

**Town of Geneseo Zoning Board of Appeals  
Public Hearing  
Property Address: 5390 West Lake Rd  
Tax Map #100.-43-1-20  
September 10, 2024 @ 7:00 PM**

**Members Present:**

John Maxwell, Chair  
Ken Book, Member  
Mike DaBramo, Member  
Donald Kearney, Member  
Carolyn Meisel, Member  
Michael Millard - Alternate

**Other Town Representatives Present:**

Debbie Streeter, Clerk/ZBA Secretary  
Jared Radesi, Code Enforcement Officer

**Applicant(S):**

Kelly Kinney, Westlake Onestop Store  
William Oyer, owner 4167 West Lake Rd

**Public Present:**

Tom Brown

Chair Maxwell called the meeting to order at 7:00 PM.

Chair Maxwell requested that members vote on July 9, 2024, meeting minutes were presented and discussed.

**Member Meisel moved to approve the minutes as presented. Member Book seconded. With no further discussion, motion passed with ayes from Chair Maxwell, C. Meisel, K. Book, D. Kearney, and M. DaBramo.**

**Opposed None**

**Abstained None**

**Motion Carried**

Chair Maxwell opened the public hearing at 7:05 PM. It is noted that all proper notices were sent via US Mail, return receipt, as well as published in the Livingston County Newspaper, as follows:

NOTICE IS HEREBY GIVEN, that the Zoning Board of Appeals, Town of Geneseo, will hold the following public hearing pursuant to Town Law. At the above date and time, an application **KELLY KINNEY, 5390 West Lake Rd., Tax Map 100.43-1-20** will be considered for USE VARIANCES. The purpose of the use variance application is to reopen the pre-existing store as a store is requesting deviation from Town zoning code Article 54: Nonconforming Uses, table §106-54.2G. Therefore, the above Public Hearing will be held any other portion of the Town code which may apply. Kelly Kinney sent out twenty-one (21) Certified Mail with Return Receipt Letters, with the return of nine (9) Green Cards.

Chair Maxwell stated the Zoning Board does hereby classify the above referenced Action to be a Type II Action under Section 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations, Type II Actions are not subject to further review under Part 617 of the SEQR Regulations, and the Zoning Board in making this classification has satisfied the procedural requirements under SEQR.

**Livingston County Planning Board comments on the application:**

*The Livingston County Planning Department has reviewed this application and, in consultation with the Town of Geneseo County Planning Board representative, determined that it has no significant Countywide or inter-municipal impact in regard to existing County plans, programs, and activities. Therefore, approval or disapproval of this application is a matter of local option. Please be aware that a determination of "No Significant Countywide Impact" should not be interpreted as either approval or disapproval by the County Planning Board.*

Chair Maxwell asked all the board members if they had a chance to visit 5390 West Lake Rd., which all had visited.

Chair Maxwell invited Kelly Kinney to the table to discuss the application for the use variance to open the pre-existing store as a store. CEO Radesi explained the property is currently zoned as lakeshore residential and for the store to operate it needs to be zoned commercial. When a property was a store and is closed for more than a year the property reverts to the original zoning.

Tom Brown lives a quarter of a mile from the store and is thankful to have the store open again. He hopes that the store will eventually have gas. He drives 14 miles when he needs gas.

Kelly is working on gas. She explained there are a lot of hurdles to getting gas as the current set up is not up to NYS Specs. She is working with a testing company to see what can be used and what needs replacing.

This was followed by the Board discussing and answering the five-use variance questions.

- 1. Unless variance is granted, applicant cannot realize a reasonable return, provided the lack of return is substantial, as demonstrated by competent financial evidence.**

**Chair Maxwell:** Yes, will close if not granted.

**Member Kearney:** Yes, accept.

**Member DaBramo:** Yes, will not be open unless variance is granted.

**Member Meisel:** Yes, cannot use property without variance.

**Member Book:** Yes

- 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.**

**Chair Maxwell:** Yes

**Member Kearney:** Yes

**Member DaBramo:** Yes, only existing store for seven miles.

**Member Meisel:** It is unique. No gas for 14 miles!

**Member Book:** Yes

**3. The requested Use Variance, if granted will not alter the essential character of the neighborhood.**

**Chair Maxwell:** No

**Member Kearney:** No, still the same.

**Member DaBramo:** Yes, this was a similar store for several years before temporarily closing.

**Member Meisel:** Yes, only store for miles

**Member Book:** No

**4. The alleged hardship has not been self-created.**

**Chair Maxwell:** Yes, store was purchased.

**Member Kearney:** Yes

**Member DaBramo:** Yes, owner did not realize permission had been revoked since closed for 1-2 years.

**Member Meisel:** Yes, she bought the store and did not know the problem.

**Member Book:** Yes

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

**Chair Maxwell:** Yes

**Member Kearney:** Yes, nothing else can be done at this location.

**Member DaBramo:** Yes

**Member Meisel:** Yes

**Member Book:** Yes

**Member Meisel made a motion to grant Kelly Kinney at 5390 West Lake Rd. a use variance to change from lakeshore residential to commercial. Member Kearney seconded the motion. With no further discussion, motion passed with ayes from Chair Maxwell, C. Meisel, K. Book, D. Kearney, and M. DaBramo.**

**Opposed None**

**Abstained None**

**Motion Carried**

**Member Book made a motion to close the public hearing at 7:30 PM. Member DaBramo seconded the motion. With no further discussion, motion passed with ayes from Chair Maxwell, C. Meisel, K. Book, D. Kearney, and M. DaBramo.**

**Opposed None**

**Abstained None**

**Motion Carried**

**Public Hearing  
Property Address: 4167 West Lake Rd  
Tax Map #83.29-1-5  
September 10, 2024 @ 7:30 PM**

Chair Maxwell opened the public hearing at 7:35 PM. It is noted that all proper notices were sent via US Mail, return receipt, as well as published in the Livingston County Newspaper, as follows:

NOTICE IS HEREBY GIVEN, that the Zoning Board of Appeals, Town of Geneseo, will hold the following public hearing pursuant to Town Law. At the above date and time, an application **WILLIAM OYER 4167 West Lake Rd., Tax Map #83.29-1-5** will be considered for an 8.5' SIDE YARD (South) and a 6.5' REAR YARD (Lake) area variances. The purpose of their variance application is to build a 24'X10' porch. The proposed project is requesting deviation from Town zoning code table 106, attachment 3, side and rear yard setback of fifteen feet in the Lakeshore Residential District. Therefore, the above Public Hearing will be held any other portion of the Town code which may apply. William Oyer sent out twenty-five (25) Certified Mail with Return Receipt Letters, with the return of nineteen (19) Green Cards.

Chair Maxwell asked all the board members if they had a chance to visit 4167 West Lake Rd., which all had visited.

Chair Maxwell invited William Oyer to the table to explain his project. He stated he wants to add a porch to his property and has been working on the foundation. The porch will meet the first-floor level of the house. The porch will be approximately 8' off the ground.

Member DaBramo feels the porch addition will be too close to the lake.

Member Kearney stated it will be the only covered porch and the neighbors' porches are all open.

Chair Maxwell asked about the lot coverage, it will be about 25%.

W. Oyer stated the high-water mark is about 22' from the house.

The board asked for this meeting to be tabled until Wednesday, September 25 at 7:00 PM giving CEO Radesi an opportunity to go to 4167 West Lake Rd and get accurate measurements.

**Member Meisel made a motion to adjourn at 7:56 PM. Seconded by Member Kearney. With no further discussion, motion passed with ayes from Chair Maxwell, C. Meisel, K. Book, D. Kearney, and M. DaBramo.**

**Motion Carried**

Respectfully Submitted,

Debbie Streeter Deputy Clerk/Secretary