

**GENOA CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
June 19, 2018 - 6:30 PM**

MINUTES

Call to Order: Vice Chairperson McCreary called the regular meeting of the Zoning Board of Appeals to order at 6:33 pm at the Genoa Charter Township Hall. The members and staff of the Zoning Board of Appeals were present as follows: Marianne McCreary, Jean Ledford, Bill Rockwell, Greg Rassel, and Amy Ruthig, Zoning Official. Absent was Dean Tengel.

Pledge of Allegiance: The Pledge of Allegiance was recited.

Introduction: The members of the Board introduced themselves.

Approval of the Agenda:

Moved by Board Member Rassel, seconded by Board Member Rockwell, to approve the agenda as presented. **The motion carried unanimously.**

Election of Officer

Moved by Board Member Rassel, seconded by Board Member Rockwell, to table the Election of Officer until the July 17, 2018 Zoning Board of Appeals Meeting because there is not a full board present. **The motion carried unanimously.**

Call to the Public:

The call to the public was made at 6:35 pm with no response.

1. 18-10 ... A request by David and Deborah Sullivan, 5372 Wildwood Drive, for a size variance and a variance to construct a detached accessory structure in the front yard (Tabled 5-15-18).

Mr. David Sullivan and his friend, Mike Gehring of 959 Brighton Lake Road, were present. Mr. Sullivan stated that he cannot build the structure and meet the ordinance requirement because of the hill on his property. He is also requesting a square footage variance. The existing carport is being calculated in the square footage maximum allowed. If that was not included, he would be within the requirement. He would be willing to decrease the size of the building to meet the size requirement.

He stated he would be using the building for storage, an art room for his wife, and a recreation area for himself and his grandchildren. Only one car will be able to park inside.

The call to the public was made at 6:52 pm with no response.

Moved by Board Member Ledford, seconded by Board Member Rassel, to deny the petitioner's request for a size variance of 24 square feet due to no evidence to support practical difficulty or substantial justice. **The motion carried unanimously.**

Moved by Board Member Rockwell, seconded by Board Member Rassel, to approve the variance request for Case #18-10 for 5372 Wildwood Drive by David and Deborah Sullivan to construct a detached accessory structure in the front yard due to the following findings of fact:

- Strict compliance with the ordinance would not allow the applicant to construct the detached accessory structure in the desired location.
- It does appear there exist multiple detached accessory structures in the vicinity that do not meet the setback requirements; therefore, the variance may provide substantial justice to the property.
- The exceptional or extraordinary condition of the property is the topography of the lot and the lot is a through lot, which has two front lot lines.
- The need for the variance to construct a detached accessory structure in the front yard is not self-created.
- The granting of this variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in 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 variance would have little 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:

1. Drainage from the detached structure must be maintained on the lot.
2. The structure must be guttered with downspouts.
3. The maximum average height of the structure cannot exceed 14 feet.

The motion carried unanimously.

2. 18-13 ... A request by Joe and Ann Holubka, 895 Sunrise Park, for a front yard variance to demolish an existing home and construct a new home.

Mr. and Mrs. Holubka were present. Mrs. Holubka stated the residence is currently used as a cottage and they would like to remove this structure and build a permanent home. The hardships are that the property is an odd shaped lot which would prevent

the design of a marketable house. The existing house was built prior to the zoning ordinance and is already a non-conforming structure. They are proposing to build the new house very close to the footprint of the original home. The setback along the water will be further from where the home is currently. This variance will not interfere or discourage the appropriate development, continued use or value of adjacent properties in the surrounding neighborhood. The proposed home is reasonably sized for the lot and consistent with surrounding homes

The call to the public was made at 7:04 pm..

Tim Robinson of 903 Sunrise Park believes this new home would be an asset to the neighborhood.

The call to the public was closed at 7:05 pm.

Vice-Chairperson McCreary read two letters of support for the applicant from Lyn Hewitt of 837 Sunrise Park and Brett Gierak of 921 Sunrise Park.

Moved by Board Member Ledford, seconded by Board Member Rassel, to approve Case #18-13 for 895 Sunrise Park by Joe and Anne Holubka of 19230 Augusta Ct, Livonia for an 3 foot 1 inch front yard setback variance from the required 35 feet for a setback of 26 feet 11 inches in order to demolish the existing home and construct a new single family home with the existing garage attached. The existing garage would be considered illegal and non-conforming if left unattached. The applicant will bring the new home in conformance with the waterfront setback. The variance is recommended for approval due to the following findings of fact:

- Granting this variance would offer substantial justice to the applicant. Homes in the immediate area have similar setbacks.
- The exceptional or extraordinary condition of the property is the small lot size and location of the existing home with attached garage, which will remain.
- The need for the variance is not self-created and is not encroaching closer to the front property line than the attached garage; therefore, there is no increase in non-conformity.
- The variance would make the property consistent with the surrounding area.
- The granting of this variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in 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 variance would have little 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:

1. The applicant shall be required to completely remove the remaining garage structure if construction on the new principal residence is not commenced within 90 days of the removal of the existing home.
2. Township staff shall have discretion to approve extensions to the above deadline under proven special or extenuating circumstances, but in no case shall that extension exceed six months for Item #1.
3. The final architectural design shall not exceed the maximum 24 foot height requirement.
4. The structure must be guttered with downspouts.
5. Dust control measures shall be taken during demolition of the existing home.

The motion carried unanimously.

3. 18-14 ... A request by Randy and Marjorie Czajka, 6550 Challis Court, for a front yard variance to construct an addition to an existing home.

Mr. and Mrs. Czajak were present. They are requesting a front yard setback variance to put on an addition to an existing home. The hardships are the extreme slope of the lot and the locations of the well and septic, which are all located in areas where they would be able to put on an addition. Their house with the addition will be consistent with homes in the neighborhood and will not have a negative impact on their neighbors.

It was noted the front yard setback is currently non-conforming.

The call to the public was made at 7:20 pm with no response.

Vice-Chairperson McCreary stated a letter was received from several neighbors who are in support of the addition.

Moved by Board Member Ledford, seconded by Board Member Rassel, to approved Case #18-14 for 6550 Challis Road by Randy and Marjorie Czajka for a 44 foot 4 inch front yard setback variance from the required 50 feet to a 5 foot 8 inch front yard setback to construct an addition 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; however, the use of the property for a single-family residence as it has been for the last 13 years is not impacted.
- Granting the variance would allow the home to be similar in size and features to other homes in the vicinity. There are homes in the immediate area that appear to have non-conforming setbacks.
- The exceptional or extraordinary condition of the property is the topography of the lot, location of the existing home, and the location of the well and septic.
- The need for this variance is non self-created.

- The granting of this variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in 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 variance would have little 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:

1. Drainage from the structure must be maintained on the lot.
2. The structure must be guttered with downspouts.

The motion carried unanimously.

4. 18-15 ... A request by Jeanne Young and Bonnie Appell, 7505 Herbst Road for a height and impervious variance to allow a privacy fence in the side and front yard.

Katherine Riesterer, legal counsel for the applicant, and Jeanne Young were present. Ms. Riesterer stated the contractor constructed the fence and he did not obtain a permit. Prior to the applicant coming before the ZBA, the neighbor filed a lawsuit, that is still pending, because they believe the fence is located on their property.

The applicant would like to wait until the court case is settled before the Township makes a determination on the variance request

The call to the public was made at 7:30 pm.

Mr. Martin Popp of 7485 Herbst Road stated that he is the neighbor who is involved in the lawsuit with the applicant. No permits were pulled to construct the fence. He had an engineer do a survey and it showed that the fence is built on his property. He has asked the applicants to move the fence off of his property and they have refused. He would request the Township deny the height and location variances for the fence.

The call to the public was closed at 7:34 pm.

Moved by Board Member Rockwell, Seconded by Board Member Rassel, to table Case #18-15 until the next scheduled ZBA meeting following the court ruling on the pending lawsuit. **The motion carried unanimously.**

5. 18-16 ... A request by James Mitte, 5248 Prairie View, for a side yard variance to construct a detached accessory structure.

Mr. Mitte was present. They would like to add a detached garage and are requesting a five-foot side-yard variance. The practical difficulty is that the lot drops 25 to 30 feet from one side to the other. There is currently less than 25 feet from the current garage

to their side property line. He noted that when the home was built in 1976, part of their driveway and the retaining wall was put on the neighboring property. The location of the septic field prohibits him from moving the garage to meet the setback. There are other homes in the neighborhood who have detached garages. The garage will be 20 feet wide, which is four feet less than a standard garage.

The call to the public was made at 7:50 pm with no response.

The Board discussed the lack of a hardship or practical difficulty and that the request for the variance is self-created.

Vice-Chairperson McCreary advised the applicant that there is not a full Board this evening, so he has the option to table his request until there are more members present or he could amend his request and return to a future meeting.

Moved by Board Member Rassel, seconded by Board Member Ledford, to table Case #18-16 per the petitioner's request until the July 17, 2018 ZBA meeting. **The motion carried unanimously.**

6. 18-17 ... A request by Robert and Jennifer Marschall, 936 White Willow, for a front yard variance to construct an addition to an existing home.

Tom Ballou, the architect, and Robert Marschall, the property owner, were present. Mr. Ballou stated that the practical difficulty is the unusually shaped lot. They are proposing a front addition; however, due to the shape of the lot, they are requesting a side yard setback variance. Because of where the house is located on the lot and the shape of the lot, the applicant would not be able to add an addition without a variance.

Board Member Rassel noted that if the road was straight and not in a cul-de-sac, the applicant would not require a variance. Ms. Ruthig confirmed that statement.

The call to the public was made at 8:07 pm with no response.

Moved by Board Member Rassel, seconded by Board Member Ledford, to approve Case #18-17 from Robert and Jennifer Marschall for a front yard setback variance of 12 feet from the required 35 feet for a 23 foot side yard setback based on the following findings of fact:

- Granting the variance would allow an addition to the home consistent with the building lines of other homes in the neighborhood, which are not on the inside curve of a cul-de-sac.
- The exceptional or extraordinary condition of the property is the location of the existing home and the curve of the front yard lot line that follows the road, which encroaches into what would typically be considered the side yard.
- The need for the variance is not self-created.

- The granting of this variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in 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 variance would have little or no impact on the appropriate development, continued use or value of adjacent properties and the surrounding neighborhood.

This recommendation is based on the following conditions:

1. Drainage from the structure must be maintained on the lot.
2. The structure must be guttered with downspouts

The motion carried unanimously.

7. 18-18 ... A request by Rob and Sandra Bialowicz, 1370 Elmhurst, for a waterfront and side yard variance to construct an addition to an existing home.

Mr. and Mrs. Bialowicz were present. Mr. Bialowicz stated they are proposing to demolish the existing detached garage and construct an attached garage and an addition to the home. The hardships are the odd-shaped lot and the location of the existing home. They will not be encroaching further into the side yard setback than where the existing detached garage is currently located.

The existing home currently encroaches into the waterfront setback. However, since they will be covering the porch, it will increase the waterfront variance to 41.5 feet.

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

Moved by Board Member Ledford, seconded by Board Member Rassel, to approve Case #18-18 for 1370 Elmhurst Drive by Rob and Sandra Bialowicz of 5743 Long Pointe Drive, Howell for 41.5 foot waterfront setback variance from the required 84.5 feet for a 43 foot waterfront setback, and a side yard setback of 5 feet from the required 10 feet for a 5 foot setback in order to construct an addition to an existing home by demolishing an existing detached accessory structure and constructing an attached garage to the existing single-family home based on the following findings of fact:

- The Township Assessor has verified that the applicant does own to the water's edge since the location of the waterfront property line on the drawing varies considerably from the parcel aerial overlay on the GIS map.
- Strict compliance with the waterfront and side yard setback would prevent the applicant from constructing the addition to the existing single-family home as proposed. The applicant is proposing to not encroach any further into the side yard setback as the current house location. There are other homes in the vicinity with reduced water front yard setbacks that would support substantial justice.

- The exceptional or extraordinary condition of the property is the non-conforming location of the existing home, narrow lot, and the adjacent lot is not in the same plat; therefore a deeper lot allows for a larger setback, which impacts the setback for the adjacent site.
- Granting this variance would make it consistent with many homes in the vicinity.
- The need for the variance is not self-created.
- Granting this variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in 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 this variance would have little 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:

1. Drainage from the structure must be maintained on the lot.
2. The structure must be guttered with downspouts.

The motion carried unanimously.

8. 18-19 A request by Marcel Normand, 4137 Clifford Drive, for a variance to create a lot with a detached accessory structure without a principal structure to be able to split the property.

Ms. Ruthig stated that Mr. Normand requested to have his application tabled until the next ZBA meeting

Moved by Board Member Rassel, seconded by Board Member Rockwell, to table Case #18-19 until the July 17, 2018 Zoning Board of Appeals Meeting. **The motion carried unanimously.**

Administrative Business:

1. Approval of the minutes for the May 15, 2018 Zoning Board of Appeals Meeting.

There were some typographical changes that needed to be made.

Moved by Board Member Ledford, seconded by Board Member Rassel, to approve the May 15, 2018 Zoning Board of Appeals Meeting minutes with the changes noted. **The motion carried unanimously.**

2. Correspondence –

Ms. Ruthig introduced Michelle Kreutzberg, who is the new Alternate Board Member for the ZBA.

3. Township Board Representative Report - Board Member Ledford provided a review of the Township Board meetings held on May 21, June 4, and June 18, 2018.
4. Planning Commission Representative Report – Board Member McCreary provided a review of the Planning Commission meeting held on June 11, 2018.
5. Zoning Official Report – Ms. Ruthig provided a review of the applications for July’s meeting.
6. Member Discussion

There were no items discussed this evening.

7. Adjournment

Moved by Board Member Rassel, seconded by Board Member Ledford, to adjourn the meeting at 9:16 pm. **The motion carried unanimously.**

Respectfully submitted:

Patty Thomas, Recording Secretary