

**GENOA CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
JANUARY 13, 2015
6:30 P.M.**

MINUTES

Chairperson Dhaenens called the regular meeting of the Zoning Board of Appeals to order at 6:30 p.m. at the Genoa Charter Township Hall. The members and staff of the Zoning Board of Appeals were as follows: Jerry Poissant, Marianne McCreary, Jean Ledford, Barbara Figurski and Jeff Dhaenens. Also present was Township staff member Ron Akers. There were 15 persons in the audience.

Pledge of Allegiance: The Pledge of Allegiance was recited.

Introduction: The members of the Board introduced themselves.

Approval of Agenda: Moved by Figurski, seconded by Ledford to approve the agenda as presented. **Motion passed.**

Call to the Public: was made with no response. (*Please Note: The Board will not begin any new business after 10:00 p.m.*)

14-30 ... A request by James Harmon, 4289 Sweet Road, for a variance from the maximum allowable size of a detached accessory building.

Mr. James Harmon was present for the petitioner. He stated that he moved to the house in 2007 and it already had a 30 x 40 storage barn. He owns a business and would like to extend the building to 24 x 50 for storage of his equipment.

Dhaenens questioned if the equipment could be stored in the existing structure. Mr. Harmon stated that some of the construction equipment is too tall and cannot fit into the existing structure. The builder that Mr. Harmon is using is TJ Lockwood out of Fowlerville.

Mr. Poissant stated that Mr. Harmon's neighbor was present at the last meeting and was very supportive of this variance. The Board stated that they are concerned about no hardship due to the land being presented by the petitioner. Mr. Harmon stated that he cannot build an attached garage due to the placement of his well, septic and power lines.

A call to the public was made with no response.

Moved by Ledford, supported by Figurski to deny case# 14-30 for 4289 Sweet Road petitioned by Mr. James Harmon for a 1200 sq. ft. variance from the maximum size to construct a 1200 sq. ft. addition to an existing structure of 1200 sq. ft.

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There is no practical difficulty, no extraordinary circumstances and the hardship is self-created. This would not make the property consistent with majority of the properties in the area. Since construction has begun the petitioner is instructed to remove all materials and return the property to its original state. **Motion carried.**

15-01 ... A request by Phil Poma III, 2092 Webster Park Drive, for a variance to allow an easement over a residential riparian lot which will provide access to the water for an individual who is not a resident of such residential riparian lot.

Mr. Phil Poma III and Lori Sider, petitioner's realtor, were present for the petitioner.

The Trudel's own a 10 foot wide piece property that is 2 feet from the accessory building. To access the house, the owner would have to cross over the 10 foot piece of property. The Trudel's would like to sell the 10 foot piece of property only if a 20 foot easement was granted for the Trudel's to access the lake. The Trudel's feel this would decrease the value of their property if they just sold the 10 foot piece of property without securing access to the lake. The 10 foot piece of property is deeded property and not an easement. The 20 foot easement would be exclusive to the Trudel's.

Ledford stated that the Board has a copy of the Pardee Lake Property Owners Association by-laws. McCreary stated that according to the by-laws it states that a non-riparian owner is supposed to have 50 feet of access.

Dhaenens stated the issues before the Board is the by-laws saying that the petitioner would need 50 feet and the neighbors are against this.

A call to the public was made with the following: An email from Charles and Christina Manuel, 4375 Irene Drive, stated the following: "As owners of Lots 3, 64, and 66 located within 300 feet of said easement request do hereby express objection to the request for the 20 feet easement to obtain access to Pardee Lake. It is our opinion that any easement for the purpose of obtaining or maintaining access to lake usage is inappropriate and such request(s) should be categorically denied by the Township Board of Appeals. Furthermore, this position is unquestionably maintained by the By Laws/Constitution of the Pardee Lake Homeowner's Association."

Jim French- 2191 Webster Park Drive stated that he is also President of the Pardee Lake Homeowner's Association and he supplied the Board with the by-laws and made reference to the anti-keyhole ordinance that was approved in 1989 and to the Court of Appeals case Genoa vs Jones. It was a similar case when Mr. Robert Jones wanted access to the lake with an easement for a non-riparian owner. It was settled in the Pardee Lake Associations favor. Mr. French stated some of the negative impacts of key holing would do to the lake such as the wellbeing of the lake. He would like the Board to deny this variance and not set a precedence. He would hope that the Board would prohibit the easement.

John Reynolds, 1922 Olympia Drive he stated that he received notice of this meeting because he lives within 300 feet of the petitioner. My property is on the lake. He is strongly opposed to anyone having access to the lake. There is an issue with people living

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on the lake and paying for weed control and the Trudel's would not have to pay for the special assessment. He requests that the Board not give approval of this variance. He does have sympathy for the Poma's however he would like to see the lake owner's rights protected. Mr. Reynold's stated concern if this variance was granted a precedence would be set.

Jamie Keller- Keller Williams Realty stated that she has worked with Lori on this item for a while. She stated that both property owners received the property by deaths on both sides. They tried to come up with an amicable agreement to correct something that happened a long time ago. Both owners have a hardship to try and keep up the property. She would like to see this approved.

Leanna Martin- potential buyer of the Poma's property- she stated that she is looking at purchasing the property. She has talked to the Trudel's about their concerns of someone coming in trying to take property from them. The person that owned the 10 foot before did put a fence up and blocked that person from reaching their house. There is a potential if someone came in and purchased the Trudel's property they could block the Poma's from accessing their house.

Scott Sell- Manistee County- He stated that he has been at the Poma's numerous times and the 10 foot piece of property is only 6 feet from the Poma's front door. It is taking a 10 foot easement and moving it to the other side.

Mr. Noble- 2187 Webster Park Drive- stated that it seems to him that it would be a trade for one piece of property and moving it to the other side.

Akers stated that the Township does not enforce Deed restrictions and the current zoning of the property prohibits the parcel from being split.

Moved by Poissant, supported by Figurski to deny case#15-01 for 2092 Webster Park Drive for a variance to allow an easement of 20 feet over a residential riparian lot which will provide access to the water for an individual who is not a resident of such residential riparian lot. **Motion carried.**

Administrative Business:

1. **Approval of minutes: moved** by Poissant, supported by McCreary to approve the December 9th, 2014 Zoning Board of Appeals meeting minutes with typographical corrections. **Motion carried.**
2. **Election of Officers:** Moved by McCreary, supported by Figurski, to appoint Dhaenens for Chairman and McCreary for Vice Chairperson. **Motion carried.**
3. **2014 Year End Report:** Akers stated the report showed the same concerns as the previous year in regards to non-conforming lots in zoning districts. He stated that the update to the Zoning Ordinance is slated to happen this year and that the feedback that the Planning Commission receives from the Zoning Board of Appeals is crucial. He would like the Board members to review the report and give any concerns to him before the next Zoning Board of Appeals meeting.

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4. **Correspondence:** Akers stated that he included training information for the members to attain if possible. There are training sessions in Hamburg Township, Pittsfield Township and the City of Okemos. Akers showed the Board the new postcard notices that will be sent out to residents within 300 feet.
5. **Township Board Representative Report:** Ledford stated that the January 5th, 2015 meeting was canceled to due lack of agenda items.
6. **Planning Commission Representative Report:** Figurski stated that at the December meeting Mr. Gronow's overhang was approved on his detached accessory structure, Red Olive was tabled until the January meeting and the Well Church was approved. The January meeting included the demolition of the Bennigans building to allow for construction of a 5 unit center which would include a Panera restaurant. Red Olive was approved for construction at the existing Prairie House location. Battery Solutions requested to be postponed.
7. **Zoning Official Report:** Akers stated the new part-time Ordinance Officer started on January 5th, 2015 and he is going to be working on the Capital Improvement Plan to be presented to the Planning Commission and Township Board.
8. **Member Discussion:** Akers recommended to the Board that when making a denial motion that there should be a reference to the standards of approval for variance requests.
9. **Adjournment: moved** by Ledford, supported by Figurski to adjourn the January 13th, 2015 Zoning Board of Appeals meeting at 8:50 p.m. **Motion carried.**