

**Town of Geneva
Zoning Board
November 22, 2022
DRAFT**

Present: James Smith, John Robbins, John Wilson, Phillip Ilacqua, Robert Rose

Absent: Pat Cardinale

Staff: Floyd Kofahl, Code Enforcement Officer, Amy Naegele, Clerk of the Board, Steve High, Ontario County Planning Board Representative

Others present: 1 member of the public

Chair John Wilson called meeting to order at 6:35 pm.

Pledge of Allegiance

**Public Hearing – Area Variance – ZB2022-010
Harris Property**

The applicant wishes to build a 6 ft fence in the side yard of their property. This would be a 2 ft variance from the allowed 4 ft, making it a 50% variance. Per Town of Geneva Code 165-31 Fences and Walls C. In any residential district, no fence, wall or other enclosure shall be more than seven feet in height at the rear of homes or buildings, and except where provided for in Subsection D below, no fence shall extend forward of the rear building line of any principal building. D. Any fence or wall four feet or less in height shall be permitted anywhere on a lot except where it would encroach on street or highway sight clearances required for traffic safety.

Ken Harris presented to the Board. He explained that he built the duplexes around 7 years ago and rents mostly to seniors. He recently built another duplex on State Route 14. He explained that at 86 Lenox Road, both of his tenants are elderly, single women. He wants to put a fence in because of the foot traffic that has resulted from the apartments behind the property. He explained the layout of the lot and where the foot traffic is occurring. He explained that the house is only approximately ten and a half feet from the west property line, meaning anyone walking through is only ten and half feet from the house. The houses are single floor, with the bedroom and living rooms located in the back, where people would be passing by. The situation has become uncomfortable for himself and his tenants, and he feels it his duty to take action. He discussed the complaints made to the Town Board by the neighbors and the request for the apartment complex to put in a fence. He explained that he is requesting a 6-foot fence instead of a 4-foot fence to avoid eye contact from people passing by. He gave examples of uncomfortable situations his tenants have experienced. He answered questions regarding the portion of the property that would be fenced and explained why it was not going further along the back or in the front yard. He confirmed who the owners of the neighboring lots are and there was a short discussion regarding the fact that these people are trespassing.

John Wilson confirmed there were no other members of the public wishing to speak.

Motion made by John Wilson to close the Public Hearing. 2nd by John Robbins. All in favor, motion carried.

Floyd was asked for his comments. He went over the request, explaining that only a 4-foot fence is allowed in the side yard and the applicant is asking for a 6-foot fence. He explained that the property to the North, Townside, has been occupied for three years. In that time, the fire department has been there over 40 times and the sheriff's department has been there over 200 times. He confirmed that the neighboring residents had come to the Town Board and asked them to make the complex put a fence in. He also talked about a right-of-way that had been presented as an option when the apartment complex project was before the Planning Board. The right-of-way did not work out and a fence was not talked about at that time. He explained that if the neighbors call the police, it takes 30-45 minutes for them to get there, and the trespassers are gone. The town has been working with Townside and Townside will be putting up cameras and adding it to the lease agreement that the tenants are not allowed to trespass on the neighboring properties. He was hoping some of the neighbors would have been present so he could discuss everyone putting up a fence together. Floyd went on to explain that the code allows a 7-foot fence in the backyard. He would suggest that the Zoning Board approves up to a 7-foot fence in the side yard as well just in case the applicant decides he wants higher than a 6-foot fence. Ken Harris showed his support for this idea. Floyd confirmed that this application was exempt from review by the County Planning Board.

John Wilson led the board members through a discussion of the five criteria for an area variance. The Board agreed that the benefit could not be achieved by other means feasible. The board members also agreed that there would not be an undesirable change to the neighborhood. It was agreed that it is a substantial request if they consider making it a 3-foot variance to allow for a 7-foot fence. It was determined that there would be no adverse physical or environmental effects. The Board agreed that the alleged difficulty is not self-created, as there are people trespassing.

Motion made by John Wilson to grant a 3-foot additional fence height variance to the west side of the property. 2nd by John Robbins.

Roll Call Vote:

Jim Smith – Grant

John Robbins – Grant

John Wilson – Grant

Phillip Ilacqua – Grant

Robert Rose – Grant

Motion carried.

Meeting Minutes from October 25, 2022

Motion made by John Robbins to approve minutes with a 2nd by Phillip Ilacqua. All in favor. Motion carried.

Steve High's Report

Steve explained that at the last County Planning Board meeting, Director Tom Harvey had a presentation. The presentation was about how the Board of Supervisors is considering implementing study groups in the upcoming year and will be looking for involvement from members of the county municipalities. Steve gave a brief overview of each of these studies. One is a rail study that will be tasked with examining the rail structure and potential in the city and town of Geneva and the town and village of Phelps. Another is housing study that will be assigned the task of inventorying existing housing in all communities in the county. This is based on the fact that there is room for economic growth in the county but not enough housing for the

workers. Another study will be tasked with creating an inventory of the parks and recreational facilities throughout the county. There is not currently a list of all the available options. Another group will be tasked with identifying tourism opportunities, specifically in the winter months. The last group will be working on creating a comprehensive plan or vision study for the county to outline its plan for the municipalities. Steve explained that Genesee County recently completed a vision study that has won awards for their forward thinking.

Steve commented to the board members that the County is looking for members of the public to be included in these groups and that the municipalities that have people involved will be a step ahead.

There was a discussion among the Board, Steve, and Floyd regarding the railway study and projects in neighboring communities.

Other Business

Floyd reminded the Board that training should be completed by the end of the year and informed them that the State is now asking for a record of the training hours in addition to the Town.

Motion made by Phillip Ilacqua to close the meeting with a 2nd by John Wilson. All in favor. Motion carried at 7:10 pm.