

(corrected)
**GENOA TOWNSHIP
ZONING BOARD OF APPEALS
September 17, 2002**

MINUTES

Chairman Staley called a regular meeting of the Zoning Board of Appeals to order at 7:00 p.m. The Pledge of Allegiance was then said. The following board members were present constituting a quorum for the transaction of business: Rick Staley, Barbara Figurski, Judith Stornant and Jean Ledford. Also present were Township Ordinance Enforcement Officer Adam VanTassell, Township Attorney Rick Heikkinen and approximately 25 persons in the audience.

Moved by Figurski, supported by Ledford, to approve the Agenda as presented. The motion carried unanimously.

02-40...A request by Michael and Donna Epley, Section 14, Lot 27 Grand Beach Drive, is for a 4' foot side yard variance with a 6-foot setback and a 3-foot side yard variance with a 7-foot setback to construct a new home.

A call to the public was made with no response. The petitioner advised the board that his family had owned the property for over 40 years. While the parcel is 50-feet wide, it is at an angle and the true width at the center is only 43-feet. The property has been unbuildable because of the location of the neighbors well, but now that there are sewers available, they would like to construct a home. Ledford – I cannot support this request because no practical difficulty exists. The petitioner asked to be tabled to come back with a better plan. Moved by Figurski, supported by Stornant, to table the request until the next regular meeting of the board. The motion carried unanimously.

02-41...A request by Colorado Coffee, Section 4, 4140 E. Grand River, is for an appeal of the Zoning Administrator's decision to deny a sign permit.

Casey Moulder addressed the board on behalf of the merchants at Country Corners. A letter from John Hamilton, President of Country Corners was presented authorizing Moulder to act as an agent in the capacity to secure a sign permit.

Moulder – I own Colorado Coffee in this shopping center. There is no sign out at the road to identify my retail business. Moulder then displayed possibilities for an integrated message reader for all the businesses. He cited section 16.08 of the Township Zoning Ordinance. Mr. VanTassell approved signage for McDonalds and our business is asking for the same permit.

Staley – I do not concur. McDonalds was inappropriately approved and there seems to be a conflict between the two sections of our ordinance. Moulder – Our competitor was given an advantage.

Robert Miller (Attorney for Moulder) – I have been in contact with your attorney Rick Heikkinen. It is his opinion that the Zoning Board of Appeals can interpret your ordinance. It is specifically authorized by the State of Michigan. When your ordinance is read as a whole it allows changeable copy. This message center is electronic and that categorizes changeable copy. I believe that your ordinance does not prohibit this signage. There should not be discrimination between the same types of signs. There are constitutional issues outlined in my brief. Note: A “Statement on Behalf of Colorado Coffee Company and Country Corners Shopping Center” was provided to the board.

Heikkinen was acknowledged as being present for the meeting.

A call to the public was made with the following response: Robert Miller (retail business owner) – Why wasn’t your attorney sitting at the board table? I feel that there is a conflict of interest. Theresa Larson – I pay property taxes and agree that your attorney should have made his presence known.

Gary McCririe (Township Supervisor) – I would cite Article 16.02, paragraph a, ...that the proliferation of signs is unduly distracting to motorists... Also refer to Article 16.08 under “Prohibited Signs” in determining Township action.

Staley – I believe that flashing boards are a safety issue. Stornant – How often does this sign change? Moulder – Approximately every eight seconds. It could read “Howell Fitness Center” for five seconds and then change to “Accepting new members” for five seconds.

Ledford – What exactly do you want? Moulder – The words “Country Corners” would be constant and the other retailers would be on the message board. Permanent message boards are allowed all over the township. Ledford – Why is it that your store didn’t have a sign to begin with? Moulder – I don’t know the history of the strip mall. I just know that it was not a part of the site plan. Ledford – There are 25 businesses here. Let’s talk about two signs with all the businesses listed. Staley – That is not the issue before this board.

Figuerski – It would be very distracting having a flashing sign. Retail owner – We do not expect a person to wait to see the next sign. Are you punishing us for the traffic on Grand River?

Staley – Reference is made to section 3.5110 – All illumination of signs and any other outdoor feature shall not be flashing, moving or intermittent type. Would the size of your sign meet the requirements of the zoning ordinance with regard to size? Moulder – Yes.

Robert Miller (Attorney) – This is not a variance request. Reference was made to section 23.02 of the Zoning Ordinance authorizing the Zoning Board of Appeals to hear and decide appeals where it is alleged by the appellant that there is an error in the order...

Staley – Reference was made to Meijers and the Zoning Board of Appeals denial of a request for signage by a bank operating within the facility. Moulder – We do not dispute that issue.

Larry – Flo Rite Paint – I have owned a store in the township for 14 years and recently moved to Country Corners. My business is off over \$50,000.00 because people don't know where I am. Small businesses do not have bottomless pockets.

Sherry – Federal Travel – First National Bank presents a safety issue. Staley – Our ordinance does not address that issue.

Stornant – This is a unique situation. I would like to see other options. Ledford – I am not about to go against the ordinance.

VanTassell – Reference was made to the definition section of the ordinance for an interpretation of “may” and “shall”.

Staley – This request should be sent to circuit court for legal interpretation.

Figurski – The way I read the ordinance, the sign should not be permitted. The safety issue is a large part of my decision.

Moved by Figurski, supported by Ledford, to deny the request before us tonight, determining that the permit was not illegally denied by the Township Manager's office. The motion carried unanimously.

02-42...A request by Peyton Clark II and Kim Clark, Section 28, 4111 Homestead, request is for a four-foot side yard variance with a 6-foot setback and a 21-foot rear yard variance with a 19-foot setback to construct a new home.

A call to the public was made with no response. Note: No variance for the second floor deck is being requested. Moved by Figurski, supported by Ledford, to approve a 3'4" side yard variance, a 6" side yard variance and a 21' rear (road side) variance as requested. The practical difficulty is the nonconforming size of the house and its placement on the lot. The motion carried unanimously.

02-43...A request by John and Maricel Roberts, Section 22, 3805 Highcrest, is for a variance to construct an addition to connect two nonconforming existing structures on the lot and an additional side variance to construct a second story addition, in essence extending the existing nonconformity.

A call to the public was made with the following response: Glenn Lent – I live adjacent to this parcel. My garage sits adjacent to my house. I would prefer to see the garage built closer to his house.

Tom Craine – That garage was built 13' into the road right-of-way. A quitclaim deed was drawn up and the township gave the petitioner five-feet. The garage is on the easement. That access is deeded to six separate homes. I don't know if that easement should allow access to the well on this site.

VanTassell – We do not have records of “vacation” at the township.

Staley – This request should be tabled until proof of ownership is established with a certified survey and other deeds.

Mike Page – I am concerned that a variance is being asked that would damage the large oak trees.

Moved by Ledford, supported by Figurski, to table until the next regular meeting of the board to allow the petitioner to furnish a survey and other related documents that would answer the concerns related to the location of the garage and the property line. The motion carried unanimously.

02-44...A request by Jays Marketplace, Section 4, 4030 Grand River, is for a side yard building variance and a side yard parking lot variance in the rear to construct a new building.

A call to the public was made with no response. Moved by Ledford, supported by Stornant, to approve a 9'6" southeast corner variance for parking, and a 2'2" east side variance for the building. The extraordinary circumstance is a result of a future expansion of Latson Road by MDOT. Note: The petitioner met with MDOT and the Livingston County Road Commission regarding the future expansion and this project was redesigned to accommodate that expansion. The motion carried unanimously.

Administrative Business

Moved by Ledford, supported by Stornant, to approve the minutes of the August 20, 2002 minutes with corrections to petitions 02-26 and 02-37. The motion carried unanimously.

The regular meeting of the Zoning Board of Appeals was adjourned at 9:50 p.m.



Paulette A. Skolarus
Genoa Township Clerk