

**GENOA CHARTER TOWNSHIP  
ZONING BOARD OF APPEALS  
September 15, 2020 - 7:30 PM**

**MINUTES**

**Call to Order:** Chairman Rassel called the regular meeting of the Zoning Board of Appeals to order at 7:40 pm. The members and staff of the Zoning Board of Appeals were present as follows: Greg Rassel, Michele Kreutzberg, Jean Ledford, Bill Rockwell, Craig Fons, and Amy Ruthig, Zoning Official. Marianne McCreary was absent.

**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 Rockwell, seconded by Board Member Kreutzberg, to approve the agenda as presented. **The motion carried unanimously.**

**Call to the Public:**

The call to the public was made at 7:41 pm with no response.

**New Business**

1. 20-17 ... A request by William and Kristi Shaffer, 5294 Sharp Drive, for a side yard setback to allow for a cantilevered chimney.

Mr. and Mrs. Shaffer were present. Mr. Shaffer stated they are in the process of building a house. They are requesting to put in a 15 ½ foot cantilever chimney. They have kept within the setbacks in building their home; however, in order to accommodate the chimney, they are requesting a 3 foot, 8.5 inch variance for the side yard.

The building envelope for their property is very difficult. This variance will not have a negative impact on the neighbors or surrounding neighborhood. It will not prohibit the use or views of the lake for their neighbors. It will not increase traffic or affect light or air for their neighbors.

The call to the public was made at 7:45 pm with no response.

**Moved** by Board Member Ledford, seconded by Board Member Kreutzberg, to approve Case #20-17 for 5294 Sharp Drive for William and Kristi Shaffer for a side yard setback variance of 3

foot, 8.5 inches from the required 5 foot setback to 1 foot, 3.5 inches to construct a cantilever chimney into the side yard setback of a proposed addition to a newly-constructed home, based on the following findings of fact:

- Strict compliance with the side yard setback would prevent the applicant from constructing the addition. The variance requested appears to be the least necessary to provide substantial justice. Granting of the requested variance is necessary for the preservation and enjoyment of the property due to other properties in the vicinity with reduced side yard setbacks.
- The exceptional or extraordinary condition of the property is the triangular shape of the lot, location of the cul-de-sac at the front of the property, with irregular shoreline which creates a difficult building envelope. Due to the difficult building envelope, 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 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 Genoa Township
- The proposed variance would not have an impact on the appropriate development, continued use or value of adjacent properties and the surrounding neighborhood.

**The motion carried unanimously.**

2. 20-18 ... A request by Ventures Design, 3470 Pineridge Lane, for a waterfront setback variance to install a swimming pool and a variance to construct retaining walls in the required waterfront yard.

Mr. Skye Durrant and Mr. Brandon Bertrang of Ventures Design were present to represent the applicant. Mr. Durrant stated they are asking for two variances to construct a retaining wall and an infinity pool. The current retaining wall structure is 80 feet from the waterfront and the proposed setback would be 60 feet, which is further from the waterfront than other homes in the neighborhood. Other homes have been granted variances. He cited other lots in the neighborhood that have homes, decks, etc. closer to the water's edge than they are requesting. Allowing this variance would provide substantial justice. The variance is not for a structure, it is for a retaining wall and a pool. They will not be setting a precedent for reducing the waterfront setback for homes if this variance is granted. The hardship is the severe topographic drop of the property toward the lake. They will need to install the retaining wall for the stability of the home that is currently being constructed. The new retaining wall will be built higher than the existing slope so it will not interfere with the lake views of the neighbors. There is no other location on the property for the pool. He noted that the homeowner could build a deck 15 feet beyond the house on the second story and this would have a greater impact on the line of sight for the neighbors. The pool is being placed in the same location where the previous home's ground floor deck was placed. He noted that the Ordinance for retaining walls is outdated and does not address the need for retaining walls. He does not believe an underground pool should be required to meet the same setbacks as structures.

He presented a slideshow with details of the previous home and retaining walls, the steep slope of the property, the proposed home, pool, and retaining wall. The wall is in the lower portion of the property and does not extend any higher than the pool and the higher grade of the slope. He showed an overlay of how the proposed pool will be in the same location as the previous deck. He presented examples of other pools and retaining walls in the neighborhood around Crooked Lake.

Board Member Rockwell asked for the dimensions of the pool. Mr. Durrant stated the width is 30 feet, 18 feet, 4 inches long with a spa on the back side of the pool that is 12 feet wide and 7 feet deep. Board Member Rockwell stated this is further than a deck would be able to extend. Mr. Durrant stated one wall of the pool would be used as part of the retaining wall. He confirmed that it will be 7 feet further from the home than a deck would be allowed, but that is due to the location of where the retaining wall needs to be because of the natural slope of the property.

Board Member Rockwell asked if the applicant could have moved the home further to the road. Mr. Durrant stated that if they did that, they would then have to install retaining walls on the side of the home to accommodate the walk-out basement, which would require side-yard setback variance requests. Board Member Rockwell noted that the home could have been made smaller. Mr. Durrant reiterated that the setback requirements for pools are the same as for structures and in ground pools should not have to abide by the same setback requirements as floors and walls. The request for this variance is not self-created due to the topographic change of the property.

An engineering plan was presented by the applicant showing the location of the previous home and the slope of the property prior to it being removed and earth being moved. They have not changed the slope of the land with the building of this new home.

Board Member Fons advised the applicant that they must ensure that they will be able to maintain all of the storm water on this lot and not have it encroach onto the neighbors' properties.

The call to the public was made at 8:17 pm.

Mr. Tom Sivak of 3480 Pineridge Lane stated he is in support of the variance.

Mr. Michael Balagna 3450 Pineridge Lane is concerned with the slope of the property. He stated that storm water is now ponding on his property and leaching into the lake. There has been approximately four to five feet of dirt added to the site and it is higher and deeper toward the lake that it was previously and it has changed his view. He asked if there will be stairs from the second level that will bring the property owners down to the pool. He wants to know how the side of the property where there is currently a six-foot drop will be restored. A lot of trees

have been removed from the property. He feels the owners should have made this request when they first designed the house.

Mr. Bob Musch owns 3500 and 3510 Pineridge Lane. He and his wife are not supporting the variance request. It is a platted subdivision and has setback requirements. All property owners, except for one, have met the setbacks. When someone is on the lake, it is obvious which home has received the variance as it sits further toward the lake than the others. He is also interested in the water management on this property.

Ms. Donnie Bettles of 3430 Pineridge read the letter that she submitted to the Township. They are requesting to put the pool and retaining wall 20.5 feet closer to the lake than what is required by the Township. It is inconsistent with the surrounding homes. She also noted there is one home on the lake that impedes the views and enjoyment of the lake for almost every other home on the lake. This will decrease the value of their homes.

Mr. John Bender of 3370 Pineridge agrees with Mr. Musch that the variance that was approved for the one property negatively affected the views of 15 homeowners. He is not opposed to this request because it is not bothering any of the neighbors.

Mr. Douglas Brown of 3420 Pineridge stated that the applicant has created the need for this variance and should not be allowed to have the variance approved.

Mr. Slider, the property owner, stated that because the property is so steep, there will be a retaining wall needed, so they are requesting to put the pool in as part of the retaining wall.

Mr. Durrant stated that they are not discussing the construction of the home this evening. The items mentioned this evening are not relevant to the discussion tonight and the request being made. He reiterated that they are seeking a 60 foot waterfront setback and the property to the north is 40 feet from the lake. The issue with this grade was not self-created. There was already a severe slope on this property. The walkout level is at the same elevation as the previous home.

Mr. Bertrang reiterated that if they moved the house back further from the lake, then they would have to put retaining walls on the side of the home, which would require a variance also. Additionally, with regard to any of the storm water runoff, the builder needs to obtain approval from the Livingston County Building Department to ensure that what is being built on this property does not go onto the neighboring properties.

Mr. Brown questioned why the other home was given a variance. Mr. Lock read the report that was submitted by that applicant at that time outlining the reasons given for why the variance was needed.

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Mr. Balagna stated that the builder raised the land and are moving the retaining wall further toward that lake and that is why they need a variance.

Mr. Durrant disagreed with Mr. Balagna. They have the survey from an engineer that shows that the grades before and after are the same.

Board Member Fons confirmed from the engineering plans that the slope and grade of the property is the same as before. He agrees with the applicant that the Livingston County Building Department will have to approve the storm water plan.

Mr. Durrant stated there have been 40 variances granted on Crooked Lake for structures to be built closer to the lake than the Ordinance allows. It is very unusual that a pool follows the same setbacks as accessory structures.

Mr. Musch is unsure where the 40 variances were from, perhaps they are from the other side of Crooked Lake; however, they try to keep the natural features of the lake and properties in their subdivision.

The call to the public was closed at 8:47 p.m.

Board Member Ledford stated the homeowner was previously denied a request for a 12-foot waterfront setback variance and now they are asking for a 20 foot variance. Ms. Ruthig stated that variance request was for the house and this request is for the pool and the retaining walls.

Board Member Rockwell likes the design of the house and the pool, but the request does not meet two of the four criteria needed to grant a variance.

Board Member Kreutzberg questioned if the applicant needs a variance for the retaining wall or just the pool. Ms. Ruthig stated that the Ordinance is silent to waterfront setbacks for pools so they refer to the accessory structure section of the Ordinance. She noted that they could put a patio or a deck 15 feet out from the house toward the water.

Mr. Durrant noted they are required to obtain a variance for the retaining wall. They need a wall in that location due to the topography of the lot, and their position is they could put the pool there or they could put grass. He added that there is another infinity edge pool on this same lake beyond the variance so it would be unjust to not allow the Sliders this same opportunity. He stated again that other owners were allowed to put their homes closer to the water with the same types of lots, which are triangle shaped and sloped.

Mr. Lock noted that they must install retaining walls on this site and there is no language in the Ordinance regarding retaining walls. Chairman Rassel stated the walls could be put within the building envelope or prove that the variance being requested is the least necessary. Mr. Slider stated they are following the natural slope of the land and they are proposing to put the new

retaining walls in the same location as the previous ones. Mr. Lock agrees that this is the ideal location for the retaining wall.

Ms. Ruthig suggested having the Township Engineer review the plans. Mr. Balagna would welcome the engineer to review the plans to determine that this is the appropriate location for the retaining wall

**Moved** by Board Member Fons, seconded by Board Member Ledford, to table Case #20-18 until the October 20, 2020 Zoning Board of Appeals meeting to allow the Township Engineer to review the proposed plans. **The motion carried unanimously.**

**Administrative Business:**

1. Approval of minutes for the August 18, 2020 Zoning Board of Appeals meeting.

Needed changes were noted. **Moved** by Board Member Ledford, seconded by Board Member Kreutzberg, to approve the minutes of the August 18, 2020 ZBA meeting as corrected. **The motion carried unanimously.**

2. Correspondence - Ms. Ruthig had no correspondence this evening.
3. Township Board Representative Report - Board Member Ledford stated a Board Meeting was not held since August 17.
4. Planning Commission Representative Report - Board Member McCreary was not present.
5. Zoning Official Report - Ms. Ruthig had nothing to report.
6. Member Discussion - There were no items to discuss this evening.
7. Adjournment - **Moved** by Board Member Ledford, seconded by Board Member Fons, to adjourn the meeting at 9:19 pm. **The motion carried unanimously.**

Respectfully submitted:

Patty Thomas, Recording Secretary