

**GENOA CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
FEBRUARY 19, 2019 - 6:30 PM**

MINUTES

Call to Order: Chairman Tengel called the regular meeting of the Zoning Board of Appeals to order at 6:30 pm at the Genoa Charter Township Hall. The members and staff of the Zoning Board of Appeals were present as follows: Dean Tengel, Jean Ledford, Bill Rockwell, Greg Rassel, Michele Kreutzberg, and Amy Ruthig, Zoning Official. Absent was Marianne McCreary.

Pledge of Allegiance: The Pledge of Allegiance was recited.

Election of Officers:

Ms. Ruthig suggested that the Election of Officers item be tabled until a full Board is present. **Moved** by Board Member Rassel, seconded by Board Member Ledford, to table the Election of Officers until the next Zoning Board of Appeals meeting. **The motion carried unanimously.**

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.**

Call to the Public:

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

1. 19-04... A request by Matt Wilson, 4761 Bauer Road, for a size variance to construct a detached accessory structure.

Mr. Matt Wilson, the property owner, and Mr. Ryan Kratz, the architect, were present. Mr. Wilson stated he is requesting a size variance of 150 square feet to build a detached garage for storing his lawn equipment, which are currently stored under a tarp in his yard.

He believes that he has met all of the criteria for granting a variance. If he were to attach the structure to the home, he would not need a variance however, there is a 109" elevation difference from the home to the barn, along with large existing trees, so there is nowhere to attach the garage.

Chairman Tengel questioned the hardship or practical difficulty associated with the property that requires the additional 150 square feet.

Mr. Wilson stated that his home is very old and was built without a garage. His neighbor's homes are more modern and were built with garages. They are then allowed an additional outbuilding. He is not afforded the same use of his property as his neighbors. Additionally, due to the age of his home, he has less storage in his home than his neighbors' modern homes. Mr. Kratz noted that if the garage was able to be attached to the home, the size would not be limited; however, due to the property grade changes as noted by Mr. Wilson, it is not able to be attached. He showed a drawing showing the change in grade of the property.

The call to the public was made at 6:38 pm with no response.

Board Member Rockwell finds this similar to a variance that was granted with the same type of hardship, which was the topography of the lot. Board Member Ledford stated the property on Hughes Road was much smaller than this property and this property could support the detached garage.

Mr. Wilson stated there is no other location on his property where the garage can be placed because of the location of the well and septic.

Chairman Tengel advised Mr. Wilson that there is no practical difficulty to grant the requested additional square footage above the maximum size allowed by ordinance.

Moved by Ledford, seconded by Rassel, by to deny Case #19-04 for Matt Wilson for 4761 Bauer Road for to 1053 square foot detached accessory structure based on the following findings of fact:

- The combined total of all accessory buildings in any residential district shall be a maximum of 900 square feet for lots less than two acres.
- Granting the variance would not offer substantial justice and is not necessary for the preservation and enjoyment of substantial property rights similar to that of other properties in the same zoning district and vicinity.
- There is nothing unique to this lot that would support or justify extraordinary circumstances and would make the lot inconsistent with other lots in the vicinity

since most of the structures in the immediate vicinity are less than 900 square feet.

The motion carried (Rassel - yes; Kreutzberg - no; Rockwell - no; Tengel - yes; Ledford - yes).

2. 19-05... A request by Brad and Amber Busch, Pathway Drive, Parcel #11-10-101-044, for variances to construct an accessory structure on a lot without a principal use and side yard variance for the proposed accessory structure.

Mr. Jeff Doyle of Doyle Homes and Brad Busch, the homeowner, were present. Mr. Doyle stated that at last month's meeting, they requested to withdraw their request and have returned with a different one. They have returned to request a variance to construct an accessory structure on a lot without a principal use and a side-yard variance for the proposed accessory structure. He added that Mr. and Mrs. Busch wanted to combine this lot with the lot they also own where their home is located; however, there is a road right-of-way that runs between the two so they cannot be combined. They are proposing to move the structure back approximately 11 feet from the property line where the existing structure is located.

The call to the public was made at 7:00 pm.

Mr. Rick Rodriguez, representing James Barton, stated he is a licensed builder and Mr. Barton's son-in-law. Mr. Barton's concern is the size of the building. The applicant is requesting side yard setbacks of five feet and five feet and the ordinance requires 5 feet and 10 feet. He is not concerned with having the structure there, but he is concerned with the setback variance. He believes the variance request is a want and not a need. It is self-created. There will be no way of accessing the property behind the structure with a vehicle without entering onto the neighbors' properties. The other accessory structures on Pathway Drive meet the side yard setbacks. He noted that the applicant is proposing to build the garage into the hill on the property. There are no plans submitted how soil stabilization will be done. He would like a detailed civil engineering plan to be submitted by the applicant.

Mr. Doyle stated they hill is only nine or ten feet high and they will only be going seven feet into the hill.

Mr. Mark Trump owns the property next to the applicant. He is concerned that if the side setbacks are allowed at five feet and five feet, 1 inch, how will this affect him if he wants to build a home or a structure on his property. Ms. Ruthig stated there must be

10 foot separation from the two structures, so Mr. Bush's home can be five feet from the property line.

Chairman Tengal noted that the Building Department and the Drain Commissioner's Office will address the issue of the soil erosion concerns. That is an issue that is beyond the scope of the Zoning Board of Appeals.

The call to the public was closed at 7:10 p.m.

Board Member Rassel stated last month the concern was with the height variance request and the applicant has addressed that concern.

Moved by Rassel, seconded by Ledford, to approve Case #19-05 for Brad and Amber Busch at 792 Pathway Drive for a side variance of 4' 11" and to build an accessory structure without a principle structure, based on the following findings of fact:

- Strict compliance with the zoning requirements would prevent the applicant from constructing the proposed accessory structure. Granting the variance to construct the proposed structure on the lot would give the applicant substantial justice due to other accessory structures in the area on lots without principal dwellings.
- The exceptional or extraordinary condition of the property is the narrow lot size and that the parcel with house cannot be combined to this parcel. Granting of the variance for the structure on a lot without a principle structure would make it consistent with other properties in the vicinity.
- The need for the variance is not self-created.
- The granting of the variances 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.
- The proposed variance would have little or no impact on the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.

The motion carried unanimously.

3. 19-06... A request by Ralph and Mary Slider, 3470 Pineridge Lane, for a waterfront variance to construct a new single-family home.

Mr. and Mrs. Slider were present. They are requesting a 6.5 foot waterfront yard setback variance. This building will not be further toward the lake than the existing home.

Mr. Slider stated the challenge with the property is that it narrows toward the road so it would be difficult to get a boat from the road into the garage. Because of the curve of the properties, both of the homes on either side of them actually face away from him so their house would not impede their lake view.

Chairman Tengal does not believe there is a hardship or practical difficulty with the property that would justify granting this variance. Board Member Ledford agrees. Mr. Slider noted that the covered patio can be shorted by nine feet and then an uncovered deck could be built fifteen feet further out from that instead of the size of the covered patio that is being proposed.

Mr. Slider noted that his neighbor was granted a 102 foot variance in 2002, which allows them to place their home 63 feet from the water's edge.

The call to the public was made at 7:26 pm with no response.

Board Member Rassel agrees that there is no practical difficulty with the property. Board Member Kreutzberg agrees.

Moved by Board Member Rassel, seconded by Board Member Kreutzberg to deny Case #19-06 for Ralph and Mary Slider of 3470 Pineridge Lane for a waterfront yard setback variance of 6.5 feet, due to the following findings of fact:

- Strict compliance with the waterfront yard setback would prevent the applicant from constructing the new home with the same setback as the existing home. While the adjacent homes have reduced waterfront setbacks the majority of the homes in the vicinity are setback further from the water than what is proposed. Granting the variance would provide substantial justice to the applicant in consideration of the adjacent homes however this is not supported by review of properties in the district or vicinity. Granting of the variance request is not necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and vicinity of the subject parcel.
- There are not exceptional or extraordinary circumstances or conditions applicable to the property or the intended use which are different than other properties in the same zoning district. The variance would not make the property consistent with the majority of other properties in the vicinity.
- The need for the variance is self-created by the applicant.
- The granting of the 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.

The motion carried unanimously.

4. 19-07... A request by Lynda and Jackie Williams, 4219 Homestead Drive, for a waterfront variance to construct a sunroom to an existing home.

Ms. Lynda Williams and Ms. Jackie Williams stated they are requesting to add an all-seasons sunroom to their home. They are requesting an 11 foot, 7 inch waterfront setback variance. The hardship is that this is the only location on their home where they can put this addition because of the type of roofline of the home.

Board Member Kreutzberg's concern is the sight line of the lake for the neighbor to the left. This would block their view.

The call to the public was made at 7:37 pm.

Mr. Mark O'Brien at 4225 Homestead Drive, which is directly to the south of the Williams' property is concerned with his sight line of the lake being blocked. It will cause the value of his property to decrease.

The call to the public was closed at 7:38 pm.

Board Member Rockwell feels the requested variance is self-created.

Motion by Board Member Ledford, seconded by Board Member Rassel, to deny Case # 19-07 for 4219 Homestead Drive for the applicants and property owners, Lynda & Jackie Williams, for waterfront setback variance of 11.7 feet from the required 40 feet to 28.5 feet, due to the following findings of fact:

- There are no exceptional or extraordinary circumstances or conditions of the property. The variance would not make the property consistent with the surrounding properties.
- The need for the variance to construct the sunroom is self-created.
- Strict compliance with the setbacks would cause the applicant to be unable to construct the sunroom but does not unreasonably prevent the use of the property. There are other homes in the vicinity that do not meet the waterfront

setback however the proposed setback is considerably less and would not be consistent with the homes in the vicinity.

The motion carried unanimously.

Administrative Business:

1. Approval of the minutes for the January 15, 2019 Zoning Board of Appeals Meeting.

Board Member Ledford noted some changes needed.

Moved by Board Member Rassel, seconded by Board Member Ledford, to approve the January 15, 2019 Zoning Board of Appeals Meeting minutes as appended. **The motion carried unanimously.**

2. Correspondence – There were no correspondence this evening.
3. Township Board Representative Report - Board Member Ledford provided a review of the Township Board meetings held on February 4 and February 18, 2019.
4. Planning Commission Representative Report – Ms. Ruthig provided a review of the Planning Commission meeting held on February 11, 2019.
5. Zoning Official Report – Ms. Ruthig had nothing to report.
6. Member Discussion - There were no items discussed this evening.
7. Adjournment

Moved by Board Member Rassel, seconded by Board Member Rockwell, to adjourn the meeting at 7:58 pm. **The motion carried unanimously.**

Respectfully submitted:

Patty Thomas, Recording Secretary