

Village of Geneseo Zoning Board of Appeals

Applicant: Empower Martial Arts/Jennifer Smith

Area Variance

Property Address: 133 Main Street

Tax Map#: 80.16-1-51.111

March 1, 2022 @ 4:30pm via Zoom

<https://us02web.zoom.us/j/89248227683?pwd=cDQ3VXRJYnNkUUF3M0pNRDVGaTZ3dz09>

Members Present:

Carolyn Meisel, Chair

Tom Wilson, Member

Gretchen Crane, Member

Paul Schmied, Member

Other Village Representatives Present:

Shawn Forrester, Deputy Clerk/Treasurer

Aprile S. Mack, Clerk/Treasurer

Craig Wadsworth, Code Enforcement Officer

Mary Kay Yanik, Village Attorney

4:33pm Chair Meisel called the Board to order, followed by the Board introducing themselves. It is noted that Bob Meyers is excused, as he needed to recuse himself from the proceedings, but there is a quorum.

The January 4, 2022, meeting minutes were reviewed. G. Crane moved to accept the minutes as presented. T. Wilson seconded. With no further discussion or additions, the motion passed with ayes from Chair Meisel, G. Crane, and T. Wilson, P. Schmied abstained as he was not at the meeting.

The Public Meeting was opened at 4:36pm. 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 a public hearing will be held by the Village of Geneseo Zoning Board of Appeals on March 1, 2022, at 4:35 pm, via Zoom Meeting ID: 892 4822 7683 Passcode: 965785 pursuant to Chapter 130 Zoning, Section 130-12, Section 130-17 and, 130-90 Attachment 10 Table of Sign Regulations and any other sections of Village Code which may apply. On the application of Jennifer Smith, Empower Martial Arts. The applicant is seeking two area variances for the property located at 133 Main St., Tax Map ID.# 80.16-1-51.111 and 11 South Street, Tax Map #80.16-1-48 in the Village of Geneseo.

1. A variance to add a third and fourth sign when the maximum number of signs permitted is two per Village Code in the MU1 Zoning District.
 2. A variance for one of the signs to be placed on a free-standing signpost located on adjacent property, owned by Tompkins Bank, 11 South Street. This request does not meet The Village of Geneseo Code section 130-91 R, prohibiting off premise signs.
- Said Board of Appeals will at said time and place hear all persons in support of such matters and objections thereto.

Chair Meisel asked Jennifer Smith, owner of Empower Martial Arts to explain why she should be granted the variances. Ms. Smith replied that since the plaza where her studio is

located is set back and not visible from the road the signs are necessary for her customers or potential customers to find her studio. She also noted that another business in the same plaza had already been approved to have additional signs to help with visibility.

There is discussion regarding exactly where the signs would be placed as well as the size compared to the other signs in that structure. It is noted that there is a legal agreement with Tompkins Bank, 11 South Street, regarding the sign to be placed on their property.

With no further discussion Chair Meisel asked the board to answer the 5 Area Variance questions. First for the property located at 133 Main Street.

(1) Will an undesirable change be produced in the character of the neighborhood or will a detriment to nearby properties be created by the granting the area variance?

Chair Meisel: No. All adjacent properties are commercial. The neighborhood will not change.

Member Crane: No. It is being added to an existing sign

Member Wilson: No. Matches existing signs for the plaza.

Member Schmied: No. No change in the character of this commercial area. The requested variance is similar to one already approved for a very nearby property with the same concerns.

(2) Can the benefit sought by the applicant be achieved the by some other method, feasible for the applicant to pursue, other than an area variance?

Chair Meisel: No. The business does not front on a street and cannot be easily seen.

Member Crane: No. A variance is needed.

Member Wilson: No. Requires a variance.

Member Schmied: No. Difficulty was created by the Village Zoning Regulations. The allowable uses created by regulations do not permit the actual use at the time the regulations were promulgated. The physical construction of this particular mixed-use area was not addresses by the regulations.

(3) Is the requested area variance substantial?

Chair Meisel: Yes. Two signs are allowed. Two more signs are substantial!

Member Crane: Yes. Two extra signs, but they fit on what exists.

Member Wilson: Yes. Two extra signs.

Member Schmied: Yes & No. The requested use of two signs both off premises violated two specific provisions of the Village Code. However, this small business is located on a driveway/parking lot and the request is for signs along the two public roads one on property owned by another entity. Others already have signs along the public roads. I believe this

particular regulation for this area was adopted after the approved construction of the new owner's property had been completed.

(4) Will the proposed area variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

Chair Meisel: No. It is in a commercial district.

Member Crane: No. There are signs there that they are being added to.

Member Wilson: No. Matches existing signs, Commercial District.

Member Schmied: No. No change in the character of this mixed-use area so no environmental change either.

(5) Is the alleged difficulty self-created? (Which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the area variance.)

Chair Meisel: Yes & No. The business location is facing a parking lot, not a street, is the problem.

Member Crane: Yes. It always is.

Member Wilson: Yes & No. Zoning does not cover this situation well.

Member Schmied: Yes & No. The "expected" answer is yes. If there was no application, there would be no question. This is a special situation not addressed by those writing the regulations. The authors of the regulations created the situation after the buildings had been built.

Chair Meisel asked the board if there was any other discussion. Hearing none, P. Schmied moved to approve the area variance for 133 Main Street. G. Crane seconded. Motion passed with ayes from Chair Meisel, G. Crane, T. Wilson, and P. Schmied.

Chair Meisel asked the board to answer the 5 Area Variance questions, for the property located at Thomkins Bank, 11 South Street.

(1) Will an undesirable change be produced in the character of the neighborhood or will a detriment to nearby properties be created by the granting the area variance?

Chair Meisel: No. The neighborhood will not change. All surrounding properties are commercial.

Member Crane: No. There is signage at the road.

Member Wilson: No. Matches existing signs for the plaza.

Member Schmied: No. No change in the character of this commercial area. The requested variance is similar to one already approved for a very nearby property with the same concerns.

(2) Can the benefit sought by the applicant be achieved the by some other method, feasible for the applicant to pursue, other than an area variance?

Chair Meisel: No. The business does not front on a street. It cannot be seen from either street.

Member Crane: No. She needs a variance

Member Wilson: No. Requires a variance.

Member Schmied: No. Difficulty was created by the Village Zoning Regulations. The allowable uses created by regulations do not permit the actual use at the time the regulations were promulgated. The physical construction of this particular mixed-use area was not addresses by the regulations.

(3) Is the requested area variance substantial?

Chair Meisel: Yes. Two signs are allowed. Two more signs are a substantial increase.

Member Crane: Yes. Two extra signs, but they fit on what exists.

Member Wilson: Yes. Two extra signs.

Member Schmied: : Yes & No. The requested use of two signs both off premises violated two specific provisions of the Village Code. However, this small business is located on a driveway/parking lot and the request is for signs along the two public roads one on property owned by another entity. Others already have signs along the public roads. I believe this particular regulation for this area was adopted after the approved construction of the new owner's property had been completed.

(4) Will the proposed area variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

Chair Meisel: No. It is in a commercial district.

Member Crane: No. There are signs there that they are being added to.

Member Wilson: No. Matches existing signs, Commercial District.

Member Schmied: No. No change in the character of this mixed-use area so no environmental change either.

(5) Is the alleged difficulty self-created? (Which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the area variance.)

Chair Meisel: Yes & No. The business location is facing a parking lot, not a street, is the problem.

Member Crane: Yes.

Member Wilson: Yes & No. Zoning does not cover this situation well.

Member Schmied: Yes & No. The “expected” answer is yes. If there was no application, there would be no question. This is a special situation not addressed by those writing the regulations. The authors of the regulations created the situation after the buildings had been built.

Chair Meisel asked the board if there was any other discussion. Hearing none, P. Schmied moved to approve the area variance for 11 South Street. G. Crane seconded. Motion passed with ayes from Chair Meisel, G. Crane, T. Wilson, and P. Schmied.

T. Wilson moved to close the Public Hearing. P. Schmied seconded. With no further discussion the hearing closed at 4:50pm with ayes from Chair Meisel, G. Crane, T. Wilson, and P. Schmied.

With no other business T. Wilson moved to adjourn the meeting. G. Crane seconded. Meeting closed at 4:52pm with ayes from Chair Meisel, G. Crane, T. Wilson, and P. Schmied.

Shawn Forrester
Deputy Clerk/Treasurer