

**GENOA CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
OCTOBER 20, 2020 - 6:30 PM**

MINUTES

Call to Order: Chairman Rassel called the regular meeting of the Zoning Board of Appeals to order at 6:32 pm. The members and staff of the Zoning Board of Appeals were present as follows: Greg Rassel, Michele Kreutzberg, Jean Ledford, Bill Rockwell, Marianne McCreary 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:

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

Call to the Public:

The call to the public was made at 6:34 pm with no response.

Old Business:

1. 20-15 ... A request by Chestnut Development, 6253 Grand River, for a height variance for an addition to an existing monument sign.

Mr. Steve Gronow of Chestnut Development was present. He showed the site plan noting that Building #B is now constructed. The existing sign is fully occupied by the current tenants so there is now no room on the sign for the tenants in the new building. He has had three potential users who will not sign the lease because they do not have a sign on Grand River. They originally requested a variance to have a second sign, but that was denied because it is one property. They also attempted to split the property but that was not able to be done because the setbacks for the building were non-conforming. He is now requesting a variance to increase the height of the existing sign by 20 inches. He showed a colored rendering of the proposed sign.

Board Member Ledford questioned if each of the buildings has their own addresses. Mr. Gronow stated that each of the tenants have their own address and those are on the buildings.

Board Member McCreary asked how many tenants will be in the second building. He is not sure at this time; however, he could have a maximum of eight. If he were granted the variance,

two of the tenants would not be able to have signage. The call to the public was made at 6:48 pm with no response.

Board Member McCreary questioned why Mr. Gronow did not consider the tenants' needs for a sign for both buildings when the property was developed. Mr. Gronow stated it was an oversight. He added that further down the road, Grand River Annex has a sign that is about 12 feet tall. Ms. Ruthig stated that sign was put in prior to the change in the ordinance.

There was a discussion about redesigning the sign; however, the tenants have the right to use the scrolling digital portion of the sign as part of their lease and to remove "Chestnut Landing" would remove the identity of the development.

Moved by Board Member Ledford, second by Board Member Rockwell, to approve Case #20-15 for 6255 Grand River Avenue, requested by Chestnut Development LLC for a sign height variance of 2 feet six inches, for a sign that is six feet, 8 inches high, with a maximum height of 8 feet six inches and square footage from 77.3 to 111.8 square feet. The property currently has a monument sign for an existing building; however, another building is under construction at the rear of the property requiring signage as well, based on the following findings of fact:

- Strict compliance with the ordinance would prevent the applicant from enlarging the existing sign. Granting of the requested variance may provide substantial justice to the applicant and provide a substantial property right similar to that possessed by a few other properties in the same zoning district with multiple buildings and reduced visibility from the road.
- The exceptional or extraordinary conditions to the property is the location of the second building that has reduced visibility from the road and the odd shape of the lot.
- 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.
- 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 on the following:

1. No additional ground signage will be allowed.
2. The changeable message portion of the sign will not be increased.

The motion carried unanimously.

2. 20-16... A request by Chad Newton, vacant lot located on the northwest corner of Grand River Ave. and Wildwood Drive (4711-10-301-033), for a variance to allow an addition to an existing nonconforming detached accessory structure.

Mr. Newton was present. He stated that when they purchased the home, their future plans were to build their dream house on the vacant property. When he was before the Board last month, a restriction was put on the motion not allowing a home to ever be built on that property, so he

asked for it to be tabled. He is now requesting that the Board approve his requested variance, with a condition that he has to build the home within a certain amount of time. He does not want to lose the ability to build a home on that property in the future.

Board Member McCreary asked where the new home would be built. Mr. Newton stated they would tear down the existing garage and shed and build it on that property. They would leave the existing house that is on the other property as a guest house.

Board Member McCreary noted that the applicant was advised by the Township that a variance would be needed to build a shed and a variance was not requested and the shed was built anyway. Mr. Newton agreed. He apologized to the Board and knows he made a mistake. She stated the reasons given in the applicant's letter for requesting the variance are not hardships. She agrees with Board Member Ledford's motion from last month.

Mr. Newton stated there is no location on the property with the house to build the shed and he needs the storage space.

The call to the public was made at 7:22 pm with no response.

Moved by Board Member McCreary, second by Board Member Ledford, to deny Case #20-16 for Chad Newton to allow an addition to an existing nonconforming detached accessory structure on vacant lot located on the northwest corner of Grand River Avenue and Wildwood Drive (4711-10-301-033), based on the following findings of fact:

- The request does not comply with the current ordinance
- The request for the variance was self-created.

This denial is based on the following condition:

1. The petitioner shall remove the shed within six month and no other work will be done on the shed
2. No other structures shall be built on the lot.

The motion carried unanimously.

3. 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. Loch Durrant and Mr. Brandon Bertrang were present to represent the homeowners. He reviewed their requests and the outcome of the meeting from last month. He read the following statement to address the four requirements of granting a variance.

To recap the last meeting; we are requesting two variances, one for a retention wall due to the severe slope of the property and one for an inground pool to be constructed between the retention wall and the house. At September's board meeting the board determined that a

retention wall was needed and that the board would utilize an engineer to determine where the retention wall would be placed. Based on the report the board would determine the second variance request.

What we concluded from the engineers report is the reason for a retaining wall is to create more usable space between the proposed wall and the lake, and that the severe slope, although could be left in place, would create hardship. We outlined these findings in our synopsis of the engineered report.

We are seeking two variances that allow us to build a retaining wall in the water front yard and a 14'10" variance to allow us to build an inground pool. I think there has been some confusion that we are seeking to change the setback for primary structures amongst the community, but this is not the case. Our goal does not and is not to set a precedent for reducing the setbacks of houses within this community; this is simply for a retaining wall to replace a severe slope and an inground pool placed between the retaining wall and the house. The principal structure currently has an 80'6" setback from the water's edge. The proposed distance from the pool structure and retaining wall is 65'8" from the water's edge, which is substantially less than numerous homes on Crooked Lake. This distance has also been confirmed by the township's engineer. We are primarily seeking a variance to construct a retaining wall in order to gain usable yard space between the proposed wall and the lake, NOT between the house and the wall which seems to be a point of confusion. We are additionally seeking this variance to eliminate a severe slope. In conjunction with that we are seeking to build an inground pool behind the retaining wall. We believe these variances should be looked at in a step by step order. First we would like to discuss the proposed retaining wall since it is clearly evident that one should be permitted, not to mention the countless other homes around the lake that have been granted the same or even more encroaching variances. Once we have come to a consensus on the wall we would like to discuss the placement of the pool behind the retaining wall since it will have no impact on line of site and would be no different from a lawn, patio, deck, or pond.

To give background the current lot has a substantial topographic drop from the rear walkout to water level. If you look at the topographic survey and supplied photographs you can see there is a 10' drop which was also verified by the township's engineer. Our proposed plan cuts back the disturbed soil that was pushed out on the slope. Ultimately the current slope is not suitable for a rear yard and creates a hardship for the homeowner because it's such a severe slope and reduces their usable yard space (steeper than any point on Mt. Brighton). The pre-existing home had natural stone landscape retaining walls that had become overgrown with vegetation, since construction started on the new home these have all been removed. And since the retaining wall is not being built higher than the slope and existing grade they will not impact the line of site from either property as seen in the overlays we have provided. In most jurisdictions retaining walls fall into 2 categories. 1. A wall that is being built up and backfilled usually has to follow certain zoning restrictions because it is built up and out from existing grade. 2. A retaining wall that is being cut back and built into the existing grade generally does not require zoning restrictions because it is not conflicting with lines of site. Our proposed wall is the latter of these two circumstances and ultimately will have zero effect on the neighboring community.

Practical Difficulty: We believe the unusual characteristics of this lot demonstrate practical difficulty and the setbacks that have been granted to other homes within the community and the next door neighbor's variances demonstrate Substantial Justice. The homeowner has an

unusual pie shaped lot that is located on a peninsula with unusual topography with a steep slope in the lake front yard. The current principal set back is 80.5' from the water's edge, this is substantially more than multiple houses within the community and on Crooked Lake including the neighbor directly to the north at 3450 Pine Ridge Lane the setback variance that was granted at this house are as follows Deck: 45' setback from water. House: 58' setback from water. To put into comparison our proposed wall/pool are 7'8" farther back from the water's edge than the neighbor to the north's house. And 20'8" further back than that neighbors deck. Countless other lots have been granted variances reducing the waterfront set back up to 40' as well, these were all based on unusual lot shapes and topographic issues therefore it would be unjust to not take into account the same issues this lot faces. Not to mention these are setbacks for principal structures.

Additionally, the rationale of the setback requirement is to ensure that a person cannot build a home that would take away the lake views from his adjacent neighbors. With the petitioner's variance request, neither of the neighbors would lose any lake views. As our proposal is to build a retaining wall with a pool at grade level, since neither structure has a wall or a roof, no line of site is impacted.

In regards to our second variance request, there has been Precedent set with a pool located at 4252 Highcrest Dr. that was permitted and built beyond the principal structure setback, the validity of this pool is not in question since we believe it does not impact the line of site from neighboring properties but is a further demonstration of substantial justice. In this case, based on the zoning approved the pool was not viewed as a principal structure. There are also water front yard retaining walls throughout the community that have been granted variances for the same reasons we are before you today. The inconsistencies between other zoning approvals and our proposal show a general bias from one project to the other. We have brought copies of 30 variances that have been granted based on one or two of the exact hardships faced by the petitioner, and will be willing to read through them should the board determine it necessary.

In addition, there is a strong argument that the Ordinance's setback requirement of taking the averages of the two houses should NOT be applied at all in this situation. Due to the unique situation that the outdated ordinances do not specify set back requirements for inground pools, thereby defaulting them to the same category as a house with walls and a roof, the rationale of protecting the neighbors views simply do not apply in this situation.

Additional "exceptional undue hardships" include the narrowness of the lot. This is an exceptional undue hardship because the placement of the home on the lot had to conform to side yard setbacks. If the home were to be built further from the lake, to allow space to conform with the waterfront set back, additional variances for side yard setbacks would be necessary.

Extraordinary circumstances: We believe extraordinary circumstances do apply to our case. The unusual shape and topographic nature of the lot set forth the location of the principal structure and to ensure site stability we need to either have a slope with a 50% grade (determined by engineer) or a retaining wall. During demolition multiple failing retaining walls were removed and overgrown vegetation was cleared. In order to reduce the total amount of retaining walls and to have the least amount of impact we are proposing a wall being built well within the side yard setbacks. We have returns cutting in towards the house to allow proper side yard grading so it will not affect neighboring properties. As for the pool there is not a more suitable location on the

property, there is no room on either side and it is not permitted to place the pool in the front yard of the property. Since the pool has to abide by the same setback as the house it would require a variance for any location in the waterfront yard. We also feel that given the need for a retaining wall, the most minimally intrusive way to incorporate the pool would be to do so as a monolithic structure with the wall, therefore serving two purposes. Furthermore if we were to build the retaining wall out of natural stone or landscape block we would not need to seek a variance for the monolithic wall.

Further points to take into consideration:

- A deck is permitted to be built 15' beyond the existing house at the ground level or second story level, which poses an actual impact of line of site for neighboring properties. Additionally the original house had a ground level deck that was in the same location as our proposed structure so we are not proposing anything that impacts the area more than it did before.
- If the house were to be shifted back further away both the pool and principle structure could be built within the 80' setback, this would cause a significant cut out of land for the walkout basement which could cause grading issues for neighboring lots, and create the need for additional unnecessary retaining walls.
- We feel the current ordinances for walls are somewhat outdated and not fully intended to apply to structures built below the existing high point of land. As mentioned before we would be cutting into the existing grade to gain usable space as opposed to building out and up.
- An inground pool with an autocover should not follow the same setbacks as a principal structure or accessory structure in a waterfront yard and rather should carry its own setback requirements as common in other jurisdictions for the reason that it poses no additional burden to neighboring properties than if the surface were mowable grass, or concrete. We feel the code was written during a time when a pool was built a fence was required. With new technology and advanced pool practices also supported by the Livingston County Building Department, the need for a fence is obsolete when a locking automatic pool cover is installed.

To summarize based on the site conditions, distances determined by the townships engineer, and variances granted to other properties within the community we believe there is ample evidence to grant a variance for the proposed retaining wall. And based on that approval we cannot find a reason as to why an inground pool with an autocover should not be permitted in this location. We could see there being restrictions for pools that would require a permanent fence but with a certified autocover Livingston County no longer requires a fence. The inground pool would be set back further than multiple houses within the neighborhood including the direct neighbor (that all were granted variances for the primary structure) and most importantly poses no impact to other properties unlike the variances that have been approved for the houses that are located closer to the water. The inground pool itself would be no different than lawn, or concrete, or most comparably a pond. Technically we could build a pond in that exact location without any zoning restrictions and the only technical difference between a pond and a pool is the filtration system which would be located on the side of the house far behind any setback requirements. These points we believe indicate the need for a variance or revised zoning

ordinances within this community since many of the current ones are out of date for current construction practices.

Mr. Bertrang showed photographs of the home prior to the construction and the proposed new structure. He noted that the Township Engineer confirmed that the retaining wall is needed; however, based on his comments, they reduced the size of the pool and brought it closer to the home by three feet and moved the retaining walls further back. He presented an overlay where the pool will be in relation to the location of the previous deck and noted that the pool could be built in this location without the retaining wall, but the retaining wall is necessary due to the slope of the land. They could plant 30 to 40 foot high arborvitae along one side of the property to block the view of the pool from the neighbor.

He showed another home on Highcrest that has an infinity pool that was not considered a structure. He also noted that many homes on Crooked Lake have retaining walls.

Mr. Durrant reiterated that they are allowed, by ordinance, to build a deck on the second floor, which would impact the neighbors' lines of sight. They also could plant the arborvitae with no variance needed. Mr. Durrant stated they could put a patio there with no variance needed.

Board Member McCreary is concerned with the noise from the people in the pool that could negatively impact the neighbors because it is further away from the home and closer to the water. Mr. Bertrang stated they could plant the arborvitae with no variance needed to help shield the noise from the neighbors.

Board Member McCreary noted that the applicant was denied a variance to build the home closer to the lake and asked why the pool was not presented at that time. Mr. Bertrang stated the pool was decided to be built after the home was planned. Venture Designs was not part of the construction of the home. They are building the retaining wall and the pool.

Mr. Durrant stated that the Township Ordinance does not speak to pools on lakefront lots, so it is considered a structure. A variance is needed for the retaining wall due to the hardship of the topography of the lot and they are putting in a pool at the same location. They could put grass, a patio, etc. at the retaining wall and they would not need a variance for any of those.

Ms. Ruthig agrees that the ordinance is silent to pools on lakefront lots, so staff refers to detached accessory structures. She noted that this will be added during the zoning ordinance update. She also noted that the applicant can build a wall with boulders and would be considered landscaping and could be placed anywhere on the property.

The call to the public was made at 8:10 pm.

Mr. Robert Pettengill of 3540 Pineridge Lane read the letter that he submitted to the Township. I think what is presented here - the fundamental problem - is a package too big for the size and shape of the lot. A huge amount of earth has been moved and removed and most of the trees were taken down, which may have created the need for this variance. But this is not uncommon today: fitting big houses on small lots. Particularly for those of us who have been in this neighborhood for some time this can be an aesthetic shock and departure from what has been

including norms of setback, lines of sight, etc. Nevertheless I must assume up to this point this is all within the various ordinances and in accordance with the owner's permits.

You as the Zoning Board and we as neighbors are reduced to being able to only address the ordinance dealing with lakefront setback. In the case of the pool there is also a quibble about the definition of "structure", between attached or unattached even though they both look the same and require the same footprint.

So, technically the subject on the table tonight is the retaining wall and pool, not the house construction. However, this is because the complete plan, house and pool, were not presented in the beginning even though as I understand it (and I could be wrong) the pool was always intended. There was no mention of a pool at your February 2019 meeting when you denied their variance request of 6.5 feet. It was then that this should have been considered.

It was stated by the owner's representative in the September 15, 2020 meeting that discussion of construction of the home was not relevant to the discussion of the request now being made. It is relevant because it's the total package, house and pool, that result in a variance requirement. Now with the foundation in and construction proceeding the house becomes a fait accompli, a given, and accommodating the pool can only be done by a variance. Any hardship or practical difficulty with the property that causes this variance request goes back to the original layout of the house and pool apparently being incompatible with the lot configuration. Everything was known when they bought the property in 2016 and when the house and pool plans were being developed. Apparently the topographic features of this property were disregarded in favor of going with their plans hoping for variances to deal with the anomalies. Beginning construction before these issues were addressed is what caused the so-called hardship. Going ahead with construction makes this a self-created problem.

I found it difficult to follow the owner's agreements/disagreements with the engineer's recent review. But, looking at the photographs and overlays: the previous property including the house, now gone, was rather modest on both the lakeside and roadside. In fact the previous house was hardly noticeable from the road. The new structure with or without the variance will dominate both lakeside and roadside. My point is the discussion about grades not being changed I find hard to match with the visuals and knowing how much earth has been moved. But, my reading of the engineering review is: no pool; no need for variance. Further, going with a natural grade obviates the need for a retaining wall.

The fact remains a variance is required to accommodate this house and pool on this particular lot. Is this not the definition of a self-created situation? It is only now an unfortunate hardship to the owners because construction is in progress and they do not want to forego the pool which is an add-on to the original plans and to repeat not in their February 2019 variance request which was denied. The conclusions reached then still apply. Adding a pool now only exacerbates the problem.

Bottom line: I can't see how the need for this variance is not self-created, the basis for denial.

Zoning Board of Appeals
October 20, 2020
Approved Minutes

Mr. Bob Musch of 3500 Pine Ridge was present to read Donnie Bettes' letter dated October 17, 2020.

After reading the engineer's comments it would appear that the only reason for the wall would be to support the pool. It appears the petitioner's pool engineers may disagree but when you look at the pictures below you can see that before the dirt was added the grade appeared to be more gradual. Also since the home's foundation was already in before this variance request was made in the past couple months the hardship was again self-created vs adjusting the footprint to accommodate the lot while they were in the planning phase. Note the petitioner has owned the property since Feb 2016, so there has been plenty of time to plan for this feature.

In the previous meeting, in September, there was a motion to deny which was withdrawn so the board could consider the need for a wall. It was suggested that the township engineer's review the area and give their opinion regarding its need. The report appears to purport that the only need for a wall is to support the request for a pool. Otherwise natural settings can be used for landscaping the area. It would appear via your expert's professional opinion that the motion for denial would have the support needed to move forward.

If a wall were approved there is certainly no need for it to be 21 feet closer to the lake. I am sure 0-5 feet is all that is necessary, as that is what is typically allowed along the sides of buildings for emergency personnel to get around.

Mr. Doug Brown of 3420 Pineridge Lane would like Tetra Tech to be given the chance to review Venture's response to their letter.

Mr. Mike Balagna of 3450 Pineridge Lane lives to the north of this property. His biggest concern is the sight line. The applicant raised the grade three to four feet higher and now it blocks his view. They are not allowed to put trees along their property line that would block views.

The call to the public was closed at 8:24 pm.

Ms. Ruthig clarified that trees are allowed to be planted along the property line.

Board Member Ledford lives far off a lake and can still hear the noise all summer. Mr. Bertrang stated it is not what people are in or on that creates the noise, it's what they do while they are there. People in a pool do not make more noise than people on a patio.

Board Member McCreary agrees with Mr. Brown's comment regarding Tetra Tech being able to respond to Venture's response to their letter.

Board Member Rockwell has not changed his mind from last month and Tetra Tech's letter confirmed his decision.

Mr. Bertrang stated that other retaining walls have been built and other variances have been granted for retaining walls and homes closer to the lake than what they are proposing.

Board Member McCreary stated that each property has its own set of circumstances.

Mr. Ralph Slider, the property owner, stated that the neighbor's house to the north of his house is closer to the water than his and his retaining wall will be at grade level.

Mr. Loch stated the house to the north was given a variance to be closer to the lake than the house that is to the north of that one.

Mr. Bertrang reiterated that because the ordinance is silent to pools, it is considered a structure with walls and a floor. They could build a deck with a railing, which would be more intrusive, and that would be allowed by ordinance. He would like to know at what slope the Township would determine that a retaining wall is needed.

Board Member Kreuzberg noted that Tetra Tech stated a wall is not necessary. It can be done with landscaping, boulders, etc.

Board Member Ledford would like to have this item tabled this evening and have the engineer present at the next meeting. Board Member McCreary agrees; however, she is not sure that it will change her opinion.

Moved by Board Member Ledford, seconded by Board Member McCreary, to table Case #20-18 until the next Zoning Board of Appeals Meeting to allow the Township Engineer to be present. **The motion carried unanimously.**

New Business:

4. 20-20 ... A request by Sarah Lanning, 2638 Hubert Road, for a size variance to allow for an existing addition to remain on a detached accessory structure.

Mr. and Mrs. Lanning were present. Ms. Lanning stated they wanted to add to their existing barn for a gym because of the requirement to wear a mask at the gym due to COVID. They understand there is no hardship with the property; however, they would like to be able to work out without having to wear a mask.

Board Member McCreary asked why this wasn't requested when the permit for the barn was requested in April. She added that the addition was started to be built on the barn without another approval.

Mr. Lanning stated that after they built it, they realized that it wasn't big enough for gym equipment after learning that masks would be required at the gym. They stated the addition is 14 x 28, which is 268 square feet.

Chairman Rassel stated the reason presented does not qualify as a hardship.

Ms. Ruthig stated that a 1,200 square foot barn was allowed because the Township did not know the applicant had an existing 168 square foot structure which they are saying is a playhouse, when the approval for the barn was granted.

The call to the public was made at 8:59 pm with no response.

Moved by Board Member McCreary, seconded by Board Member Ledford, to deny Case #20-20 for Sarah Lanning, 2638 Hubert Road, for the variance for a shed to stay on the permitted building that was 40 x 30, based on the following findings of fact:

- The building size exceeds the ordinance allowance of a maximum of 1,200 for an accessory structure in the Rural Residential Zoning District
- The need for the variance was self-created.

This denial is based on the following conditions:

1. The petitioner shall remove the addition within six month and no other work will be done on the addition.
3. No other structures shall be built on the lot.

The motion carried unanimously.

Moved by Board Member McCreary, seconded by Board Member Kreutzberg, to approve a variance for Sarah Lanning, 2638 Hubert Road, to allow a 168 square foot playhouse as it was not considered in the permit approval for the barn.

This approval is conditioned upon the following:

1. No other accessory buildings shall be built on this property.

The motion carried unanimously.

5. 20-21 ... A request by Philip and Melissa Casteleyn, 1717 S. Hughes Road, for a side yard variance to construct an addition on an existing single family home.

Mr. Philip Castelyen was present. He is requesting a side yard setback of four feet for a one-foot side yard setback. This addition will make his home similar in size to others in the neighborhood and will not restrict access to his backyard. The way the original house was built on the lot, it is 8 feet from the side setback at the front of the lot and 1 foot at the back. The lot is narrow and is two feet wider at the front of the property than at the rear. Granting this variance will not impact safety, welfare, or the surrounding neighbors in a negative way.

Board Member Kreuzberg asked the applicant if he considered moving the rear section of the home over. Mr. Casteleyn stated that if he was to shift the house over, he would need a variance on both sides because of his neighbor's garage.

Ms. Ruthig stated the neighbor's fence was not put to the property line. Mr. Casteleyn confirmed that. He maintains his side of the fence, which is not actually his property.

He submitted letters from neighbors who are in favor of him receiving this variance.

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

Mr. Eric Colson of 1725 S. Hughes Road asked if he will have to move his fence. Ms. Ruthig stated no, because it is within the ordinance.

He also asked if the addition will be higher than the existing home. Mr. Casteleyn stated they will be maintaining the roof line of the existing home.

Mr. Greg French of 1732 S. Hughes Road stated Mr. Casteleyn has done improvements to his home, which have improved the neighborhood.

The call to the public was closed at 9:22 pm.

Board Member McCreary asked the applicant how he is going to maintain that side of the property without trespassing on his neighbor's property. Mr. Casteleyn stated that he will be able to maintain his lot and home with the 8 inches on the side between his home and the neighbor's fence. He currently walks on Mr. Colson's property because of where the fence is located. He added that since it's new construction, there won't need to be anything maintained or replaced, such as siding or windows, and when that time comes, he believes they can be done within that space. Board Member McCreary suggested that the applicant obtain an easement from his neighbor to enter onto his property. She understands that the two neighbors are friendly and have an agreement; however, that may not always be the case.

Moved by Board Member Kreuzberg, second by Board Member Rockwell, to approve Case #20-20 for Philip and Melisa Casteleyn at 1717 S. Hughes Road for a side-yard variance of 4.4 feet for a home addition, based on the following findings of fact:

- Strict compliance with the side yard setback would unreasonably prevent or restrict the use of the property and there are other homes in the area with similar side setbacks.
- Granting the variance will provide substantial justice in granting the applicant the same rights as similar properties in the neighborhood and is not self-created.
- The extraordinary conditions are the narrowness of the lot and the placement of the existing home on the property line.

- The granting of the variance would not impair an adequate supply of light and air to the adjacent properties, would not increase congestion or increase danger of fire or threaten public safety or welfare.
- The granting of the variance would have little or no impact on appropriate development, continued use or value of adjacent properties and surrounding neighborhood.

This approval is conditioned upon the following:

1. Structure must be guttered with downspouts.
2. 10 feet must be maintained from the existing shed on property.
3. Must maintain 40 feet from the rear property line.
4. Approval from adjacent neighbor to enter property to construct and maintain the addition if required.

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

Administrative Business:

1. Approval of minutes for the September 15, 2020 Zoning Board of Appeals meetings.

Moved by Board Member Ledford, seconded by Board Member Kreutzberg, to approve the minutes of the September 15, 2020 ZBA meetings as presented. **The motion carried unanimously.**

2. Correspondence - Ms. Ruthig had no correspondence this evening.
3. Township Board Representative Report - Board Member Ledford provided a review of the September 21, October 5, and October 19, 2020 Board Meetings.
4. Planning Commission Representative Report - Board Member McCreary provided a review of the October 13, 2020 PC Meeting.
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 Kreutzberg, to adjourn the meeting at 9:50 pm. **The motion carried unanimously.**

Respectfully submitted:

Patty Thomas, Recording Secretary