

**GENOA CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
FEBRUARY 15, 2022 - 6:30 PM**

MINUTES

Call to Order: Chairman Rassel called the regular meeting of the Zoning Board of Appeals to order at 6:31 pm. The members and staff of the Zoning Board of Appeals were present as follows: Greg Rassel, Marianne McCreary, Bill Rockwell, Michelle Kreutzberg, Jean Ledford, and Amy Ruthig, Zoning Official. Also present was Joseph Seward, Township Attorney.

Pledge of Allegiance: The Pledge of Allegiance was recited.

Introduction: The members of the Board and staff introduced themselves.

Approval of the Agenda:

Moved by Board Member Ledford, 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 6:32 pm with no response.

1. 22-02...A request by Robert J. Brantley, 7595 Brookview Drive, for a wetland variance to allow a detached accessory structure and landscaping wall to remain in the 25-foot undisturbed natural features setback buffer.

Mr. Brantley stated he is requesting a variance for a shed to be put within the wetland setback buffer. The home is a new construction. The stakes were taken down after the home was built and he put the shed in its current location. After the final grading on the property was done, the builder put the wetland buffer zone boundary stakes back in and it showed that 18" of the shed as well as half of the retaining wall are within the wetland buffer zone. None of his neighbors have complained about the shed's location.

He has a permit to perform the wetland buffer restoration and has provided a performance guarantee to ensure completion of the requirements.

Board Member McCreary asked how the shed was able to be put in this location. Mr. Brantley stated he wanted to pour the concrete and install the shed prior to the winter weather starting.

Board Member Rockwell noted that Mr. Brandley's neighbor is working on a new septic field and asked if this will alter the wetland boundary. Ms. Ruthig stated the Township does not issue septic permits.

The call to the public was made at 6:44 pm with no response.

Board Member McCreary believes that because this was a vacant property, it should be very easy to comply with all of the requirements. The applicant removed a lot of vegetation that was supposed to remain. She is not in favor of approving this variance.

Chairman Rassel agrees. He is not in favor of approving the variance.

Mr. Brandley requested a 90-day compliance time frame due to the weather.

Moved by Board Member McCreary, seconded by Board Member Kreutzberg, to deny Case #22-02 for 7595 Brookview Drive for a wetland variance to allow a detached accessory structure and landscaping wall to remain in the 25-foot undisturbed natural features setback buffer, based on the following findings of fact:

- The applicant and builder were apprised of the conditions required by Genoa Township in both pre-development interactions and the permit process regarding the existence and importance of maintaining the required natural features setback and buffer as evidence by the land use permit issued and engineering survey from Engineering Group Associates, both dated December 11, 2020.
- As outlined in the staff notes in the summary of findings of fact, due to the intrusion of the wetlands and grade changes, there is no substantial justice for allowing this variance.
- The reason for the variance is self-created.
- Granting of the variance will not impair the adequate supply of light and air to adjacent property or unreasonably increase the congestion on 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.
- Granting this variance could have a limited impact on the appropriate development, continued use or value of adjacent properties and surrounding neighborhoods.

Based on this denial, the applicant must do the following:

1. The applicant must apply for a land use waiver to relocate the detached accessory structure in a conforming location within 30 days of denial.
2. The landscape wall and concrete pad must be removed within 90 days of denial.
3. Prior to the required removal of the detached structure, concrete pad and landscape wall, the applicant must provide staff with a detailed restoration plan on how the area will be restored and the structures will be removed without further damage to the natural feature's buffer.

The motion carried unanimously.

2. 22-03...A request by Robert Lay, 1824 S. Hughes Road, for a front, waterfront, and side yard variance to construct a 2-story addition on an existing single-family home.

Mr. Robert Lay stated he would like to add a laundry room, additional storage, and another bedroom to his house. He reviewed the plans with the Board. The home is too small for his family. He has removed the existing shed.

Board Member McCreary asked how the construction will be done without encroaching onto the neighbor's property. Mr. Lay stated there will be enough room on his property to store the equipment and materials during the construction.

Board Member Kreutzberg stated a letter was received from a neighbor. She is concerned with how the demolished material will be handled. Mr. Lay stated he will have a Dumpster.

Board Member Rockwell asked if plans will be drawn up by an architect. Mr. Lay stated he will be doing the work. The plans will need to be engineer stamped and will have to be approved by the building department.

The call to the public was made at 7:01 pm with no response.

Moved by Board Member Kreutzberg, seconded by Board Member Ledford, to approve Case #22-03 for Robert Lay at 1824 S. Hughes Road for a front yard setback variance of 1 foot from the required 35 feet, for a 34-foot setback, a north side setback variance of 7 feet from the required 10 feet, for a 3-foot setback, and a waterfront setback variance of 13 feet from the required 78 feet, for a setback of 65 feet for an addition to an existing home, based on the following findings of fact:

- Strict compliance with setbacks would unreasonably prevent or restrict the use of the property.
- The variances will provide substantial justice in granting the application the same rights as similar properties in the neighborhood as there are several similar two-story homes in the immediate vicinity.
- The need for the variances is not self-created.
- The extraordinary circumstances are the non-conforming location of the existing home and the smaller lot size.
- These variances are the least necessary and would make the property consistent with other properties and homes in the area.
- Granting the variances would not impair adequate light or air to adjacent properties, would not increase congestion or increase danger of fire or threaten public safety or welfare.
- 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 final architectural design shall not exceed the 25-foot height requirement.
2. The applicant must demonstrate that the proposed addition does not exceed the maximum lot coverage requirements prior to applying for a land use permit.
3. The structure must be guttered with downspouts and drainage must be maintained on the lot.
4. The applicant must ensure the property is in compliance with the litter ordinance and Section 11.02.06 Open Storage and Repair of Vehicles of the Zoning Ordinance prior to applying land use permit.
5. Construction materials or vehicles cannot be stored on adjacent vacant lots.
6. The applicant must make every effort to complete the proposed project within one-year of land use permit issuance. If the project is not completed within the expiration of the land use permit, then a new permit will be required.
7. The applicant shall ensure that there is adequate parking on the lot.
8. All demolition and construction refuse shall be properly stored in a Dumpster and disposed of offsite as needed.

The motion carried unanimously.

3. 22-04...A request by Jon McLachlan, 1193 Chemung Drive, for a rear yard variance to allow an existing covered deck to remain on an existing single-family home.

Mr. McLachlan stated he previously received a variance to build a garage. He did this work himself and adhered to all requirements. He hired a contractor to build this deck and advised them they needed to obtain all of the proper permits. He learned that they did not obtain the permits and the deck is 32 feet, 8 inches from the rear property line so he is requesting an eight-foot variance.

Ms. Ruthig stated the site plan that was submitted states that the deck is 36 feet from the property line, requiring a four-foot variance.

Mr. McLachlan stated his builder submitted the site plan, which Ms. Ruthig used for her calculations; however, he measured it himself using the property markers and determined the 32 feet, 8-inch measurement.

The call to the public was made at 7:16 pm.

Mr. Chris Grajek of 1190 Chemung Drive lives across the road from Mr. McLachlan. He confirmed that the builder was responsible for the work and the permits. The hardship in this subdivision is that it was platted for cottages, so the lots are small. As soon as the applicant found out there was an error, he went to the Township. They are great neighbors, and he is in support of the variance being granted.

The call to the public was closed at 7:18 pm.

Moved by Board Member McCreary, seconded by Board Member Ledford, to approve Case #22-04 for a rear yard setback variance of 7 feet, 4 inches, from the required 40 feet, for a rear yard setback of 32 feet, 8 inches to construct a covered deck on the rear of the home, based on the following findings of fact:

- Strict compliance with the rear yard setback would not allow the applicant to keep the existing covered deck. The variance would provide substantial justice to the property.
- The exceptional or extraordinary condition of the property is it is a narrow lot and the location of the existing home. The home is located further back on the lot compared to the adjacent neighbors and does not protrude into sight line from the adjacent neighbor to the east.
- 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 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.

This approval is conditioned upon the following:

1. A land use permit must be applied for the covered side porch, covered rear deck and hot tub installation within ten days of variance approval.
2. The applicant must apply for a permit from the Livingston County Building Department for the hot tub installation, covered side porch, and covered rear deck within ten days of approval.
3. The applicant must ensure that the property is in compliance with the lot coverage ordinance prior to applying for a land use permit.

The motion carried unanimously.

4. 22-06...A request by Kevin Kline, 2157 Webster Park Drive, parcel # 4711-30-101-110, for a variance to construct a detached accessory structure on a vacant parcel.

Mr. Kline stated this property had an abandoned 1920's cottage that is beyond repair and needs to be torn down. He purchased the property across the street as well. He would like to put a garage here as he cannot put a garage on his property. The footprint of the garage will be in the same location as the existing cottage. His plans would significantly increase the condition of this property.

Board Member Kreutzberg questioned the slope of the property and asked how the applicant will build the garage. Mr. Kline stated he will grade the property and will install retaining walls.

Ms. Ruthig stated the Township has an ordinance that addresses retaining walls. Her concern is that a retaining wall is considered a structure so a variance would be needed for that as well as the proposed garage. She suggested that Mr. Kline revise the plans showing the grading, the foundation, and the retaining wall and return to a future ZBA meeting for approval.

The call to the public was made at 7:33 pm with no response.

Moved by Board Member Rockwell, seconded by Board Member Kreutzberg, to table Case #22-06 for Kevin Kline at 2157 Webster Park Drive, Parcel #4711-30-101-110, until the March 22, 2022 ZBA meeting to allow him to provide detailed plans for the accessory structure, grading, and retaining wall. **The motion carried unanimously.**

5. 22-05...A request by Jere Palazzolo, 3280 Chilson Road, parcel# 4711-20-100-020, for an appeal of the Planning Commission per Section 23.02.01 determining re-application validity.

Board Member McCreary asked to be excused from this case's discussion and vote as she is a member of the Planning Commission. **Moved** by Board Member Ledford, seconded by Board Member Rockwell, to excuse Board Member McCreary from the discussion and vote on Case #22-05. **The motion carried unanimously.**

Chairman Rassel stated that the Zoning Board of Appeals must decide whether or not the Planning Commission's decision was correct to not hear CHI's case in December. Did they apply the ordinance correctly? The ZBA is not determining any aspects of the proposed project.

Mr. Scott Tousignant of Boss Engineering, Mr. Robert Muise of American Freedom Law Center, and Mr. Jere Palazzolo, the applicant, were present.

Mr. Tousignant stated they are appealing the most recent decision by the Planning Commission to not hear the revised submittal package from CHI in December. They did not believe there was a significant change to the plan to allow it to be heard. Mr. Tousignant reviewed how their proposed changes do qualify for a significant change in the plan.

Mr. Seward stated that in December of 2021, the Planning Commission used Section 19.07 of the Zoning Ordinance and determined that the presentation that evening by the applicant did not meet the requirements of that section to allow them to review the changes before the expiration of the one-year denial. The requirements for a case to be heard prior to one year after denial is there must be new grounds or substantial new evidence to support changed intent of the application or proof of any changed conditions based on the reasons in the Township Board's original denial. The Zoning Board of Appeals must determine if the new submission meets these requirements and should the Planning Commission hear their case before the one-year time frame expires.

Chairman Rassel asked the applicant to review what they have changed in the latest submission.

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Mr. Tousignant stated they removed the 6,000-square-foot chapel, which is a significant change in the use of the site. The site will not be used as much because all services will be outside. They will only have the prayer trails, landscape statues and stations of the cross. He noted that the reasons for the denial of the original plan was that the Planning Commission felt the proposed use with the chapel was not consistent or harmonious with the Country Estates Zoning or Master Plan and the impact that this site would have on the surrounding areas with respect to traffic, noise, and lighting. However, without the physical building, these impacts will not be an issue.

Additionally, there are two annual planned events here, and they described how they would mitigate any traffic or parking concerns for those events.

The photometric plan that was presented meets the Township Ordinance.

The only noise is for vehicles entering the site or if a mass is being held on site. The reason for this site is for peace and reflection so noise is against that purpose.

While this use is not a residential use, an outdoor prayer campus is harmonious with the current zoning. Parks, essential public services, utilities, etc. are uses allowed by right or special use in the Country Estates Zoning District. A church is a use allowed by a special land use in this zoning.

Mr. Muise provided a review of the outstanding federal court case.

Mr. Seward suggested the Board not consider the ongoing litigation and determine if the Planning Commission complied with the ordinance correctly.

The call to the public was made at 7:51 pm

Ms. Melanie Johnson of 3990 Chilson Road does not believe that the Zoning Board of Appeals should grant this request. The applicant will be able to go before the Township in May, which will be a year after their request was denied. There is information on the applicant's website outlining what they are requesting for this site. They would want lower density but not lower intensity.

Ms. Lexi Jones of 3553 Westphal Road stated this project should not be allowed. The proposed building is an accessory building and is not allowed without a primary structure.

Mr. Shawn Nester of 3360 Chilson Road, which is directly south of this site, is in opposition of this project as well as them being granted an appeal for their denial. He reviewed the four reasons why the Planning Commission denied the request and explained why he agrees with all of them. This is not consistent with the Master Plan. He asked the ZBA to deny this appeal.

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Ms. Debra Beatty of 3809 Chilson Road stated the Planning Commission made the correct decision in December. The applicant did not make any significant changes to the plan. She agrees with Mr. Nester's comments.

Mr. Guy Genzel of 1526 Bailey, Taylor, MI owns property across the road from this site. This is a quiet community to raise a family. He suggested the church build this on commercial property.

Ms. Ruthig stated she received an email today in support of the appeal. She did not have the sender's name or address, but noted they were not a Genoa Township resident. She will enter it into the record.

The call to the public was closed at 8:04 pm.

Moved by Board Member Ledford, seconded by Board Member Rockwell, to deny Case #22-05 for Parcel #4711-20-100-020, 3280 Chilson Road as no evidence of additional changes or information was presented to the Zoning Board of Appeals that warrants an appeal to the Planning commission to determine re-application validity. Therefore, Section 19.07 of the Zoning Ordinance will remain in full force and effect for one year from the date of denial, which is May 3, 2021. **The motion carried unanimously.**

Administrative Business:

1. Approval of minutes for the January 18, 2022 Zoning Board of Appeals meeting.

Moved by Board Member McCreary, seconded by Board Member Kreutzberg, to approve the minutes of the January 18, 2022 meeting as presented. **The motion carried unanimously.**

2. Correspondence - Ms. Ruthig stated there will be two cases on the March meeting agenda.

3. Member Discussion

There were no items to discuss this evening.

4. Adjournment - **Moved** by Board Member Ledford, seconded by Board Member Rockwell, to adjourn the meeting at 8:16 pm. **The motion carried unanimously.**

Respectfully submitted:

Patty Thomas, Recording Secretary