P. Schmied, aye, and R. Wilson, aye. The motioned carried.

T. Wilson moved to approve the July 07, 2015 Livingston County Millennium Drive Project minutes. P. Schmied seconded the motion. The vote was as follows: Chair Pro-tem M. Hamilton, aye, R. Meyers, aye, P. Schmied, aye, and R. Wilson, aye. The motioned carried.

2016 Calendar dates had been emailed to members earlier in the fall for approval. All were in favor.

R. Myers moved to close the meeting and the public hearing at 5:10 p.m. T. Wilson seconded the motion. All were in favor and the motion carried.

Debra L. Lund, Secretary

RECEIVED

SEP 29 2015

File

PALACE PROPERTIES OF GENESEO

Village of Geneseo

61 main st..
Geneseo, NY
14454
585-704-0052
Don60bain@aol.com

Sep. 24 ,2015

To who it may concern,

We of Palace Properties of Geneseo Inc. would like to take this opportunity to request a variance for a fence constructed on our property behind 3 Center St. We are requesting a height of eight (8) feet as opposed to the permitted height of six (6) feet.

Our intention and belief in having the higher fence is to try and eliminate the following:

-As shown on the survey map of Palace properties , our property is next to the back "party area" of the property previously know as Kelly Bar, this property is almost never monitored by the business and the landlord is absentee. Our property is treated like a garbage dump. It almost a daily event for ourselves , Idle hour or Touch of Grace to pick up the mess.

-Almost nightly this area is used for a toilet urinating and defecating, in front of student housing, anywhere they please. This occurs more times than we can mention.

-Projectiles are thrown against our buildings, A/C units are consently climbed on and damaged, cigreate butts are flipped against the wall and creating possible fire harzards.

-The latest and greatest acts of disgust is to climb over the existing 6' chain link fence and climb on to the Ac unit and look into the windows of my student appartments trying to get a peek

Steve Burnette
4928 Warner Road
Geneseo, New York 14454

RECEIVED

NOV 10 2015

Village of Geneseo

To: Geneseo Zoning Board of Appeals

I'm not objecting to Palace Properties Fence in back of my property being 8' high instead of the normal 6' height so long as there is an egress to the Alleyway for my property.

I would like to suggest that they instead put a Chain Link fence around their A.C. Area to keep the "peeping Toms" away from their "critical area". It could be tall enough and could be made impenetrable enough to keep them out.

I don't believe this 8' high wooden fence will stop them. They'll just build a ladder or leap frog one another to scale the wall anyway.

Thank you for your consideration.

Steve Burnette