

Attachment A  
ZBA May 16, 2011

WCPB Review #  
11-13

## Wyoming County Planning Board REFERRAL RESPONSE FORM

For referrals as required in accordance with NYS General Municipal Law Article 12B, Section 239-l and m

**Location of Proposed Action:** 867 Genesee Road, Town of Arcade

**Applicant:** L. & J. Pirdy

**Type of Proposed Action** (separate form completed for each action): Addition to Existing House

- Area Variance    Use Variance    Site Plan    Special Use Permit    Other:  
 New Zoning Ordinance/Local Law    New/Amend Comprehensive Plan    Amend Zoning Text/Map

### WCPB Recommendation on this Action

The WCPB took the following action at their meeting on May 2, 2011 with respect to this referral:

- Approval    Modification    Disapproval    None; No Jurisdiction  
 No recommendation; proposed action has no significant negative county-wide or inter-community impacts

**Comments:** The proposed action is the construction of a 16' x 28' addition to an existing home to allow for two bedrooms and a full basement. A variance is sought for development in the side yard set-back required by the Town's zoning code.

### General

1. The Town and Applicant are commended for submitting a Site Plan Checklist and a complete application.
2. The Applicant must apply for and receive all appropriate Town and County permits prior to obtaining a certificate of occupancy for the new addition.
3. There appear to be no significant county-wide negative impacts related to this proposed project.

### Site Plan

1. Site Plan drawings including the name and address of applicant and person responsible for preparation of drawing has been included. The drawings have a north arrow, scale and date.
2. There appear to be no other outstanding issues related to the Site Plan Checklist.
3. A map and aerial identifying adjacent parcels and land usages are provided.
4. A State Environmental Quality Review (SEQR) Short Environmental Assessment Form has been completed for this project.
5. Because this property is located on a Town Road, the County Planning Board has no jurisdiction.
6. **Section 239-m of general municipal law requires referring bodies to file a report of the final action it has taken regarding the referral made to the WC Planning Board. This report must be sent to the WCPB within thirty days after final action.**

### Report of Final Action:

Within 30 days after final action, **the referring body is required to file a report of its final action** with the Wyoming County Planning Board. If such action is contrary to a WCPB recommendation of modification or disapproval, this report should include the reasons for such contrary action.

*Note: Please provide this report of final action below on the PINK response form and mail or deliver to:  
Wyoming County Planning & Development, 6470 Route 20A, Suite 4, Perry, NY 14530-9796*

On \_\_\_\_\_ (date), the \_\_\_\_\_ (Board Name)  
took the following final action on the above proposed action previously referred to the WCPB.

- Approval    Modification    Disapproval

Report by: \_\_\_\_\_ Date: \_\_\_\_\_

Attachment B  
ZBA May 16, 2011

**ZONING BOARD OF APPEALS REQUESTS RECOMMENDATION AND COMMENT ON AREA VARIANCE APPLICATION, SBL NO. 173.-1-29.2, SUBMITTED BY LEE AND JENNE PIRDY, REQUESTING CONSTRUCTION OF A 16 FT. X 28 FT. ADDITION TO AN EXISTING HOME NOT IN COMPLIANCE WITH SECTION 415, MINIMUM SIDE LINE OF 35 FT., AT 867 GENESEE ROAD, TOWN OF ARCADE:**

The Board reviewed the following:

1. Variance application,
2. Drawing of addition,
3. Criteria for Area Variance completed by applicant (see Attachment A),
4. Minutes of the Zoning Board of Appeals meeting.

In discussion:

1. Previously, the Wyoming County Planning Board (WCPB) has reviewed Site Plans and Variance Applications for properties on Genesee Road because the Arcade Boards had been told that it is a County Road. It was noted that the recommendation and comment sheet from the WCPB on this application stated this time that, "Because this property is located on a Town Road, the County Planning Board has no jurisdiction."
2. The Board reviewed information from the New York Planning Federation from the publication **All You Ever Wanted To Know About Zoning, Second Edition**, page 114. Case law stated an area variance can be approved if:
  - a. The character of the area would not be affected by a variance grant to the applicants parcel, and
  - b. The applicant demonstrates to the Zoning Board of Appeals that the property cannot be used in compliance with area requirements without a significant economic injury or a severe economic loss.
3. The applicant was able to contact six of the eight adjacent property owners within 250 feet. There is no controversy and they have given consent in writing for approval of the area variance.
4. There were no further questions or comments.

**MOTION** by Rich Kosmerl, seconded by Aaron Felber and unanimously carried, to recommend to the Zoning Board of Appeals that Area Variance Application, SBL No. 173.-1-20.2, submitted by Lee and Jenne Pirdy, requesting construction of a 16 ft. x 28 ft. addition to an existing home located at 867 Genesee Road not in compliance with Section 415 of Local Zoning Law be approved. Citing case law previously stated above, the Planning Board finds that the application does not harm the general appearance and features of the neighborhood and there is no opposition from neighboring property owners. Further, there would be a significant financial hardship due to the placement of the existing well and septic system.