

**GENOA CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
NOVEMBER 19, 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: Greg Rassel, Marianne McCreary, Michelle Kreutzberg, and Amy Ruth, Zoning Official. Absent were Jean Ledford and Bill Rockwell.

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 Kreutzberg, to approve the agenda as presented. **The motion carried unanimously.**

Chairman Rassel noted that there were only three board members in attendance at tonight's meeting so a unanimous vote of members present is needed for approval. Petitioners have the option to have their case tabled.

Call to the Public:

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

Old Business:

1. 19-38... A request by Tim Chouinard, 935 Sunrise Park Drive, for two sides, front, rear setback variances and a lot coverage variance to construct a new home.

Mr. Chouinard was present and stated there are drainage problems with this property. All of it goes to the neighbors on either side. They would like to remove the existing home and construct a new one. The existing retaining wall will be replaced and proper drainage will be installed. They will be removing some of the cement from the driveway and what is on top of the retaining wall. They are requesting a variance for lot coverage; however, they will be reducing the amount of existing lot coverage.

Board Member McCreary asked Mr. Chouinard to explain the 8.5 foot side yard setback. Mr. Chouinard showed that setback is where the "bump out" of the home will be on the side yard.

The existing home is five feet from that lot line. She also asked for clarification on the cement that will be removed, which Mr. Chouinard provided.

Board Member McCreary asked if the applicant would reduce the size of the deck. Mr. Chouinard stated it will be in the same location where it is currently. She noted that the front and south sides are being brought further into compliance; however, she would like the lot coverage and rear deck setback variances reduced.

The call to the public was made at 6:42 pm with no response.

The applicant was present and agreed to decrease the size of the deck to meet the required setback and not require that variance. Ms. Ruthig noted this would also decrease the lot coverage variance needed.

Chairman Rassel appreciates the improvements being made to the home.

Moved by Board Member McCreary, seconded by Board Member Kreutzberg, to approve Case #19-38 for 935 Sunrise Park for variances for both sides, front, rear, and lot coverage to demolish the existing home and construct a new single family home with a front yard setback variance of 17.3 feet from the required 35 feet for a 17.7 foot front setback, a south side setback variance of 1.5 feet from the required 10 feet for a setback of 1.5, a north side setback variance of 5 feet from the required 10 feet for a setback of 5 feet, a rear house setback variance of 15.2 feet from the required 40 feet for a setback of 24.8 feet, and to eliminate the rear yard deck setback noting that the east-west setback will be 15 feet instead of the 20 feet requested. Since there is no need for a rear deck setback variance, the lot coverage building setback variance will be 10% from the required 35% for a lot coverage building of 45%, and a lot coverage impervious surface variance of 3% from the required 50% for a lot coverage of impervious surface to 53%, based on the following findings of fact:

- The front and the south building setbacks will be less than the current building setbacks, bringing them more into compliance.
- The rear property line will be a slight adjustment extended toward the water line, but only on the southern part of the building.
- The setback from the water's edge is 8.9 feet, while the property to the north is 91 feet and is set behind this northern property and not interfering with the water view.
- The setback from the rear and north portion of the properties are as a result of being more conforming on the south and frontage being more compliant.
- The extraordinary circumstances are the narrowness of the lot and the current position of the house as it sits at an angle along with the nonconforming detached accessory structure being located less than one foot off of the property line at the front.
- The need for the variance is not self-created.
- 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 Genoa Township.

- The proposed variances would not have an 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. No other structures or impervious surfaces are allowed.
3. Concrete shall be removed on the north side of the house and will be reduced in the front to just in front of proposed attached garage and sidewalk as indicated to staff. See attached drawings dated 9/12/19.
4. The existing shed shall be removed.

The motion carried unanimously.

New Business:

2. 19-39 ... A request by Bruce Stancombe, 4468 Golf View Drive, for a side yard setback variance to replace an existing deck and construct a new deck.

Mr. Stancombe would like to replace his current rotting deck and concrete patio. He is replacing it with a Trex-type deck. Because of the way the door wall is positioned next to the privacy wall, if he were to meet the requirements, he could endanger people walking from the deck into the door wall. He believes the safety and appearance is an extenuating circumstance. Additionally, the proposed deck would be at the same level as the entrance to the door wall. This deck would be similar to more than 30% of the homes on his street, which abutt the shared wall of the condominiums. It will have no negative impact on the neighborhood and will improve it. It will not be seen from the neighbors. He submitted photographs showing decks with similar placement. He also submitted two letters from his neighbors who are in favor of granting this variance.

The call to the public was made at 7:01 pm.

Ms. Lois Mould, who is a Board Member of the Glen Eagles Association, stated the Board reviewed this request in depth and agree with Mr. Stancombe that most of the decks do not have setbacks between them and the privacy wall. Having the decks put up next to the walls alleviates unusable space. They are 100% in agreement with Mr. Stancombe's request.

The call to the public was closed at 7:02 pm.

Moved by Board Member McCreary, seconded by Board Member Kreutzberg, to approve Case #19-39, for 4468 Golf View Drive for Bruce Stancombe for a variance to replace a current rotting deck and concrete patio and allow a four-foot variance from the required four foot setback for a setback of 0 feet from the neighboring property, based on the following findings of fact:

- Compliance with the ordinance would not prevent unreasonable use of the property however other homes in the immediate area do not meet the side setbacks and granting

of this variance would provide substantial justice as those properties around it enjoy the same circumstance.

- The extenuating circumstances are the property has a privacy wall that is adjoined to the neighboring property which already gives a buffer to the neighboring property thereby the reconstruction of the new proposed deck will not interfere with the privacy that is anticipated and expected in this condominium complex. The maintenance and improvement of the newly proposed deck will be an improvement and harmonious with the continuance of the surrounding decks in the area. 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 motion carried unanimously.

3. 19-40 ... A request by Andrew Lerch and Kevin Johnson, 5311 Brighton Road, for a setback variance to allow an indoor commercial recreation business within 100 feet from a residential zoning.

Mr. Andrew Lerch and Mr. Kevin Johnson were present. Mr. Johnson provided a review of their proposed use for this property. He showed a colored floor plan. Mr. Lerch stated this use will be much less intensive than the current use. He noted the exceptional or extraordinary conditions of the property are the location of the existing building and the residential zoning district line is located in the center of the road. The existing building is located 143 feet to the closest residential home.

The call to the public was made at 7:10 pm with no response.

Moved by Board Member McCreary, seconded by Board Member Kreutzberg, to approve Case #19-40 for the property located at 5311 Brighton Road for Andrew Lerch and Kevin Johnson for a setback variance for an indoor commercial recreational business within 100 feet from a residential zoning, based on the following findings of fact:

- The proposed variance from the required setback of 100 feet is 28 feet, for a proposed setback of 72 feet.
- Strict compliance with the ordinance would prevent the recreation use on the property. The proposed use would be less intensive than the previous restaurant use. The adjacent site is part of a larger Planned Unit Development that includes a golf course community. The variance is necessary for the preservation and enjoyment of the property rights others possess in the same zoning district and surrounding areas.
- The extraordinary circumstances are the location of the existing building on the property. In addition, the location of the zoning district is the center of the road. The existing

building is located 143 feet from the closest residential home. The Planning Commission found that the impacts were adequately mitigated, that the use of the facility was in compliance with the surrounding properties, and consistent with the intent of the ordinance and recommended the ZBA approve the 72-foot setback.

- The need for the variance is not self-created.
- Granting this variance would have little or no impact on the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.
- 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.

This approval is based on the following condition:

1. Applicant must receive Genoa Township Board approval for the special use.

The motion carried unanimously.

4. 19-41 ... A request by Wallace and Sons Enterprises, LLC, 855 Victory Drive, for a front yard setback and natural features setback variance to allow existing structures.
Administrative Business:

Ms. Rebecca Cassell, representing the applicant, and Mr. Wallace were present. The variances being requested are existing and were not self-created. They were created by the contractor and the engineer who performed the survey. She noted that the bins are four feet into the natural features setback, are not the wetlands area; it is into the wetlands buffer. She stated that these are not removable bins. They are made with concrete and there is no risk for the materials that are stored in there to leech into the wetlands. Their application notes that they are willing to install a natural buffer, such as arborvitae, etc. along the remaining area of the wetlands.

Ms. Ruthig stated there were materials behind the bins when she and Ms. VanMarter visited the site in August 2019. Ms. Cassell advised that those items have all been moved. Ms. Ruthig added that this area was mowed and it is required to be kept in its natural state after the bins were installed.

With regard to the building, Ms. Cassell stated the soil was not in the condition as expected and the footings had to be built wider than originally proposed and the contractor laying the brick, put them in the wrong location. This is not for the entire length of the building.

They are asking for clarification. The packet notes that the building is being used; however, that is not correct. They were not aware that they were not able to use the site or the outdoor storage unit the Building C of O is received. Ms. Ruthig confirmed that once the C of O for the building is approved, the site can be used for the business, and not before that time. She added that the applicant was given two citations in 2018 advising that all materials needs to be removed from the property and no business can be conducted on the site until the building C of O is granted.

Ms. Cassell asked for clarification on the permits that will be required by EGLE. Ms. Ruthig explained why they are requiring the permit and that it has to do with the ponds and not the specific wetlands. Mr. Wallace stated that he has not applied for those permits as of today.

Board Member McCreary questioned Mr. Wallace why he continued to use the property after he received the citations. He stated that he did not have any other location to store his materials or vehicles.

Ms. Cassell noted that the materials that are on site now are for the remainder of the construction and she asked if that was allowed to remain. Ms. Ruthig stated that the building permit has expired so no work is able to be done to the building or the site.

Ms. Cassell requested that this item be tabled this evening so that she can gather more information and return to the Board with a complete plan and detailed request.

The call to the public was made at 7:37 pm with no response.

Moved by Board Member Kreutzberg, seconded by Board Member McCreary, to table Case #19-41 for Wallace and Sons Enterprises, LLC until the December 17, 2019 ZBA meeting. **The motion carried unanimously.**

Administrative Business:

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

Needed changes were noted. Board Member McCreary had a question regarding one of Board Member Ledford's motions. It was decided to table the minutes until she was in attendance to clarify.

Moved by Board Member McCreary, seconded by Board Member Kreutzberg, to table the October 16, 2019 Zoning Board of Appeals Meeting minutes. **The motion carried unanimously.**

2. Correspondence – Ms. Ruthig provided the Board Members with a correspondence from the township attorney regarding the variance for Venture Designs.
3. Township Board Representative Report - Board Member Ledford was not present this evening.
4. Planning Commission Representative Report – Board Member McCreary provided a review of the November 12, 2019 Planning Commission meeting.

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5. Zoning Official Report – Ms. Ruthig provided the Board with the ZBA meeting dates for 2020.
6. Member Discussion - There were no items to discuss this evening.
7. Adjournment - **Moved** by Board Member McCreary, seconded by Board Member Kreutzberg, to adjourn the meeting at 7:48 pm. **The motion carried unanimously.**

Respectfully submitted:

Patty Thomas, Recording Secretary