

**GENOA CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
APRIL 16, 2019 - 6:30 PM**

MINUTES

Call to Order: Vice-Chairperson McCreary 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: Marianne McCreary, Jean Ledford, Bill Rockwell, Greg Rassel, Michelle Kreutzberg, and Amy Ruthig, Zoning Official. Absent was Dean Tengel.

Pledge of Allegiance: The Pledge of Allegiance was recited.

Election of Officers:

Vice-Chairperson McCreary stated the Election of Officers item will be tabled until a full Board is present. **Moved** by Board Member Rassel, seconded by Board Member Rockwell, 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 Ledford, 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.

Vice-Chairperson McCreary explained the criteria for the granting of a variance.

1. 19-10... A request by Chad Newton, 5536 Wildwood Drive, for a variance to construct decks in the front yard, building height variance, a rear, and a front yard variance to construct an addition.

Mr. Chad Newton and Mr. Jim Scrivens, the architect, were present.

Mr. Newton stated they have changed their plans based on the comments received from the Board when he was before them previously. He explained the changes and the proposed new addition. The new second-story addition is contained within the existing footprint; however, there is a three-foot bump out that encroaches into the rear yard setback. The bump out is for the stairway.

They will also be putting a deck on the front (lake side) on the second story, which is the same size as the existing deck below it, which is 10 feet, 7 inches. They are also proposing to install an awning over the front door, but it will be within the existing patio footprint.

The height variance is needed due to the walk-out basement. The other three sides of the home comply with the height requirements. He noted that this house will not be as high as the neighboring homes.

He added that this parcel is smaller than the the current zoning. The four neighbors to the west have decks that face the lake so they wanted to match the neighbors; however, their deck is further back from the lake than the other four.

Mr. Newton also owns the property on the other side of the walking path, so he tried to combine them; however, it is not able to be done because of the path.

The call to the public was made at 6:46 pm.

Mr. John Jones of 5525 East Grand River is in attendance to see what is planned for the property. He questioned if the two properties would be combined and Mr. Newton stated they would not.

The call to the public was closed at 6:48 pm.

Moved by Board Member Ledford, seconded by Board Member Rassel, to approve Case #19-10 for 5536 Wildwood Drive for Chad and Rhonda Newton to construct an addition to their home necessitating a 17-foot front yard variance from the required 35 feet for an 18 feet front yard setback, a 30-foot rear setback variance from the required 40 feet for a 10-foot rear yard setback, and a 3' 10" building height variance from the required 25 foot height for a 28 feet 10 inch height, based on the following findings of fact:

- Strict compliance with the setbacks would unreasonably prevent the use of the property since it would cause the lot to be unbuildable as shown on the submitted site plan. Granting of the variances would offer similar property rights as the properties in the immediate vicinity and would offer substantial justice.
- The exceptional or extraordinary condition of the property is the small lot size, irregular shape, typography and corner lot. In addition, this area and lot is unique because the waterfront side of the lot is also considered the front yard due the platted roadway that separates the lot from the lake which makes the walkout basement portion of the home in the front yard. The need for the variances is not self-created.
- The granting of these variances would not impair an adequate supply of light and air to adjacent property. Granting of these variances would not increase the congestion in public streets and increase the danger of fire and endanger the public safety.
- The proposed variances would have little or no impact on the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.

This approval is conditioned upon the following:

1. Drainage from the detached structure must be maintained on the lot.

The motion carried unanimously.

2. 19-11... A request by Aaron and Lauren Richards, Parcel 3B Brighton Road, vacant property just east of Bauer Road for parcel 4711-25-300-058, for a variance to encroach into the 25 foot natural undisturbed features wetland setback to enhance the natural drainage in order to construct a new home.

Mr. and Mrs. Richards were present. Mr. Richards stated their hardship is that Old Brighton Road is in their building envelope as well as in the existing wetland. There is asphalt, dirt, grass, and other debris that is along old Brighton Road that they will need to be removed in order to build their home in the building envelope. It will also improve the drainage on their site. They are requesting a variance because removing this material will cause them to encroach into the natural wetland.

Their home next door is currently being constructed and received the same variance.

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

Mr. Todd Richards of 7114 Brighton Road stated he went through the same process last year and received a variance. Removing old Brighton Road and all of the debris is necessary to build the home.

The call to the public was closed at 7:06 pm.

Move by Board Member Ledford, seconded by Board Member Rassel, to approve Case #19-11 for Parcel 3B Brighton Road, Tax Code #4711-25-300-058 for petitioners Aaron and Laura Richards for a 15-foot wetland rear-yard setback variance from the required 25 feet to 10 feet to allow for removal of asphalt from Old Brighton Road and removal of fill dirt located within the setback in order to construct a new home. The Zoning Board of Appeals finds that the conditions in Items a through e of Section 13.02.05 of Genoa Township's Wetland Setback Standards have been met. Approval of these variances are based on the following findings of fact:

- Given the proximity of the home to the wetland, the wetland setback is necessary to preserve the wetland's ecological and aesthetic value.
- The potential impacts from normal residential use, including but not limited to, fertilizer or pesticide use so close to the sensitive area has the ability to further impact the wetland. The applicant shall provide evidence as to how the reduced setback would preserve the wetlands ecological and aesthetic value at the same level as the required 25 setback.
- The grading plan shows off-site grading and does not significantly affect the natural drainage pattern. Approval shall be submitted for the proposed off-site work by the adjacent owner. The proposed 905 contour line shall be revised to end at the existing line.
- A decreased buffer area will increase the potential for erosion. If the area is to be established as lawn or patio area, the additional compacted land surface could contribute to increased volumes and higher velocities by lessening the degree of stormwater infiltration and increasing the rate of runoff.
- The applicant had full knowledge of the required natural features setback prior to purchase of the lot. The proposed home footprint utilizes the entire depth of the building envelope which puts the home within 2.27 feet of the required natural undisturbed wetland setback.
- An MDEQ permit is not needed for a work inside in the 25 foot natural features setback from the wetland.

This approval is conditioned upon the following:

1. The applicant shall permanently demarcate and install educational signage to indicate the edge of the undisturbed natural area. This shall remain in perpetuity to ensure future owners do not further encroach.

2. The entire remaining 10 foot setback buffer area shall remain in a natural and undisturbed state and is not eligible for trail or recreational area exemptions.
3. The applicant shall submit a landscape plan for Township approval for the remaining 10 foot buffer zone area. Native wetland friendly vegetation shall be provided to help reduce erosion and maintain water quality.
4. Downspouts shall be directed into dry wells or rain gardens containing native plants to help slow the flow of water to the wetlands.
5. The applicant shall utilize slow release and low phosphorus fertilizers, if used.
6. Silt fencing must be utilized during the construction phase, and the applicant must obtain all necessary approvals from the Livingston County Drain Commissioner.

The motion carried unanimously.

3. 19-12... A request by Phil and Heather Sutherland, 5111 Forest View Court, for a side yard variance to construct a detached accessory structure.

Mr. and Mrs. Sutherland were present. They are requesting a side-yard variance to build an accessory structure. The structure meets all of the other requirements of the ordinance.

Their hardship is that they have an irregular-shaped lot. They presented an aerial view of the neighborhood, showing the shape of their property and that it is larger than their neighbors. The surrounding properties are less than one acre, and their property is just over one acre. They are asking for a variance of 20 feet for a side-yard setback of 20 feet. Because of the size of their lot, they are required to have a 30-foot setback, but their neighbors are only required to have a 10-foot setback. It would provide them substantial justice to afford them the same rights their neighbors possess.

They believe the mature trees that are on their property are an asset to the neighborhood and they want to keep them. Additionally, the location of the septic field limits where the structure could be placed.

Vice-Chairperson McCreary questioned the existing shed on the lot. Mr. Sutherland stated that with the home, the shed, and the proposed structure, they will still be within the maximum requirements allowed in the Township Ordinance.

They showed a sketch drawing of the design of the structure.

Board Member Kreutzberg asked if it was moved to the back, would a setback be required. Mr. Sutherland stated they would also need a variance.

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

Ms. Linda Rolley of 5117 Forest View Court lives next door to the Sutherlands. She does not agree with a variance being given and she does not agree with the building being built.

McCreary stated letters have been received from neighbors.

Mr. Frank Serbus of 5011 Old Hickory is concerned that the roof is at 20 feet and the size of the building seems out of character for the neighborhood. He suggested a smaller structure be considered.

A letter signed by 12 neighbors was submitted. They are not in favor of the proposed location for the structure nor its design.

Mr. Sutherland stated that since Mr. Serbus submitted his letter, he spoke to him and agreed to soften his view with landscaping that is mutually agreed upon.

He added that the other neighbors that signed the letter are not able to see the structure from their properties.

Ms. Rolley stated she is to the south of this property and would be able to see the structure.

Mr. Sutherland presented photographs showing the view of their house from the road and how the building would not be seen due to a large tree that is in front of it. There is also substantial vegetation that would block the view of the structure from the home to the right of them.

Mr. Rassel confirmed that if this property was one acre or less, they would not need a variance to place the structure with a 10-foot side-yard variance.

Ms. Kathy Cutter of 5112 Forest View, who lives across the street, stated she is opposed to the variance because of the size of the structure. She knows that she will be able to see it from her house. Her neighbor next door will be able to see it. She believes this sets a precedent for their neighborhood.

Mr. Sutherland stated there are a number of properties in the neighborhood of Forest View Estates that have accessory structures.

The call to the public was closed at 7:47 pm.

Moved by Board Member Rockwell, seconded by Board Member Kreutzberg, to approve approval Case #19-12 for Phil and Heather Sutherland of 5111 Forest View Court for a 20-foot side yard variance from the required 30 feet to build an accessory structure as the Zoning Board of Appeals finds that granting this variance meets all of the standards of Section 23.05.03 of the Zoning Ordinance. This approval is based on the following findings of fact:

- Strict compliance with the side yard setback would not unreasonably prevent the use of the property however granting of the variance would provide substantial justice and is necessary to preserve or enjoy a property right similar to properties in the immediate vicinity due to the fact that this lot is slightly larger than the majority of the lots in the vicinity. The vast majority of other lots in the vicinity are allowed 10 foot setbacks since they are less than one acre.
- The exceptional or extraordinary condition is the pie shaped lot, location of the septic field behind the home, large lot size and the mature trees we do not want to see harmed so the need for the variance is not 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 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 approval is conditioned upon the following:

1. Structure will be guttered with downspouts.
2. Shall comply with the accessory structure requirements outlined in Section 11.04.01 regarding accessory structures.

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

4. 19-13... A request by Jon and Bonnie Unruh, 4220 Highcrest Drive, for a front yard variance to demolish an existing home and construct a new home.

Jon and Bonnie Unruh were present. They are proposing to demolish their home and construct a new single-family home. There are other homes in the vicinity with reduced front-yard setbacks so granting them the variance would support substantial justice. Their lot is very narrow, there is an 86-foot lake-side setback requirement and there is an extreme change of grade drop off on the lake side.

They are requesting a front yard variance of 9 feet. It would allow for vehicles to park in front of the garage on the driveway and not on the roadway. The measurement for the front yard is calculated by where the road is platted and not where it is located. The existing home is not currently in compliance with the setback requirement.

The call to the public was made at 8:02 pm.

Mr. David Mancini of 4212 Highcrest Drive owns the home to the north. He and his wife are in favor of their proposal. The new home is going to be two feet further from the road than the current home.

The call to the public was closed at 8:03 pm.

Moved by Board Member Ledford, seconded by Board Member Rassel, to approve Case #19-13 for 4220 Highcrest Drive for Jon and Bonnie Unruh for 9-foot front-yard setback variance from the required 35 feet to a 26 foot setback to demolish the existing home in order to construct a new home, based on the following findings of fact:

- A survey has been provided to show the accurate front yard (road side) property lines since the property line on the drawing varies considerably from the aerial overlay on the GIS map
- Strict compliance with the front-yard setback would prevent the applicant from constructing a new single family home as proposed. There are other homes in the vicinity with reduced front yard setbacks that would support substantial justice and is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same vicinity.
- The exceptional or extraordinary circumstances of the property is the narrow lot. Granting of the variance would make it consistent with many homes in the area. 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. It might cause an increase in congestion to the public streets with parking and the backing of the vehicle into the street.

- Providing the parking concerns are addressed, 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 approval is conditioned upon the following:

1. Sufficient on-site parking shall be maintained at all times.
2. Structure must be guttered with downspouts with water directed toward the lake.
3. Dust control measures shall be taken during demolition of the home.

The motion carried unanimously.

5. 19-14... A request by Patrick and Robin Fischer, 5766 Long Pointe Drive, for a front and waterfront yard variance to demolish an existing home and construct a new home.

Ms. Amy Cyphert of Corrigan Construction, and Mr. and Mrs. Fischer were present. Ms. Cyphert provided a site plan and description of the proposed home. Ms. Cyphert stated that the hardship is the unusual shaped building envelope and the road right-of-way. If the home was moved back to comply with the front yard setback, a rear yard setback would be needed. The new home will not encroach further into the front yard setback than the existing home. Other homes in the area have reduced front yard setbacks.

The existing home is non compliant. There is a zero front yard setback and the rear yard setback is not in compliance. The existing setback requirements make this lot unbuildable because of the shallowness of the lot and the irregularity of the shoreline. If the shoreline was regular, they would be able to meet that setback. Also, the closest corner of the home will be 51 feet from the waterfront and currently, the closest corner is 46 feet from the shore line.

Ms. Ruthig explained how the setback requirement was calculated. An average of the properties within 500 feet is taken because this site has an irregular shore line.

Ms. Cyphert referred to the conditions requested in the staff report and stated that the Road Commission approved this access and did not recommend any guardrails or bollards.

Vice-Chairperson McCreary stated there were no stakes on the property showing where the proposed home will be. Ms. Cyphert stated the surveyor was asked to stake it and it was not done.

The call to the public was made at 8:21 pm.

Chris Bonk of 5755 Long Pointe is in favor of this request. If the garage is pushed further from the front property line, it will impede his view of the lake.

The call to the public was closed at 8:22 pm.

Moved by Board Member Rockwell, seconded by Board Member Rassel, to approve Case #19-14 for Patrick and Robin Fisher of 5766 Long Pointe Drive for a front-yard setback variance of 35 feet from the required 35 feet and waterfront variance of 47.55 feet from the required 99.25 feet to demolish an existing home and construct a new home, based on the following findings of fact:

- Strict compliance with the waterfront front-yard setback would prevent the applicant from constructing a new single family home as proposed. There are other homes in the vicinity with reduced front yard setbacks that would support substantial justice and is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same vicinity.
- The exceptional or extraordinary condition of the property is the irregular shorelines as it pertains to this parcel. The need for the variances is not self-created.
- The granting of this variance will not impair an adequate supply of light and air to adjacent property.
- 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 approval is based on the following conditions:

1. Structure must be guttered with downspouts.
2. Dust control measures shall be taken during the demolition of the existing home.

The motion carried unanimously.

6. 19-15... A request by Melissa Koryabina, 4784 Nature View Court, for side and front yard variances to construct an addition.

Melissa and Nick Koryabina were present. They would like to add an addition to their home. The current garage would become a kitchen, a family room and a mudroom and the addition would be a new garage.

Their property is pie shaped and when the home was built, it was placed at the narrowest part of the property. If the home was put in the wider part of the property, they would be able to meet the setback requirements with this addition. There is an existing inground pool behind the home so the additional cannot go in that area. There is a steep slope to the rear of the home next to the pool. Their well is on the other side of the home so they cannot put the garage on that side and put a driveway over the well. They currently have a three-car garage and are going to build a two-car garage. The existing home already sits within the 40-foot setback on the other side of the home.

Call to the public was made at 8:49 pm with no response.

Vice-Chairperson McCreary stated a letter of support was received from Donald Gaines of 2911 Dorr Road.

The applicant and the Board discussed the request and other options for the addition. The applicant requested to have their item tabled this evening.

Motion by Board Member Rassel, seconded by Board Member Rockwell, to table Case #19-15 at the petitioner's request until the May 21, 2019 Zoning Board of Appeals meeting. **The motion carried unanimously.**

7. 19-16... A request by Joseph and Maria Perri, 3994 Highcrest, for a front yard and height variance to construct a new home.

Mr. Joseph Perri and Ms. Amy Crotty of Dreamworks, the developer, were present. Mr. Perri noted that they no longer require a height variance.

Ms. Crotty stated the measurement for the front yard is calculated by where the road is platted and not where it is located. If it was measured from the actual road location, then they would not need a variance. The home will be 35 feet away, at its closest point, to the roadway. Additionally, this home would be further away from the road than many of the other homes on Highcrest.

Mr. Perri stated there are 13 homes within 300 feet that have three-car garages.

Vice-Chairperson McCreary would like to see a survey that shows where the home is going to be located, the required setback, and the proposed setback. What is being presented is sketch on a piece of graph paper. Ms. Ruthig presented a survey of the property that was in the Township's file. After a discussion, it was decided that if the

variance is granted, the applicant would need to provide a proper survey to be approved by staff.

The call to the public was made at 9:20 pm.

Mr. Michael Boland lives to the north of Mr. Perri. He has lived there since 1974 so he is aware of the location of the old dirt road and the new paved road. The placement of the new road allowed him to have a longer driveway so he does not see a problem with Mr. Perri's request. The two garages will be in line with each other.

Mr. David Mancini of 4212 Highcrest Drive noted that Mr. Perri's property is on a bend in the road and on a hill and because of the slope, traveling one way, people will see the top of the garage and traveling the other way, people will see the garage doors. He also stated that he was surprised that Mr. Perri did not submit a civil engineering survey showing where the house would be within the building envelope.

The call to the public was closed at 9:25 pm.

Moved by Board Member Rassel, seconded by Board Member Ledford, to approval Case #19-16 for Joseph and Maria Perri of 3994 Highcrest for a 1.7-foot front-yard variance, based on the following findings of fact:

- There are other homes in the vicinity with reduced front yard setbacks that would support substantial justice.
- The exceptional or extraordinary condition related to the setback variance of the property is the location of the road. Granting of the front yard variance would make the setback consistent with many homes in the vicinity.
- 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 variance would have little or no impact on the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.

This approval is conditioned upon the following:

1. A scalable site/plot plan drawing shall be provided to verify setbacks prior to issuance of a land use permit.
2. The setbacks showing the distance from the proposed home to the existing detached accessory structure shall be shown on the drawing.

The motion carried unanimously.

8. 19-17... A request by Tim Chouinard, 1253 Sunrise Park Drive, for a waterfront and side yard variance to demolish an existing home and construct a new one.

Mr. Tim Chouinard was present. He stated they received variances for this home previously. They need the front yard variance due to the shape of the lot. They are proposing to move the structure back from where it is currently for safety of pulling out of the garage.

He would not need the side yard setback if the home to the west was not so close to the lot line. He would be allowed a five-foot side yard setback here if there was 15 on the other side, but there is not.

The large amount requested for the required waterfront setback variance is due to the setback of the principal residence per Zoning Ordinance even though there is a detached garage closer to the water than the principal residence.

There are two telephone poles on the south property line so the home cannot be placed in this area of the property.

The call to the public was made at 9:39 pm with no response.

Moved by Board Member Ledford, seconded by Board Member Rockwell, to approve Case #1917 for q1253 Sunrise Park for Tim Chouinard for a 19.6 foot front-yard setback variance from the required 35 feet for a 15.6 foot setback and a 5.6 foot side-yard variance from the required 10 feet for a 4.6 foot setback, and a 32.5 foot waterfront variance from required 128.3 foot for a 95.7 foot setback to demolish and construct a new single-family home, based on the following findings of fact:

- Strict compliance with front, side and waterfront yard setbacks would prevent the applicant from constructing a new single family home.
- The exceptional or extraordinary condition of the property is the large waterfront setback of the adjacent home. The front yard variance would make the property consistent with other properties in the vicinity.
- The granting of these 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 of Genoa.

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

This approval is conditioned upon the following:

1. Structure must be guttered with downspouts with water draining toward the lake.
2. Dust control measures will be taken during demolition of the existing home.

The motion carried unanimously.

Administrative Business:

1. Approval of the minutes for the March 19, 2019 Zoning Board of Appeals Meeting.

Moved by Board Member Ledford, seconded by Board Member Rassel, to approve the March 19, 2019 Zoning Board of Appeals Meeting minutes as presented. **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 April 1 and April 15, 2019.
4. Planning Commission Representative Report – Vice-Chairperson McCreary provided a review of the Planning Commission meeting held on April 8, 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 9:57 pm. **The motion carried unanimously.**

Respectfully submitted:

Patty Thomas, Recording Secretary