

**GENOA CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
October 18, 2016, 6:30 PM**

MINUTES

Call to Order: Chairman Dhaenens called the regular meeting of the Zoning Board of Appeals to order at 6:31 pm at the Genoa Charter Township Hall. The members and staff of the Zoning Board of Appeals were present as follows: Jeff Dhaenens, Marianne McCreary, Jean Ledford, Barb Figurski, Dean Tengal, and Amy Ruthig, Zoning Administrator.

Pledge of Allegiance: The Pledge of Allegiance was recited.

Introduction: The members of the Board introduced themselves.

Approval of the Agenda:

Moved by Ledford, seconded by Figurski, to approve the agenda as presented. **The motion carried unanimously.**

Call to the Public: The call to the public was made at 6:33 pm with no response.

1. **16-32...A request by Brian Lahaie, 2862 Stanwood Place, for rear and side yard variances in order to build an attached garage addition to an existing home.**

Mr. Lahaie was not present.

Moved by Ledford, seconded by McCreary, to postpone Case #16-32 until the next regularly scheduled Zoning Board of Appeals meeting of November 15, 2016. **The motion carried unanimously.**

2. **16-28...A request by Jon and Pamela Okopski, 100 Chilson Road, for a use variance to allow chickens and ducks in the Suburban Residential (SR) Zoning District.**

Mr. Okopski is asking to be able to keep the chickens and ducks that he has until they pass naturally. They are five years old and the expectant life of the birds is only a few more years. He stated that he and the Township believed he was in compliance under the Right to Farm Act; however, that act was amended in 2014, which brought him out of compliance.

Board Member McCreary stated that Senator Joe Hune is proposing changes to the legislation to the Right to Farm Act.

Mr. Okopski stated that the State of Michigan has visited his home and they showed him the proper way to dispose of the birds' waste. He was previously using it for compost, which is against their regulations. He now disposes of it in the trash.

The call to the public was made at 6:43 pm.

Ms. Nancy Green of 120 Chilson stated that she complained about the applicant's rooster in 2015. He made noise from 4:45 am to 7:30 pm. The chickens and the rooster come into her yard. The rooster has been removed. He has built a fence, a chicken coop, and two chicken runs and has never obtained permits for this work. His chickens, ducks, rabbits, snakes, and cats come into her yard.

She contacted the Township in May of 2016 and was told that he was allowed to have the birds because of the Right to Farm Act. She contacted the State and learned that he was not allowed to have them.

She moved into the home in 2013 and the chickens were not there, but he had the ducks.

Ms. Ann Brennan of 95 Chilson submitted a letter, along with Tracy Clement of 115 Chilson, and Margaret Witt of 110 Chilson. The chickens have been at the applicant's home for five years and have never been a problem and Mr. Okopski has always taken care of them. She does not hear the chickens or the ducks. They do not come into her yard. Having the birds is also a learning experience for the applicant's sons. She feels he should be granted the variance.

Luke Okopski stated that the birds and ducks do not fly. They are contained in their run and then there is another wire fence higher than the birds can jump.

Pamela Okopski stated that the birds, the coop, and the garden have been there for five years, before the Greens moved in. The birds do not fly, they stay in the yard and they do not go in the neighbors' yards. If they are forced to get rid of the birds, they will have to be destroyed. The birds do not make noise and her sons are learning from them.

The call to the public was closed at 7:01 pm.

Mr. Okopski reiterated what his wife said. The chickens and the coop were there before the Greens moved in. He added the chicken run afterwards. With regard to the rooster, they bought the birds as chicks and did not know one of them was a rooster. He knew he could not keep it and as soon as he found out, he was working on making arrangements to give it away and that took several months. They cannot find anyone to take the birds because of their age. They would have to be destroyed. They are like their pets; like if someone had a dog.

Chairman Dhaenens stated that other letters of support of the variance were received from Jim Rowell and John and Stacy Dunlap.

Moved by Ledford, seconded by Tengel, to approve case #16-28 for Jon and Pamela Okopski of 100 Chilson Road for a use variance to allow five chickens and three ducks currently on their property within a SR Zoning District, which prohibits chickens, based on the following findings of fact:

- The livestock has been on the property since 2011.
- The livestock are pets rather than farm animals.
- The applicant shall not bring any other livestock onto the property.

- Upon the natural deaths of the current livestock, replacement livestock will not be brought to the property and no additional livestock shall be allowed.
- The Michigan Right to Farm Act, passed in 1981, provided exemptions from local zoning for agricultural uses, including keeping of livestock. In 2014, the MDARD made a determination that local government ordinances would prevail in primarily residential areas (Category 4 sites). This change in how Right to Farm is applied caused the applicant's property to become non-conforming; therefore, the need for the variance was not self-created.
- The applicant must comply with the State's Generally Accepted Agricultural and Management Practices for manure management and care of the livestock.
- The capacity and operations of public roads, utilities, and other facilities and services will not be significantly compromised.
- This property is located in an area predominantly made up of small residential lots and commercial properties. The use variance would alter the character of the neighborhood. The keeping of chickens and ducks in the SR District has potential to pose a detriment to adjacent properties.

The granting of this variance is conditioned upon:

- The applicant shall submit a list detailing breed, gender, approximate age, and a photograph of each of the chickens and ducks.

The motion carried unanimously.

16-35...A request by Joe Valenti, 3535 Beattie Road for a size variance and a variance to allow a detached accessory structure in the front yard.

Mr. Valenti stated he recently purchased the home. There is no basement and he has three sons. He would like to build a detached garage in the front yard. He would be matching the existing carport. The home was built by William Lindhout and is a very unique design and the lot is full of walnut trees. If he builds the garage where he is proposing, he will need to take out two trees, one of which is dead. If he was to put it in the rear, he would need to remove approximately 12 trees. Additionally, there are DTE wires that run along the rear of his property.

After a brief discussion, it was determined that the size variance is 146 square feet, and not 262 as originally believed. The Board asked Mr. Valenti if he would consider reducing the size of the structure to 24 x 28, making the variance requested 50 feet. Mr. Valenti agreed.

The call to the public was made at 7:45 pm with no response.

Moved by Tengel, seconded by Ledford, to approved Case #16-35 by Joe Valenti of 3535 Beattie Road for a size variance of 50 feet and a variance to allow a detached accessory structure in the front yard, due to the following findings of fact:

- The unusual size of the existing structure, which caused the total size to be 1,250 square feet.
- Granting of the variance would give substantial justice to the applicant.
- The extraordinary circumstances are that this is a corner lot, there is a utility easement running through the rear of the lot, and the topography of the applicant's property.
- Granting of the requested variances will not impair an adequate supply of light or air to adjacent properties or unreasonably increase the congestion on public streets or

increase the danger of fire or endanger the public safety, comfort, morals or welfare of the inhabitants of the Township of Genoa.

- Granting the requested variances would not have any impact on the appropriate development, continued use or value of adjacent properties and the surrounding neighborhood.

This approval is conditioned upon:

- The structure must be guttered with downspouts.
- No additional outbuildings will be allowed.

The motion carried unanimously.

Administrative Business:

1. Approval of minutes for the September 20, 2016 Zoning Board of Appeals Meeting

Board Member McCreary advised of changes needed to her motion for Case #16-30.

Moved by Figurski, seconded by McCreary, to approve the September 20, 2016 Zoning Board of Appeals Meeting minutes as corrected. **The motion carried unanimously.**

2. Correspondence – Ms. Ruthig had no correspondence this evening.
3. Township Board Representative Report - Board Member Ledford gave a review of the Township Board Meeting of October 17, 2016.
4. Planning Commission Representative Report – Board Member Figurski gave a review of the Planning Commission meeting of October 10, 2016.
5. Zoning Official Report – Ms. Ruthig had nothing to report this evening.
6. Member Discussion - No members had any items to discuss.
7. Adjournment

Moved by Figurski, seconded by Ledford, to adjourn the meeting at 8:10 pm. **The motion carried unanimously.**

Respectfully submitted:

Patty Thomas, Recording Secretary