

**GENOA CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
JUNE 18, 2019 - 6:30 PM**

MINUTES

Call to Order: Chairman Rassel 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, Bill Rockwell, Greg Rassel, Michelle Kreutzberg, Jean Ledford and Amy Ruthig, Zoning Official.

Pledge of Allegiance: The Pledge of Allegiance was recited.

Introduction: The members of the Board introduced themselves.

Approval of the Agenda:

Chairman Rassel noted that Case #19-15 was requested by the applicant to be tabled until the July 16, 2019 ZBA meeting.

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

Call to the Public:

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

Chairman Rassel outlined the criteria needed for granting a variance.

1. 19-15... .A request by Melissa Koryabina, 4784 Nature View Court, for a side and front yard variance to construct an addition.

Moved by Board Member McCreary, seconded by Board Member Ledford, to postpone Case #19-15 until the July 16, 2019 meeting at which time the applicant can either withdraw their case or have it heard. If they do not have their case heard, it will be declined for a year of that meeting date.

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1. 19-19... A request by Edward Koss, 4930 Brighton Oaks Trail, for a fence height and an impervious percentage variance to allow an existing six-foot in height and 100% impervious fence.

Mr. Koss and Mr. Ryan Myers, Mr. Koss' attorney, were present. Mr. Myers stated Mr. Koss is requesting a variance for a six-foot privacy fence to the rear of his property. The fence is not permissible because this is a thru lot, so it has two front yards. The justification for granting the variance is that the clear intent of the prohibition of a fence of this size in the front yard is because the Township doesn't want large privacy fences along the front of residential properties. He agrees that makes sense. What is unique with this property is that it has two front lots as well as the topography of this site. The change from Brighton Road to the rear of Mr. Koss' property is approximately 20 feet. His property is 20 feet lower than the road. He referenced the photograph submitted with the packet. Even in the winter months, the side yard fence is not visible and the rear fence is only somewhat visible through the little bit of vegetation. If Mr. Koss' property was at the same elevation of Brighton Road, then the ordinance would be apparent and a variance should not be granted. Also, having a smaller fence is less effective in terms of privacy, keeping dogs in the yard, and keeping other animals out of their yard.

Mr. Myers noted that staff's report states that granting the variance would not negatively affect the public safety and welfare nor would it have an impact on the surrounding neighborhood. He agrees with her comments.

Mr. Koss stated that this home is for his in-laws and they have three larger dogs. A three-foot fence would not contain the dogs.

The impervious variance request is due to them wanting the fence to provide privacy for his in-laws as well as the neighbors.

Ms. Ruthig noted that an administrative decision was made to make this the front yard for set-back purposes when the home was built.

Board Member Ledford questioned why the applicant did not request the variance before the fence was built. Mr. Koss stated he thought the fence contractor was going to obtain the appropriate permits.

The call to the public was made at 6:47 pm with no response.

Board Member McCreary understands the argument of the decrease in elevation; however, in the winter, the entire fence can be seen because there is no vegetation. She also agrees that since the applicant accesses the home from the other side, they would consider that their front yard and this their rear yard. She still believes this type of fence in this location is what the ordinance is trying to prevent, especially with the fence being 100 percent impervious.

Board Member Ledford agrees with Board Member McCreary's points. She would not be in favor of granting these variances.

Mr. Myers stated that Mr. Koss would accept a condition of approval of the variances the planting of evergreen trees to screen the fence from Brighton Road.

Mr. Ruthig showed the locations on the applicant's lot where a six-foot fence would be allowed. It was noted that this location would allow more of the fence to be seen from Brighton Road.

Mr. Koss referenced a picture of a home on Bauer Road that he submitted with his application. They have a fence in the front yard.

Mr. Myers questioned if a variance could be requested to designate this as the rear yard. Ms. Ruthig stated she would like to clarify if this variance would be possible. A new application would need to be submitted and the applicant would need to return to the Board.

Chairman Rassel agrees that the extraordinary circumstance is the grade of his lot as compared to Brighton Road.

Mr. Myers stated they agree to have their item postponed and allow Ms. Ruthig to determine if this variance is possible.

Moved by Board Member Rockwell, seconded by Board Member Ledford, to postpone Case #19-19 until the July 16, 2019 meeting so the Board can reassess the application with a definition of the front yard. **The motion carried unanimously.**

2. 19-22... A request by John and Wendy Myers, 6505 Forest Beach Drive, for a variance to construct a detached accessory structure in the front yard.

Mr. and Mrs. Myers were present. They were postponed last month so that they could appropriately stake the location of the proposed structure. They want to place the structure in the front yard so that it does not obstruct the neighbors' views of the lake, it would be easier to use, would have the least impact on the surrounding neighbors and general public, and will not negatively affect neighbors. They added that most neighbors have detached structures in the front yard.

They also provided an updated survey showing that the shed would not be as close to their neighbor's property than what was shown on their original application.

The call to the public was made at 7:09 pm with no response.

Moved by Board Member McCreary, seconded by Board Member Rockwell, to approve Case #19-22 for the property located at 6505 Forest Beach Drive by John and Wendy Myers for a variance request to construct a 12 x 16 detached structure in the front yard, based on the following findings of fact:

- The property is waterfront property located on a lake with the "rear" yard being on the water and the front yard being on the street. Similar properties in a zoning of Lakeshore Resort Residential allow accessory buildings in the front.
- The practical difficulty is that strict compliance with the zoning requirements would prevent the applicant from constructing a detached accessory structure and unreasonably prevent the use of the property. Multiple properties in the nearby vicinity have detached accessory structures in the front yard locations and granting this variance would allow substantial justice given to others in the immediate areas with the same zoning district within the proximity of the subject property.
- The exception and or extraordinary circumstances of this property are the characteristics of this zoning are unlike many of the majority of waterfront properties in the Township that are zoned Lakeshore Resort Residential and allowed to build detached accessory structures in the front yard. The current zoning of LDR does not allow structures in the front yard and this rear yard does not have the capability of building a structure and would further detract from a view of the water if it followed the ordinance.
- The need for the variance is not self created.
- Granting this variance will not impair light or air to the adjacent properties and will not unreasonably increase congestion in the streets or increase the danger of fire or public safety, comfort and morals r welfare of the inhabitants of the Township of Genoa.
- The proposed variance would have 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. The owner shall maintain any water drainage on site and not allow drainage to neighboring properties.

The motion carried unanimously.

4. 19-23... A request by David Minton, 5297 Crooked Lake Road, for a side-yard variance to construct a pole barn.

Mr. Minton was present. He is requesting a 20-foot side yard variance. The one location where he can put the pole barn and meet the setback requirements is close to his septic field. Also, this location would cause him to have to put the driveway along the front of his home and remove the existing green belt between him and his neighbor. There are also wetlands on his property so if he would put it in that area, it would probably also require a variance.

Board Member McCreary noted other locations on the lot where the pole barn could be placed. Mr. Minton stated that location is too close to the wetlands, and his neighbor would be able to see the pole barn. Additionally, he would have to put the driveway along the front of his house as well as remove the trees that shield him from his neighbor.

He has spoken to his neighbor to the north and he does not have an issue with the location of the proposed pole barn.

Board Member Ledford reference the sketch of the barn. There are no gutters or downspouts shown. Mr. Minton stated he does not plan to put up gutters and downspouts. Board Member Rockwell noted the driveway is higher than where the shed will be located so the natural flow of the water would be the same as what the gutters and downspouts would provide.

The call to the public was made at 7:23 pm with no response.

Moved by Board Member Ledford, seconded by Board Member Kreutzberg, to approve Case #19-23 for 5297 Crooked Lake Road by David Mitner for a side-yard setback variance of 20 feet from the required 40 feet to construct a 30 x 40 foot detached accessory building, based on the following findings of fact:

- Strict compliance with the side yard setback would prevent the applicant from constructing the detached accessory structure in the proposed location. The variance does provide substantial justice to the applicant since there are quite a few

detached accessory structures in the surrounding area and the variance is necessary for the preservation of a property right similar to that possessed by other properties in the same zoning district and vicinity of the parcel.

- The exceptional or extraordinary condition of the property is the location of the septic field and the location of wetlands on the property.
- 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 public safety, comfort, morals or welfare of the residents 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 area.

This approval is conditioned upon the following

1. The petitioner shall comply with the accessory structure requirements.
2. A 25 foot natural undisturbed buffer from the wetlands must be maintained at all times.
3. The applicant must ensure that the site is compliant with Township Ordinances.
4. The existing shed is to be demolished

The motion carried unanimously.

4. 19-24... A request by Brad and Kristin Hoyes, 5508 Wildwood Drive, for a height variance to demolish and replace the second story on an existing home.

Mr. and Mrs. Hoyes were present. They purchased this home in December of 2018 and have worked extensively on trying to meet all of the setbacks and ordinance requirements. They are requesting a height variance of 3 feet. They would be removing the second story and replacing it with a new, larger one. The first floor will remain the same. The existing home is currently non-conforming. They are proposing to move the second story back 2.5 feet, which would bring it into compliance with the lakeside setback of 35 feet. Their variance request is due to the slope of the lot from the back to front and side to side. There is an existing detached garage, which was there when they purchased the property so they cannot add to the rear of the home.

Board Member McCreary questioned where the mechanicals are located. Mr. Hoyes stated they are currently in the crawl space; however, part of this project will be to remove them and place them inside the home.

The call to the public was made at 7:39 pm.

Mr. Chris Bunk owns the home next store. He and his wife are in favor of this variance request. It would make it look more like a normal house and not a barn. Other homes in the area are taller than what Mr. Hoyes is proposing. It will not negatively affect the neighbors.

The call to the public was closed at 7:40 pm.

Moved by Board Member Rockwell, seconded by Board Member Ledford, to approve Case #19-24 for 5508 Wildwood Drive by Brad and Kristin Hoyes for a 3 foot height variance from the required 25 feet for a total of 28 feet to demolish and replace the second story on an existing home, based on the following findings of fact:

- Strict compliance with the building height would unreasonably prevent the use of the property because it limits the ability for a functional 2nd story.
- Granting of the variance 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 and topography of the lot. In addition, this area 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.
- The need for the variance is not self-created and seems to be the least necessary.
- 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 structure must be maintained on the lot.

Administrative Business:

1. Approval of the minutes for the May 21, 2019 Zoning Board of Appeals Meeting.

There were two changes needed.

Moved by Board Member McCreary, seconded by Board Member Ledford, to approve the May 21, 2019 Zoning Board of Appeals Meeting minutes as amended. **The motion carried unanimously.**

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2. Correspondence – Ms. Ruthig stated a survey will be presented to the Board next month.
3. Township Board Representative Report - Board Member Ledford provided a review of the June 3 and June 17 Board meetings.
4. Planning Commission Representative Report – Board Member McCreary stated the Planning Commission meeting was postponed until Monday, June 24.
5. Zoning Official Report – Ms. Ruthig provided a review of the upcoming variance requests. She will not be in attendance at the July 16 meeting.
6. Member Discussion - Board Member Rockwell and Chairman Rassel will not be at the July 16 meeting.

Board Member Ledford shared an article regarding surveys. All surveys that have been done for property and home sales and land transfers will now be required to be recorded.

7. Adjournment - **Moved** by Board Member Ledford, seconded by Board Member McCreary, to adjourn the meeting at 8:08 pm. **The motion carried unanimously.**

Respectfully submitted:

Patty Thomas, Recording Secretary