

**GENOA CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
July 18, 2017 6:30 PM**

MINUTES

Call to Order: Vice Chairperson McCreary 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: Jean Ledford, Barb Figurski, Dean Tengel and Kelly VanMarter, Community Development Director/Assistant Township Manager. Absent was Jeff Dhaenens.

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 Tengel, to approve the agenda as presented. **The motion carried unanimously.**

Call to the Public: The call to the public was made at 6:32 pm with no response.

1. 17-11 ... A request by Janet Evans, 4276 Highcrest, for a front yard variance to construct an addition.

Ms. Janet Evans, the owner, and Mr. Mark Carlson, the builder, were present. After receiving comments from the Board in May, they have pushed the entire building back five feet to allow more room for parking. They are now requesting a front yard setback of 17.1 feet for a variance amount of 17.9 feet. They believe they will be able to park four to five cars in the driveway.

Vice-Chairperson McCreary asked Ms. Evans to explain the hardship that is causing the need for the variance. Ms. Evans stated in order to add a garage they would need a variance. There is still 24 feet from the face of the garage to the curb and a normal parking space is nine feet.

Mr. Carlson stated that the well, the grinder pump, the air conditioner, and the gas line are in the north end of the walkway area.

Ms. Evans showed pictures that she took of other homes in the neighborhood showing the length of those driveways and how hers would be very similar.

Vice-Chairperson McCreary is still concerned with the site visibility when vehicles will be pulling out of the driveway as well as for vehicles approaching the home. Mr. Carlson stated there is still five to eight feet before the front of the vehicle is to the curb line because all of the cars will be side by side and not two deep in the driveway. He noted that his neighbor's garage is closer to the road by two feet than what they are proposing.

The call to the public was made at 6:47 pm.

Mr. Dan Mancini of 4212 Highcrest Drive stated that Ms. Evans will have more room for cars than he has.

Ms. Pepper Bergin 4292 Highcrest agrees with what Ms. Evans wants to do. She does not have a lot of visibility pulling out of her driveway and she has never had a problem.

Tom Rafferty 4244 Highcrest feels this is a perfect addition to the neighborhood.

The call to the public was closed at 6:50 pm

Vice-Chairperson McCreary stated that two letters in support were received. One from Blair Bowman of 4252 Highcrest and one from Vince Parlove of 4284 Highcrest.

Moved by Ledford, seconded by Tengel, to approve Case #17-11 for 4276 Highcrest Drive, petitioned by Janet Evans, for a front-yard setback variance of 17.1 feet from the required 35 feet for a front-yard setback of 17.9 feet to construct a 29 x 34 addition to an existing home, based on the following findings of fact:

- Strict compliance with the front-yard setback would prevent the construction of an addition to the existing single-family home; however, there are other homes in the area with reduced front-yard setbacks that would support substantial justice for the applicant and make it consistent with the other homes in the area.
- The need for the variance is not self-created.
- The extraordinary circumstances are the non-conforming location of the existing home and the narrow lot.
- Granting the variance will not impair an adequate supply of light or air to adjacent properties and will have little or no impact on the appropriate development, continued use or value of adjacent properties and the surrounding neighborhood. Since the location of the property on the curve of Highcrest and the road being located very close to the property line, an increase in congestion and public safety is a concern due to a vehicle backing out of the driveway that could possibly not be seen by oncoming traffic.
- Construction of the second-floor addition will occupy the on-site parking area. The applicant is to ensure that there will be sufficient on-site parking.

Approval of this variance is conditioned upon the following:

- The structure must be guttered with downspouts.
- Drainage from the home must be maintained on the lot.
- Sufficient on-site parking shall be maintained at all times.
- The applicant should obtain a survey documenting the location of the front lot line and the edge of the roadway.

The motion carried unanimously.

2. 17-12 ... A request by Brice Nelson, vacant lot Forest Beach Drive, Parcel #11-26-301-024, for two side-yard variances to construct a single-family home.

Mr. Brice Nelson was present. He stated that he has clarified his lot lines and is now only requesting 10-foot setbacks on each side, instead of eight feet on one side he originally requested.

He presented a PowerPoint showing homes in the area, noting that these homes were originally cottages but most of them have been remodeled and increased in size. He believes that what he is proposing is consistent with the neighborhood, and, in fact, his home is more modest than most of these.

He showed a spreadsheet outlining the variances that have been granted to twelve other homes in his neighborhood. The hardship is the narrowness of all of the lots. Every home in the neighborhood needed a variance to build or remodel their homes. Eleven of the twelve homes he presented were granted larger variances than he is requesting.

Additional slides and pictures showed the distance between homes in the area, which included many locations where it is 23 feet, 21 feet, 15 feet, and 12 feet. The home he is proposing will be 25 feet from one neighbor and 75 feet from the other. The homeowner's association is in support of his plan.

Mr. Nelson stated that the size of his lot is non-conforming within the LDR Zoning District because it is less than one acre. It is a very narrow lot. What he is proposing is consistent with the neighborhood and will not have a negative impact on his neighbors.

Vice-Chairman McCreary noted that other homes in the neighborhood have detached their garage, which required them to get a smaller variance than what Mr. Nelson is requesting.

Board Member Tengal stated that Mr. Nelson is going to need a variance if he attaches the garage or not. He agrees that what is being proposed is consistent with the neighborhood.

Board Member Figurski feels that the home should be smaller. She noted that the variances that were granted for the neighbors were given a very long time ago.

Ms. VanMarter stated that she reviewed Mr. Nelson's spreadsheet and made some notations so the Board would have complete information. Her information shows when the variance was granted, the width of the homes built, etc. Additionally, some of the homes were eventually built with less of a variance than what was granted.

The call to the public was made at 7:20 pm.

Mike Morgan of 6483 Forest Beach Drive, the President of the Homeowner's Association, stated that the Board reviewed Mr. Nelson's plans and ideas and none of the members had issues with what is being proposed. There was no negative feedback.

The call to the public was closed at 7:21 pm.

Vice-Chairperson McCreary does see the hardship being the size of the lot and it being non-conforming to the LDR Zoning District; however, other homes in the area have accommodated the width of their homes and built detached garages. She would like to have seen some accommodations from the original house plans presented last month.

Mr. Nelson requested that his reason given for needing the variance stated at the previous meeting be stricken from the record. He likes the home that he is proposing because it is more energy efficient and they will be able to save many of the trees on the lot. He added that there is living space behind the garage so it would not be feasible to detach it from the home.

Mr. Tengel stated that the Board's concern is that a variance would be granted that would be detrimental to the neighbors, surrounding neighborhood, or the Township and he does not see Mr. Nelson's proposal doing that.

Moved by Tengel, seconded by Ledford, to approve Case #17-12 for Lot 24 and ½ of 25 of Forest Beach Drive (vacant), petitioned by Brice and Carrie Nelson, for two side-yard setback variances of 20 feet from the required 30 feet for side-yard setbacks of 10 feet to construct a new home, based on the following findings of fact:

- Strict compliance with the side-yard setbacks for the LDR zoning district would make the lot unbuildable. The width of the proposed house is not typical for the narrow lake lot and would not be compatible with the adjacent homes; however the home proposed creates enough distances between the adjacent homes.
- The exceptional or extraordinary condition of the property is that it is a legal, non-conforming lot for the LDR zoning. The non-conformity is the size and width of the lot. The need for the variance is due to the narrowness of the lot. The proposed home could be altered; however, the maker of the motion does not feel it is necessary.
- The need for the variance is not self-created.
- Granting the variance 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.
- The proposed structure would be of sufficient distance from adjacent structures to not create any fire or other safety hazards.
- The proposed variances would have a limited impact on the appropriate development, continued use or value of adjacent properties and the surrounding neighborhood.
- Granting of this variance will offer substantial justice to the applicant.
- Approval of this variance is conditioned upon the following:
 - The home must be guttered with downspouts with water draining toward the lake.
 - A survey shall be conducted of the property.

The motion carried (Tengel – yes; Ledford – yes; McCreary – yes; Figurski – no).

3. 17-13... A request by Steve and Ann Davis, Cynthia and Richard Lukotch, and Michael and Laura Kipley, 867 Sunrise Park, for a side-yard variance and a variance from the principal structure to construct a detached accessory building.

Steve and Ann Davis, Cindy Lukotch, the owners, and Bob Miller, the contractor, were present.

Mr. Davis stated they would like to take down the old shed on the property and replace it with one new 20 x 24 building for storage. This home is not a full-time residence; it is a day cottage. They are asking for a five-foot variance from the principal structure and a five-foot side-yard setback variance.

If they move the building further away from the lot line, they lose the ability to park cars in this area.

The call to the public at 7:43 pm with no response.

Moved by Figurski, seconded by Ledford, to approve Case #17-13 for 867 Sunrise Park Drive, petitioned by Steve and Ann Davis, Cynthia and Richard Lukotch, and Michael and Laura Kipley, for a rear-yard setback variance of five feet from the required 10 feet for rear-yard setback of five feet and a setback from a principal structure variance of 5 feet from the required 10 feet to construct a 20 x 24 detached accessory structure, based on the following findings of fact:

- Strict compliance with the side-yard setback and setback from the principal building would not allow the applicant to construct the detached accessory structure in the desired location.
- The exceptional or extraordinary condition of the property is the location of the neighbor's shed that is non-conforming, which forces the 10-foot setback and the small narrow lot.
- The need for the variance is not self-created for the side-yard setback.
- The variance from the principal building could be eliminated if the proposed structure was smaller or located more centralized on the lot.
- Granting the variance will not impair an adequate supply of light or air to adjacent properties.
- The proposed variances would have a limited impact on the appropriate development, continued use or value of adjacent properties and the surrounding neighborhood.

Approval of this variance is conditioned upon the following:

- Drainage from the detached structure must be maintained on the lot.
- The structure must be guttered with downspouts.
- Onsite parking will be provided
- Livingston County Building Department approval for a five-foot setback from a principal structure should be considered.

The motion carried unanimously.

4. 17-14... A request by Bradley Varga, 3009 E. Schafer Road, for a side-yard variance to construct a detached accessory building.

Bradley and Jennifer Varga were present. They would like to build a 30x60 pole barn. If he was to comply with the setback requirements, the building would need to be put directly behind his home. If he moved it to one side, he would need to take down his fruit trees and the driveway is on the other side.

Vice-Chairperson McCreary noted that the property is 10 acres and questioned why the structure could not be put further back and to one side so it would not be directly behind the home. Mr. Varga stated that he only mows 2 acres of the property and the rest is hardwood. If the setback was met, he would be able to see the structure from every window in the back of the house.

Mr. Tengel noted that the property is 340 feet wide so there should be another location where the building could be built. He would not support this motion as he does not find that it meets

the requirements for granting a variance. Vice-Chairperson McCreary agrees. Mr. Varga stated he would have to take out a lot of trees to put it in a different location.

Board Member Ledford believes that Mr. Varga's request is acceptable.

The call to the public was made at 7:58 pm.

Mr. Doug McCray of 5962 Audubon Trail lives to the east of Mr. Varga. He does not have any objections to the request.

The call to the public was closed at 7:59 pm.

Board Member Ledford **moved** to approve Case #17-14 for 3009 E. Schafer Road, petitioned by Bradley Varga, for a side-yard setback variance of 20 feet from the required 40 feet for a side-yard setback of 20 feet to construct a 30 x 60 (1,800 square feet) detached accessory structure, based on the following findings of fact:

- The applicant is not limited to the size of the structure due to the conforming Country Estates lot.
- The extraordinary circumstances of the property is the long narrow lot in the Country Estates zoning district, the location of the septic field behind the home, and the orientation of the existing home and driveway location on the lot.
- The variance does not provide substantial justice for the district and is not necessary to preserve or enjoy a property right similar to other country estate zoned parcels.
- There are some existing accessory structures in the immediate area that appear to have non-conforming setbacks.
- Granting the variance 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 residents of Genoa Township.
- The proposed variances would have a limited impact on the appropriate development, continued use or value of adjacent properties and the surrounding neighborhood.

Approval of this variance is conditioned upon the following:

- The structure must be guttered with downspouts.
- Drainage from the structure must be maintained on the lot.
- The petitioner will comply with the accessory structure requirements.

The motion failed for a lack of support.

Moved by Tengel, seconded by Figurski, to deny Case #17-14 for 3009 E. Schafer Road, petitioned by Bradley Varga, for a side-yard setback variance of 20 feet from the required 40 feet for a side-yard setback of 20 feet to construct a 30 x 60 (1,800 square feet) detached accessory structure, based on the following findings of fact:

- Strict compliance with the side-yard setback would not unreasonably prevent the use of the property.
- The variance does not provide substantial justice for the district and is not necessary to preserve or enjoy a property right similar to other CE zoned parcels. There are some existing accessory structures in the immediate area that appear to have non-conforming setbacks.

- The exceptional or extraordinary condition is the property is it is a long narrow lot in the CE zoning district, the location of the septic field behind the home and the orientation of the existing home and driveway location on the lot; however, the need for the variance is self-created.
- The granting of the variance will not impair an adequate supply of light and air to adjacent property 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 Genoa Township.
- The proposed variances would have a limited impact on the appropriate development, continued use or value of adjacent properties and the surrounding neighborhood.

The motion carried unanimously.

17-15... A request by Martin and Jennifer Toomajian, 4377 Filbert, for front, side, and waterfront variances in order to construct a second story addition with an attached garage.

Martin and Jennifer Toomajian were present. They would like to build a garage and a second story addition to their existing home. The practical difficulty is that the existing stone home was built in 1926 and is already within the required setbacks. The second story addition will not be going beyond the existing footprint of the home.

Mr. Toomajian presented letters of support from his neighbors who could not be here this evening. He showed photographs of neighboring homes that are closer to the street than what they are proposing.

The call to the public was made at 8:18 pm with no response.

Vice-Chairperson McCreary noted that letters of support were received from Jim and Bar Whims of 4371 Filbert and Chris Sincic of 4383 Filbert.

Moved by Tengel, seconded by Ledford, to approve Case #17-15 for 4377 Filbert, petitioned by Martin and Jennifer Toomajian, for a front-yard setback variance of two feet from the required 35 feet for front-yard setback of thirty-three feet, side-yard setback variance of one foot from the required ten feet for a side-yard setback of nine feet, and a 22.6 foot waterfront setback variance from the required 270.7 feet for a waterfront setback of 248.1 feet to construct a second-story addition with an attached garage, based on the following findings of fact:

- Strict compliance with the front-yard setback and waterfront setback would prevent the applicant from constructing the proposed second-story addition and an attached garage.
- Granting the requested variances would do substantial justice to the applicant as well as to the other property owners in the district, with the exception of the waterfront variance.
- The exceptional or extraordinary conditions of the property are the location of the existing single-family home, which is non-conforming, and the narrowness of the lot.
- The variance would make the property consistent with the majority of other properties in the vicinity, with the exception of the waterfront variance.
- The need for the variance is not self-created for the side-yard setback.
- Granting the variance 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 Genoa Township.

- The proposed variances would have a limited impact on the appropriate development, continued use or value of adjacent properties and the surrounding neighborhood.

Approval of this variance is conditioned upon the following:

- The structure must be guttered with downspouts.
- The building height will be limited to 25 feet.

The motion carried unanimously.

17-16... A request by Jonathan Bowling, 4800 Dillon Street, for a front-yard setback variance to construct a covered front porch.

Mr. Jonathan Bowling was present. They would like a covered porch to use for additional living space. The practical difficulty is the location of the existing home on the lot. It would increase the value of their home and increase the curb appeal which would indirectly increase the values of other homes. Their home is one of the lower valued homes in the neighborhood and the addition of this covered porch will bring their values closer to their neighbors'. It does not protrude far from their home that would negatively affect their neighbors.

Vice-Chairperson McCreary noted that some homes in the area are closer to the road than what Mr. Bowling is proposing.

The call to the public was made at 8:30 pm with no response.

Moved by Ledford, seconded by Figurski, to approve Case #17-16 for 4800 Dillon, petitioned by Jonathan Bowling, for a front-yard setback variance of three feet from the required 40 feet for front-yard setback of thirty-seven feet to construct a covered front porch, based on the following findings of fact:

- Strict compliance with the front-yard setback would prevent the applicant from constructing the covered porch to the existing single-family home.
- Granting this variance would offer substantial justice to the applicant.
- The exceptional or extraordinary condition of the property is the non-conforming shallow lot and the location of the existing home on the property.
- The need for the variance is not self-created.
- Granting the variance 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 residents of Genoa Township.
- The proposed variances would have a limited impact on the appropriate development, continued use or value of adjacent properties and the surrounding neighborhood.

Approval of this variance is conditioned upon the following:

- Drainage from the home must be maintained on the lot.
- The structure must be guttered with downspouts.

The motion carried unanimously.

17-17... A request by Jon and Bonnie Unruh, 4220 Highcrest Drive, for a front-yard variance to construct a two-story addition.

Jon Unruh, the property owner, and Kelly House-Seaman, the architect, were present. Mr. Unruh stated they would like to construct an attached garage with a bonus room on the second floor. The location of the existing home on the lot is already non-conforming. The current setbacks were not in place when the home was built. They attempted to design their home to be consistent with their neighbor to the north at 4212 Highcrest. The garage will allow for parking further from the road than the current cement pad. This project will not impede the flow of traffic and will improve the neighborhood.

The call to the public was made at 8:46 pm

Mr. David Mancini of 4212 Highcrest lives next door to Mr. Unruh. The fence between their homes belongs to him and they just learned that it is actually on the property line. The fence will be removed.

The call to the public was closed at 8:47.

Moved by Tengel, seconded by Ledford, to approve Case #17-17 for 4220 Highcrest Drive, petitioned by Jon and Bonnie Unruh, for a front-yard setback variance of 15 feet from the required 35 feet for a front-yard setback of 20 feet to construct an attached garage and bonus room to an existing single-family home, based on the following findings of fact:

- Strict compliance with the front-yard setback would prevent the applicant from constructing the addition to the existing single-family home as proposed.
- There are other homes in the vicinity with reduced front-yard setbacks that would support substantial justice to the applicant.
- The exceptional or extraordinary conditions of the property are the non-conforming location of the existing home and the narrow lot.
- Granting the variance would make it consistent with many homes in the vicinity.
- The need for the variance is not self-created.
- Granting the variance will not impair an adequate supply of light or air to adjacent properties. It may cause an increase in congestion to the public streets with parking and the backing of vehicles into the street. The applicant should demonstrate there will be sufficient on-site parking; however, there will be more space than the current cement pad.
- Providing the parking concerns are addressed, the proposed variance would have a limited or no impact on the appropriate development, continued use or value of adjacent properties and the surrounding neighborhood.

Approval of this variance is conditioned upon the following:

- Drainage from the home must be maintained on the lot.
- The structure must be guttered with downspouts.
- Sufficient on-site parking shall be maintained at all times.
- The neighbor's fence shall be removed.
- Highland Avenue being vacated as noted on the engineer's drawing.

The motion carried unanimously.

17-18... A request by Tim Chouinard, 1253 Sunrise Park, for front, side, waterfront, and rear-yard variances and a lot coverage variance to demolish the existing home and construct a new home.

Moved by Tengel, seconded by Figurski, to table Case #17-18 until the next regularly-scheduled meeting, at the applicant's request. **The motion carried unanimously.**

Administrative Business:

Approval of the minutes for the June 20, 2017 Zoning Board of Appeals Meeting

Moved by Figurski, seconded by Ledford, to approve the June 20, 2017 Zoning Board of Appeals Meeting minutes as presented. **The motion carried unanimously.**

Correspondence – Ms. VanMarter had no correspondence.

Township Board Representative Report - Board Member Ledford gave a review of the Township Board meeting held on July 17, 2017.

Planning Commission Representative Report – Board Member Figurski stated there was no Planning Commission meeting in July.

Zoning Official Report – There were no items to report.

Member Discussion – Vice-Chairperson McCreary stated the ZBA is exploring the idea of having an alternate Board Member in the case where there would not be a quorum.

Adjournment

Moved by Figurski, seconded by Ledford, to adjourn the meeting at 9:02 pm. **The motion carried unanimously.**

Respectfully submitted:

Patty Thomas, Recording Secretary