

**GENOA CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
January 17, 6:30 PM**

MINUTES

Call to Order: Chairman Dhaenens called the regular meeting of the Zoning Board of Appeals to order at 6:32 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, Amy Ruthig, Zoning Administrator; Kelly VanMarter, Community Development Director/Assistant Township Manager; and Joe Seward, Township Attorney.

Pledge of Allegiance: The Pledge of Allegiance was recited.

Introduction: The members of the Board introduced themselves.

Approval of the Agenda:

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

Election of Officers:

Moved by Ledford, seconded by Tengal, to nominate Jeff Dhaenens for Chairman. Board Member Dhaenens accepted the nomination. **The motion carried unanimously.**

Moved by Figurski, seconded by Tengal, to nominate Marianne McCreary for Vice Chairperson. Board Member McCreary accepted the nomination. **The motion carried unanimously.**

Call to the Public: The call to the public was made at 6:34 pm with no response.

1. **16-07...A request by Tim Chouinard, 1185 Sunrise Park, for two side-yard variances to construct a second story to an existing home.**

It was noted that this item has to be re-advertised as an additional variance is needed.

Moved by McCreary, seconded by Ledford, to move Case #16-07 to the next regularly-scheduled Zoning Board of Appeals meeting of February 21, 2017. **The motion carried unanimously.**

2. **As ordered by the Circuit Court of Livingston County, the variance request for the property located at 5555 E. Grand River and requested by Matt Ikle for a variance to construct a detached accessory structure in the front yard.**

Mr. Matt Ikle, the property owner, and Mr. Roger Myers of Myers & Myers Law Firm were present. Mr. Myers stated that this case is back before the ZBA pursuant to Judge Hatty. He has submitted three documents; an opinion letter from Joel Schmidt, a broker with Reality

Concierge Group, a letter from Jeremy Huntoon, Mr. Ikle's builder, and a new topographic survey prepared by Mr. Ikle's engineer.

Mr. Myer stated that the detailed topographical survey shows that there would not be an issue with the view for the neighboring properties due to the elevation of the Ikle's property and the adjacent ones. The elevation of the northern corner of Mr. Ikle's proposed building is 963.5 feet, which is the same as the road that it abuts. The roof peak will be 14 feet so the elevation would be 977-978 feet at the top of the building. The elevation of Lot #34 is above 977 feet. Also, a walkout basement would not be able to be built on Lot #34 due to the elevation and the existing walking path, which is required to remain intact and maintained. The base elevation of the home built on Lot #34 would be from 980-985 feet and that is five feet higher than Mr. Ikle's proposed garage. He believes this will dispel the information that was provided previously stating that this structure will block the view of lake for the home built on Lot #34. He noted that the materials for the structure will match the home, which are brick and high-end siding. Granting the variance will not have an adverse impact on the value of the adjacent properties and disagrees with the letter submitted by Mr. Gerkin, who is the broker for the owner of Lot #34. The elevation contours provided for Mr. Ikle's property confirm that it is not possible to place the structure in another location on the lot.

Chairman Dhaenens reiterated his concerns stated in the previous meetings, specifically that the southwest corner of the building is only five feet from the road. With all of the grading that was done on this property, he believes it could have created a place to put the garage to meet the ordinance. The property was a "blank sheet of paper". The need for the proposed location of the building is self-created.

Mr. Myers stated that the grading was dependent on the elevations of Wildwood Drive. Also, it has been noted by the Board that the garage could be built into the hill; however, the engineer states this cannot be done due to the topography and drainage on the site.

Mr. Ikle stated he did not build the home into the hill. That area was already flat. He had to build up the property. He brought in 1,600 yards of dirt.

Board Member McCreary asked Mr. Ikle if there were other options considered when planning the location and design of the home so the accessory building could be built with the original building plans. Mr. Ikle stated he was aware that he would need a variance for this so he removed it from the original plan. At the time the home was designed and built, he was not aware that he would need this much storage. He built the home according to handicap standards and only looked at one plan.

Board Member Figurski asked Mr. Ikle if he has considered adding onto the existing garage. Mr. Ikle stated the Road Commission did not want a driveway on Wildwood that close to Grand River.

Board Member Tengel noted that the person who builds on Lot #34 may not want to see the lake as much as they would like to see the greenspace of the park. Mr. Myers stated he was addressing the concerns raised by the owner of Lot #34 at the previous meeting.

Board Member Tengal asked if there were any letters or documents from an engineer noting the impossibility of the outbuilding being located on another part of the property and Mr. Ikle answered "no".

Mr. Ikle stated he did not create the topography of the site.

Board Member Ledford stated the Planning Commission and Township Board work hard to develop the zoning ordinance and it should be upheld. The neighbors have the right to have it respected. Mr. Ikle should have known what the criteria were when designing and developing the site.

Mr. Ikle stated that the Township Staff Report stated that he has met all of the requirements of granting a variance. Ms. VanMarter stated that when staff writes the reports, they do not have all of the information, specifically the neighbors' opinions. Additionally, they do not always go visit the site. Staff has part of the information and not all of it. They are simply providing their opinion. Mr. Myers believes that they have addressed the neighbors' concerns.

The call to the public was made at 7:15 pm.

Mr. Craig Fons of 4650 Edenburg owns Lots 33, 34 and 132. He reiterated his concerns addressed in his letter and at the last meeting. He disagrees that he would not be able to build a walkout basement on his site. The walkway that was mentioned has not been maintained, no one really uses it, and has been built on with sheds, play structures, etc. He has even spoken to Township staff about vacating it. He does not see the hardship. There is a lot of room within the building envelope and it can be done. He also disagrees that the garage would not impede the site lines of his property.

Mr. Kevin Gerkin of 5268 Edgewood Shores Drive believes in granting variances; however, he disagrees with the applicant's request, and it would be setting a precedent. It would hinder the view of the lake for Lot #34. Mr. Ikle's drainage issues can be addressed with excavation. He concurs with Mr. Fons that the walking trail has not been used in many years. He also agrees that a walkout could be built on Lot #34. He does not see a hardship. There is plenty of area in the building envelope to build the garage. He is working with Mr. Fons to list his property; however, they are waiting on this issue to be resolved.

The call to the public was closed at 7:25 pm.

Board Member Figurski is concerned about maintenance that may need to be done on the sewer line that is very close to the proposed garage.

Board Member McCreary believes the hardship is self-created. She would like to make this work for Mr. Ikle; however, there are safety concerns. Wildwood is a hill, with a curve, and there is a beach and park in this area. She has spoken to the Road Commission and they stated that the criteria for granting the permit for the driveway was not met, but it was granted due to the fact that there was previously a driveway to this site, further up Wildwood, which has since been vacated. Board Member Tengal and Chairman Dhaenens agree that there are safety issues, especially in icy weather.

All Board Members stated that they have visited this site on multiple occasions.

Mr. Myers stated that even if the building was placed inside the building envelope, the driveway would still be in the same location.

Board Member McCreary does not agree with the opinion letter from Joel Schmidt of Realty Concierge Group that this garage will not affect the surrounding properties. All lake properties are entitled to enjoy the view of the lake. Mr. Ikle stated he could put a two-story home within the building envelope and that could block Lot #34's view of the lake. He could also plant large trees in the area that could block the view. Board Member Tengel stated that would be out of the control of the Township if it was inside the building envelope. He does not believe there is a legal reason for the Board to grant this variance. It does not meet all four of the requirements.

Mr. Ikle disagrees that Lot #34 is a lake view lot. It is fronted on Grand River.

Moved by McCreary, seconded by Figurski, to deny the variance request for Case #16-07 at 5555 E. Grand River by Mr. Matt Ikle based on the following findings of fact:

- The applicant has failed to provide the required four standards of approval for granting a variance based on the following findings of fact:
 - There is no hardship. The applicant has self-created this situation as he had a blank canvas in which to review the entire building envelope for improving his property prior to the construction process and before permits were issued and resolved to build his home in the location it now sits and stated, "We didn't know we would need this much storage". This is a want and not a need.
 - The applicant was aware he would be required to have a variance approved should he want an accessory building in the location he is applying for today and has made no efforts to modify any options prior to construction or during the variance process.
 - The impact on the surrounding neighborhood would have a negative effect due to the character of the lakefront community surrounding this property. There are no other homes immediately in the vicinity that have a large outbuilding on the water side between the home and the lake. There is an expectation that the unobstructed view around the water be upheld in lakefront communities. The outbuilding will obstruct a visual site line of the homes to the immediate west as referenced by the letter submitted to the Board and as witnessed by members who have visited the site.
 - Public safety and welfare of the residents, visitors, and neighbors of Genoa Township will be extremely challenged as the site line distance is not a clear line of vision from the base of the proposed drive on Wildwood to Grand River. This does not meet the minimum of the County Road Commission requirements despite the approval letter that has been obtained from the Road Commission. The following conditions of concern for public safety that rule out allowing this structure are:
 - No room for error if the road conditions are such that skidding down this 1 1/2 track roadway due to ice, snow or dirt that cause a car to be out of control by its driver. A 24 x 36 pole barn will be sitting five feet from a

utility pole and be unavoidable. This is not only a detriment to drivers, but also to the applicant should they hit his accessory structure.

- The accessory building will be blocking the clear site line to a park that residents access for boats and docks and returning to their homes. The length of the building will take up 36 feet of frontage prior to getting to the roadway for pedestrians using this park area that fronts where the proposed structure will sit.
- The location of a 24 x 36 pole barn five feet off the road poses a danger to drivers needing to yield in the case of eastbound Wildwood traffic to Grand River or the applicant exiting the building.
- At the base of where the outbuilding sits just 20 feet away is a 90-degree turn for the road, which again, is a concern for safety and clear vision.

Chairman Dhaenens agrees with the motion. The need for the variance is self-created and the public safety is the biggest issue. He is disappointed that Mr. Ikle made no attempt to compromise or to move the building as was requested previously. There were no changes to the original plan. Mr. Ikle also failed to re-stake the property. Board Member Ledford agrees.

The motion carried unanimously.

Administrative Business:

1. Approval of minutes for the December 13, 2016 Zoning Board of Appeals Meeting

Moved by Figurski, seconded by Ledford, to approve the December 13, 2016 Zoning Board of Appeals Meeting minutes as presented. **The motion carried unanimously.**

2. Correspondence – Ms. Ruthig had no correspondence.
3. Township Board Representative Report - Board Member Ledford gave a review of the Township Board Meetings of January 3, 2017.
4. Planning Commission Representative Report – Board Member Figurski advised there was no Planning Commission meeting in January.
5. Zoning Official Report
Ms. Ruth stated there will be a joint meeting between the Township Board, ZBA, and Planning Commission on Monday, January 30, 2017 to discuss the upcoming changes to the zoning ordinance.
6. Member Discussion
There were no member discussion items.
7. Adjournment

Moved by Figurski, seconded by Ledford, to adjourn the meeting at 8:11 pm. **The motion carried unanimously.**

01-17-16 ZBA Approved Minutes

Respectfully submitted:

Patty Thomas, Recording Secretary