

**GENOA CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
August 20, 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, Michelle Kreutzberg, Jean Ledford, and Bill Rockwell and Amy Ruthig, Zoning Official. Also present was Joe Seward, Township Attorney.

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 McCreary, seconded by Board Member Ledford, to approve the agenda with Item #1, Case #18-15, tabled per the applicant's request and to postpone Item #3, Case #19-19 per the applicant's request. **The motion carried unanimously.**

Mr. Seward left the meeting at 6:32 pm.

Call to the Public:

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

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

The applicant was not present this evening.

Moved by Board Member McCreary, seconded by Board Member Rockwell, to move Item #1 to the end of the agenda in case the applicant arrives. **The motion carried unanimously.**

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2. 19-26 ... A request by Jon and Danielle Wloderczak, 4183 Homestead, for a waterfront variance to enclose an existing deck.

Mr. and Mrs. Wloderczek were present. They would like to complete the enclosed deck construction that has already begun. Mr. Wloderczek reviewed the letter that was submitted with his application.

The purpose of the requested variance is to allow full utilization of their home, property and adjacent lake. A variance was granted in 1999 that permitted a deck only, thus there is no access to allow use of the existing deck nor the home dining area from the front yard (shore side). This request is the least necessary and does not extend beyond the existing building envelope. The existing setback is 43.9' and they are requesting an additional 8 feet for a setback of 35.9'. Their request is in line with other properties in the area.

Due to the narrow nature of the lot, slope, and the location of the home on the lot, there are no other suitable locations for the room. The neighboring properties do not have the same circumstances

In the 500 foot inclusion area, there are eight included lots, of which only two are of similar width to his property. There are four lots to the north and three lots to the south. He provided the following facts about the neighboring properties:

- $584/8 = 73'$ on average (full width of all eight lots)
 - $45/73 = .62$ (his property is 38% smaller than average)
- There are two 45' lots included in this area (4183 & 4165 Homestead).
- The home at 4165 Homestead has an enclosed room facing the lake, which is similar to their request and there are no variances on record for this home. That home's neighboring setbacks are 64.6' & 53.5' so their required setback is 59.05 feet so a 20.1' variance would have been needed.
- The grade/slope on the side yards of his home are not present on neighboring properties. His lot has a drop of 5', which is not present on adjoining lots.

He does not believe the variance is self-created as he relied on good faith of building permits being obtained by his contractor. The granting of the variance will have no impact on the light, air, or view of neighboring properties. There will be no effect on Homestead Drive or danger to public safety. The variance will not interfere with the use or value of neighboring properties. The structure will blend with the deck and style of the home and is similar to other area structures.

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They provided photographs of other similar enclosed decks as well as an aerial showing the location of other homes in his neighborhood in relation to the lake.

A letter was submitted from his neighbor at 4177 Homestead who has no hesitation or issue with the completion of this room.

Ms. Ruthig stated that in researching the original approved variance in 1999, it does not appear that the home was built in the correct location. Additionally, that variance states “front porch” and “front” is the roadside, and not the lakeside, so she is not sure if the variance was for this porch or one on the front of the home, but there is no porch on the front of the home.

Board Member McCreary appreciates that the applicant wants to enjoy the lake from a screened-in porch; however, the homes on either side of his home sit further back. Mr. Wloderczak stated that those homes’ neighbors are also further back so they have a different setback requirement.

Board Member Rockwell questioned that if this variance is allowed, and it becomes part of the main structure, could a deck then be added. Ms. Ruthig stated a one or two-story deck could be built 15 feet out as long as there is a 15 foot greenbelt from the water’s edge. Mr. Wloderczak stated that the existing deck that he wants to enclose is 13 feet so a deck would only be able to go out an additional two feet.

The call to the public was made at 6:53 pm.

Mr. Victor Zammit of 4177 Homestead stated he has lived here for 25 years and he does not believe this would be an incumerance for the neighbors. The applicant would like to screen in deck to enjoy his home.

The call to the public was closed at 6:55 pm.

Moved by Board Member Ledord, seconded by Board Member Kreutzberg, to approval Case #19-26 for 4183 Homestead Drive for Jon and Danielle Wloderczak for a waterfront setback variance of of 20.35 feet from the required 56.25 feet to 35.90 feet to enclose a 13x18 area under and existing deck, which would be 234 square feet, to create additional living space, based on the following findings of fact:

- The practical difficulty is the narrowness and depth of the lot and location of the existing home on the property.
- Strict compliance with the setback would prevent the applicant from constructing an addition; however, there are other homes in the area that do not meet the waterfront setback.
- A variance was granted on September 14, 2199 for a five-foot waterfront variance to construct a new home with an elevated deck. Extending the area beneath the deck will not protrude beyond the building envelope of the existing structure.
- 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 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 neighborhood.

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

3. 19-27 ... A request by Steven G. Ezikian, 4640 Sweet Road, for a variance to construct a detached accessory structure in the front yard.

Mr. and Mrs. Ezikian were present. They are requesting a variance to build a 1,200 square foot pole barn that encroaches past their home by 10 feet. Their property is triangular shaped as they are along the railroad tracks. They are not able to put the pole barn to the rear of the home, because that is where their well and septic field are located. There are no public safety issues, and it will not prohibit others in the area from using their property. There is another home in the area whose entire barn is in the front yard.

Board Member McCreary questioned the existing accessory structure by the pool. Mr. Ezikian stated that will be removed.

The call to the public was made at 7:03 pm with no response.

Moved by Board Member Kreutzberg, seconded by Board Member Ledford, to approve Case #19-27 for Steven G. Ezikian of 4640 Sweet Road, Howell to build a detached accessory structure in the front yard, based on the following findings of fact:

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- The exceptional or extraordinary condition of the property is the location of the existing single family home, location of the septic field and reserve septic field, the non-conforming lot size, the location of the swimming pool, and the shape of the lot.
- The granting of the variance would make the property consistent with the majority of other properties in the area. The need for the variance is not self-created and is the least amount necessary.
- 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 threaten public safety, comfort, morals or welfare of the inhabitants of the Township of Genoa.
- The proposed variance 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. Any existing detached accessory structures will be removed prior to Certificate of Occupancy being given.

The motion carried unanimously.

4. 19-28...A request by Meffert, 6373 Challis Road, for a variance to split property.

Mrs. Meffert and Jim Barnwell of Desine, Inc. were present. Ms. Meffert stated they are requesting a variance to split their property. The required lot size in their zoning district is one acre and they have two acres. Jim Barnwell stated they would like to keep the existing home on a lot with a little over one acre and the other lot would be .75 acres. This would allow the home to stay within the required setbacks. This would have no negative impact on the neighborhood and is consistent with a majority of the properties in the area. Many of the parcels here are less than $\frac{3}{4}$ of an acre as it is encompassed by the Mountain View subdivision. When a new home is built on the new piece of property, it will be consistent with the Township's requirements.

Board Member McCreary stated that the Township will be creating a non-conforming lot. She noted that the new home's driveway would come off of Catalpa so the rear yard would not meet the setback requirements. Mr. Barnwell stated that they are proposing that the rear of the home would be to the north and the side yard would be between the new home and the existing home. This property has three road frontages.

Board Member McCreary questioned the fence that is in the front yard. Ms. Meffert stated she will remove the posts for the fence if the split is approved and any fence would comply with the Township's ordinance.

The call to the public was made at 7:18 pm with no response.

Moved by Board Member Ledford, seconded by Board Member Rockwell, to approve Case #19-28 for 6373 Challis Road for Rudolph and Doreen Meffert for a variance to split an existing 2.06 acre parcel into two parcels. The parent Parcel A would consist of 1.31 acres and Parcel B would be .75 acres; thereby creating a non-conforming parcel, based on the following findings of fact:

- Both parcels have frontage on three roads - Challis, Catalpa, and Grand Circle Drive, which is currently zoned LDR (Low Density Residential).
- The exceptional or extraordinary circumstances of the property is the unusual shape and that it contains three road rights of way front yard easements. The road right of way easement square footage cannot be used with the calculations for the lot area. The variance would make the property consistent with other properties to the northeast of the parcel; however the remaining parcel is larger than one acre, which is consistent with the LDR Zoning. 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 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 neighborhood.

The approval is conditioned upon the following:

1. The seven foot fence that runs along Challis Road is non-conforming and is allowed to be repaired based on the ordinance; however, the existing fence that runs from north to south must be brought into compliance.

The motion carried unanimously.

5. 19-29...A request by John Conely, 7208 Grand River, for a sign setback variance.

Mr. Conely was present. He stated that he recently performed maintenance and upgrades to his sign and was notified that the existing sign does not meet the

setback requirement on one side. The existing sign has been there for approximately 10 years. He was required to put in a water main and a fire hydrant in order to build a storage building on his site so he had to grant the Township a 10-foot easement for the main. This makes him unable to move the sign to meet the setback requirement. He is requesting a 4.48 foot variance.

He will move the sign so that it meets the ROW requirement, but it cannot be moved to meet the side setback. Additionally he cannot move the sign to the west because that is the neighbor's property. He has an ingress/egress easement for his driveway.

The call to the public was made at 7:36 pm with no response.

Moved by Board Member McCreary, seconded by Board Member Rockwell, to approve Case # 19-29 for 7208 W. Grand River, Brighton for John Conely for a sign setback variance in the general commercial district of 4.48 feet for a proposed side yard setback of 5.52 feet from the required 10 foot in relationship to the southern dimension of the sign that runs parallel with the property on the north/south boundary of the property closest to the business and the road setback for the sign will be brought into compliance of 10 feet for the front yard setback from Grand River, based on the following findings of fact.

- The current lot line and placement of the sign as well as the water main dictates that this is the only location that will allow the sign to be placed, complying with the least restrictive variance.
- The extraordinary conditions are the location of the water main easement and the ROW for the road setback.
- The need for the variance is not self-created and it is determined that based on any ROW's and easements there is no other location for the sign.
- 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 danger of fire or public safety of the inhabitants of the Township of Genoa.
- The proposed variance would have little or no impact on the appropriate development, use, or value of adjacent properties and the surrounding neighborhood.

This approval is based on the following conditions:

1. The applicant will demonstrate that the site is in conformance with Genoa Township Ordinances and the Site Plan and Special Use previously approval conditions prior to land use permit issuance.

2. The sign shall meet the Zoning Ordinance in regards to size and the LED portion of the sign shall be only 25%, as agreed by the applicant, and can only occupy one third (1/3) of the sign.

After hearing the conditions of the approval, Mr. Connelly requested this item be tabled this evening.

Moved by Board Member McCreary, seconded by Board Member Kreutzberg, to withdraw the previously-made motion. **The motion carried unanimously.**

Moved by Board Member McCreary, seconded by Board Member Ledford, to table Item #19-29, for 7208 Grand River, at the applicant's request until the next scheduled Zoning Board of Appeals meeting. **The motion carried unanimously.**

6. 19-30...A request by Quick, 3940 Highcrest, for two side and front yard setback variances, a height variance, a variance to allow retaining walls and a detached accessory structure to remain in the waterfront yard to demolish an existing home and construct a new single family home.

Mr. Jim Quick and Mr. Roger Meyer, counsel for Mr. Quick, were present. Also present was Mark McBride, the architect. Mr. Meyer provided a review of the four variances they are requesting this evening. He showed a proposed site plan.

He stated that seven letters of support from neighbors have been received and submitted to the Township.

There are four important factors that are the hardships for these variances:

1. The lot is non-conforming; The lot is 48.44 feet wide and the ordinance requires an 80 foot width, so there is a 39% shortfall in the width requirements. The depth is 175.60 feet, and the requirement is 320 feet, so there is a 45% deficiency in the requirement.
2. There is the existence of non-conformities and encroachments that exist on the adjacent properties. There is a shed on the property to the south that encroaches onto Mr. Quick's property. The existing deck to the north is non-conforming and sits a few inches from Mr. Quick's property line. Also, on the property to the north, in the corner, the deck sits a few feet from the existing property line.

3. There are elevation issues present with the property. There is a significant topography change going from the east to the west, and altering this topography would change the flow of storm water into the catch basin directly across from the property.
4. The need for the retaining walls is to allow the home to be built with the natural slope of the property.

All of these factors contribute to the hardship and are driving the need for the variances and are not self-created.

He reviewed the reasons for the four variances requested:

1. The front yard setback is needed because the applicant is proposing a three-car, side-loading garage for safety reasons. It will allow him to pull out of his driveway instead of backing out. Also, it will allow for more parking spaces on the site, so guests would not have to park on the street. If it was front-loaded, only a two-car garage would be able to be built and there would only be one additional parking space on the lot.
2. One reason for the four-foot height variance is needed to maintain the slope for the storm water drainage system for the neighborhood. The second reason is due to the property to the north. The existing deck on this property sits four feet above grade and there is an approximate three-foot high railing on the deck, which is causing approximately seven-feet of obstruction of Mr. Quick's view of the lake. Their proposal would have no impact on the lake view of the neighbor to the north. He presented a diagram showing how the height of the home will not negatively impact the air flow or light for the neighbors.
3. The retaining walls would also not negatively impact the neighbors. The one in the rear will be below grade and will be facing the lake. There is an existing concrete retaining wall on the property to the south and the proposed retaining wall for this site will be on the other side of that concrete wall. He noted that this wall will provide additional support for the existing non-conforming structure on the property to the south.
4. Maintain the existing shed on the property will allow the applicant to enjoy the same benefits of the other homes in the area who have accessory structures.

He believes that all of the four required factors for granting a variance have been met for all four variance requests. He noted that Ms. Ruth's report supports these requests, and he has addressed her concerns with regarding to the height and parking issues.

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Mr. Quick stated that he hired a professional architect to develop designs for their home and presented them to his neighbors. He has met his neighbors and he is looking forward to building the home and moving into the neighborhood.

Board Member McCreary complimented the side-directed garage, but she is concerned with the close proximity of the home to the neighbor's structures and how it would be affected by a fire. Mr. McBride stated the garage will meet the Michigan Building Code requirements for fire, which is one hour. He can add additional protection so by the time it would take a fire to go between the two buildings would be two hours.

She asked if the garage could be moved. Mr. McBride stated he needs to have the depth in front of the garage to allow the vehicles to pull out of the driveway, instead of having to back out. Mr. Myers reiterated that the existing building to the north is non-conforming and inches from the property line.

The call to the public was made at 8:43 pm.

Ms. Jacqueline Blair of 3934 Highcrest is the homeowner to the north with the garage that is close to the property line. She is concerned how a fire would affect her garage. She is concerned with the drainage from the runoff from the roof in that area. She believes there would be an air flow issue between the two garages. She does not want hers to rot. She is also concerned with the amount of coverage on the site. Very few homes in this area of Highcrest have their garages connected to the homes. She is also concerned with parking and lighting. She is also concerned with the proposed rails. Mr. Quick stated they he is complying with the lakeside setback and his home would be further back from the lake than the home to the north. Additionally, it is seven feet below Ms. Blair's existing deck.

Mr. Adam Perkowski of 3944 Highcrest is the neighbor to the south. Mr. Quick has been very up front with his plans and explaining it to the neighbors. The call to the public was closed at 8:54 pm.

Board Member McCreary thanked the applicant for his presentation. Everything was included. She reiterated her concerns with how close the garage would be to the neighbor's garage to the north. Mr. Quick said he could change it to front-facing, but that would be another safety hazard for him having to back out of his driveway and it would decrease the amount of parking available on his site. His

architect will do what needs to be done to ensure that the neighbor's home is protected.

Ms. Ruthig stated that she has met with the applicant and his representatives many times and safety was always their number one concern.

Moved by Board Member Rockwell, seconded by Board Member Ledford, to approve Case #19-30 for 3940 Highcrest for James and Angela Quick, for a building height variance of four feet to 29 feet, a front yard setback variance of four feet to 31 feet, a southern side yard variance of four feet to six feet, a northern side yard variance of 5.33 feet to 4.67 feet, a variance to allow retaining walls, and a variance to allow an attached accessory structure on the waterfront to demolish an existing home and construct a new single-family home, based on the following findings of fact:

- Strict compliance with the front and side yard setbacks, height and retaining wall requirements, and no accessory structure in the waterfront yard would prevent the applicant from constructing the proposed new single-family home. There are other homes in the vicinity with reduced front and side-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 vicinity
- The exceptional or extraordinary condition of the property is the topography, narrowness of the lot, and the adjacent properties have non-conforming detached accessory structures that encroach on the subject property that hinder the applicant's ability to meet the side yard setbacks. The need for all variances is not self-created.
- The high variance is in concern to the flooding and keeping water flow safe.
- The granting of these variances could impair an adequate supply of light and air to adjacent property.
- It should eliminate congestion to the public streets with side-loaded garage providing the parking concerns are addressed. 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. Sufficient on-site parking shall be maintained at all times.
2. The structure must be guttered with downspouts.
3. The applicant shall be required to completely remove the detached accessory structure under the following conditions:

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- A. If a permit to construct a new principal residence is not issued within 6 months of the ZBA decision; and/or
 - B. If the applicant fails to obtain final occupancy certification from the Livingston County Building Department within 1 year of Land Use permit issuance; and/or
 - C. Township staff shall have discretion to approve extensions to the above deadlines under proven special or extenuating circumstances but in no case shall that extension exceed six months for Item A or 12 months for Item A.
4. If improvements are requested for the expansion of the current accessory building, they shall comply with Section 24.04.06 of the zoning ordinance.
The motion carried (Ledford - Yes; Rassel - Yes; McCreary - No; Rockwell - Yes; Kreutzberg- No).
7. 19-31...A request by Cathy Cedar, vacant, Parcel #11-22-302-029 Noble Drive, for a variance to allow a three story structure with side, front, and rear yard setback variances, lot coverage variance, and a height variance to construct a new home.

Ms. Cedar was present. The hardships are that her property is 50 x 100 and she is requesting the height variance because the slope of her property is lower at the road than it is in the rear.

The variances she is requesting is 16 feet for the front yard, 21 feet for the rear yard, 4 feet for the west side, and a height variance of 9 ½ feet. She will be putting the home on top of the garage. It will be a side entrance to allow for more parking. The total lot coverage is because she will have a long narrow driveway on the side of her house.

Board Member McCreary stated there was no stake survey done so it is unsure where the property lines are located. The proposed sketch plan does not show the location of the home and its relation to the property lines. She does not see the proposed home being built on this lot.

Ms. Cedar feels that her proposed home is comparable to the homes in the area; however, her lot is much smaller.

Board Member Kreutzberg agrees with Board Member McCreary. She would like to see a blueprint. She questioned if the request is the least necessary. Ms.

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Cedar stated that is one reason she is proposing to put the house on the garage. If she met the setback requirements, she would only be able to build a 900-square-foot home with no garage. She showed a picture of the proposed house.

Board Member McCreary would like the applicant to research a more suitable house to be built on the lot so that not so many variances are being requested.

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

Ms. Sara Kirkwood of 3754 Noble and 3751 Noble is concerned with this request. Her home is the home where the one-foot setback is being proposed. This house is out of the ordinary for their neighbor.

Mr. Robert Wilk of 3734 Noble stated the appropriate home needs to be built on this lot.

Ms. Deb Goeglein of 3762 Noble stated they are having trouble with flooding on their property so she is very concerned with a structure being built on this lot.

The call to the public was closed at 9:29 pm.

Ms. Cedar asked to have her request tabled until the December 17, 2019 ZBA meeting.

Moved by Board Member Ledford, seconded by Board Member Kreutzberg, to table Case #19-31 for Cathy Cedar until the December 17, 2019 Zoning Board of Appeals meeting at the petitioner's request. **The motion carried unanimously.**

8. 19-15 ... A request by Melissa Koryabina, 4784 Nature View Court, for a side and front yard variance to construct an addition.

Mr. and Mrs. Koryabina were present. They were before the Board previously and have submitted new plans to address the concerns stated at that meeting. They have moved the garage further back so the variances they are requesting have been lessened.

They presented photographs of the backyard showing that there is very little room to move the garage back further because of the location of the pool.

The call to the public was made at 9:46 pm with no response.

Moved by Board Member Ledford, seconded by Board Member McCreary, to approve Case #19-15 for 4784 Nature View Court for an 18 foot 3 inch front yard setback variance from the required 75 feet to 69 feet 9 inches and an 11 foot 6 inch side yard variance from the required 40 feet to 28 feet 6 inches to construct an addition to an existing single-family home, based on the following findings of fact:

- Strict compliance with the front and side yard setbacks would prevent the applicant from constructing the addition. The addition is proposed to be located a few feet from the current non-conforming front setback.
- Substantial justice would be supported since there are other homes in the area that appear to have non-conforming front yard setbacks.
- The exceptional or extraordinary condition of the property is the location of the existing home and the pie shaped lot being on the cul de sac, and the narrowest part of the property.
- 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 residents of the Township of Genoa.
- The proposed variances 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.

Administrative Business:

1. Approval of the minutes for the July 16, 2019 Zoning Board of Appeals Meeting.

Moved by Board Member McCreary, seconded by Board Member Kreutzberg, to approve the July 16, 2019 Zoning Board of Appeals Meeting minutes as presented. **The motion carried with Rockwell and Razzel abstaining.**

2. Correspondence – Ms. Ruthig had nothing to report.
3. Township Board Representative Report - Board Member Ledford provided a review of the August 5 and August 19 Board meetings.

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4. Planning Commission Representative Report – Board Member McCreary provided a review of the August 12 Planning Commission meeting.
5. Zoning Official Report – Ms. Ruthig stated there approximately five cases for September’s meeting. Board Member Kreutzberg will not be in attendance.
6. Member Discussion - There were no items to discuss this evening.
7. Adjournment - **Moved** by Board Member Ledford, seconded by Board Member Kreutzberg, to adjourn the meeting at 10:01 pm. **The motion carried unanimously.**

Respectfully submitted:

Patty Thomas, Recording Secretary