

**GENOA CHARTER TOWNSHIP  
ZONING BOARD OF APPEALS  
October 18, 2022 - 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. The members and staff of the Zoning Board of Appeals were present as follows: Greg Rassel, Michelle Kreutzberg, Bill Rockwell, Marianne McCreary, Craig Fons, and Amy Ruthig, Planning Director. Absent was Jean Ledford.

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

**Call to the Public:**

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

**Old Business:**

1. 22-20...A request by Joseph Anzalone, 5964 Glen Echo, for variances to allow a detached accessory building (gazebo) to remain within the required waterfront yard and for a shoreline setback variance.

Mr. and Mrs. Anzalone, the applicants, and Mr. Roger Myers, the applicants' legal counsel, were present. Mr. Myers submitted three letters of support from neighbors for the variance requests. The variance is to allow an existing 144-square-foot gazebo to remain. The challenge was identifying if the waterfront variance is applicable due to the irregular shoreline. He cited other accessory structures next to and surrounding the applicant's home. The applicant's gazebo is consistent with other gazebos and accessory structures on other properties in the neighborhood as well as around all of Lake Chemung so this would provide substantial justice to the applicant. The practical difficulty and extraordinary circumstances are that this is a unique parcel due to its topography and the location of the road. If the gazebo was moved further from the shoreline, it would be very close to the existing road and that would pose a public safety issue and create a greater obstruction of the lake views than where it is currently located. This will not have a negative impact on the neighborhood due to the other existing accessory structures on other properties.

Mr. Anzalone did not know of the zoning requirement. He would have requested approval if he did. He saw his neighbors' structures so he thought it was allowed.

Genoa Township Zoning Board of Appeals Meeting  
October 18, 2022  
Approved Minutes

Chairman Rassel asked when the gazebo was built. Mr. Anzalone stated it was put up two years ago. The variance is being requested this evening because one of the neighbors complained. Mr. Myers added that there was civil litigation regarding riparian rights for property owners in this neighborhood. Now it has been settled, violations are being enforced. He added that that decision is being appealed at this time.

Ms. Anzalone believes that a neighbor in the other part of the neighborhood complained about their gazebo.

Ms. Ruthig stated that the location where the gazebo is located is in the "front lotter park" and no one is able to erect any structures. Ms. Anzalone stated the ruling said that the existing gazebo could remain.

Ms. Ruthig stated the structure was built in 2021. Township Staff needs more clarification from Judge Hatty's ruling as to what accessory structures are allowed and what ones are not. It is difficult to obtain this information at this time because the case is being appealed. They also do not have specific lot lines. Board Member Kreutzberg agrees that what variance is needed, if one is needed at all, is difficult to determine when the lot lines are unknown.

Board Member Rockwell does not want to make a decision on this without the lot line information.

Board Member McCreary stated the Glen Echo Plat, which is a legal document, states that the park belongs to all of the residents in the neighborhood. Mr. Myers stated that the appeal is not challenging that information, they are appealing the ruling that they are not allowed to put docks into the lake from this park.

Board Member Rockwell asked if other property owners are allowed to use the gazebo. Ms. Anzalone stated that many of the neighbors use the gazebo.

Board Member Fons questions if the ZBA or the Township Staff has the authority to allow the gazebo or require them to remove it. He does not feel comfortable making that decision.

The call to the public was opened at 7:04 pm.

Ms. Laura Wildman of 658 Pathway agrees that there are a lot of structures along the shoreline. This is a great addition and benefit to the lake.

Mrs. Beverly Leslie of 5955 Grand River owns four lots. All of the neighbors in the area spend time together at the gazebo.

Ms. Yvette Whiteside of 5780 Glen Echo does not know who filed the complaint against Mr. Anzalone. Where she and her neighbors live is separate from the area of the neighborhood where the original lawsuit was filed, but it is affecting them.

Mr. Steve Wildman of 658 Pathway agrees that there are a lot of worse zoning violations around the lake than the applicant's gazebo. Moving it 10-feet back would not make a difference. He uses the gazebo also.

The call to the public was closed at 7:10 pm.

Genoa Township Zoning Board of Appeals Meeting  
October 18, 2022  
Approved Minutes

Ms. Ruthig stated that Staff has determined that the accessory structures that are allowed to remain based on Judge Hatty's decision must meet the ordinance requirements. Mr. Anzalone needed to apply for a variance because a violation was reported.

Mr. Myers stated that due to the pending appeal, there are still decisions to be made that will determine how the Township's ordinance is to be enforced. He would like to table this request until after the appeal has been decided.

Board Member Rockwell stated that apart from the appeals case, there is no information to determine the applicant's property lines.

Ms. Ruthig suggested that the item be tabled until the next ZBA meeting to allow Staff to consult with the Township Attorney to determine if this can be tabled until the appeals case is decided and if the Board has the authority to vote on this request.

**Moved** by Board Member McCreary, seconded by Board Member Kreutzberg, to table Case #22-20 until the November 15, 2022 ZBA meeting, pending review from the Township's legal counsel. **The motion carried unanimously.**

**New Business:**

2. 22-22...A request by Steven Rochon, 1295 Pond Bluff Way, for a side yard setback variance to allow an addition to an existing home.

Mr. Brad Huard of Remodeling Star, who is the applicant's contractor, stated the proposed addition would be encroaching six feet into the setback. They are staying within the same building line.

He has a letter from who would be directly affected by the variance and they are in support of the variance. The homeowner's association has also submitted a letter providing their approval of the addition.

Board Member Fons asked why the addition could not be placed on the other side of the home. Mr. Huard stated this is the best location for this addition because of where the laundry room is currently and the reason for the addition. The well would also need to be located if it was built on that side.

Mr. Ruthig noted there are retaining walls on the site and if they are altered, they will need to meet the Township's ordinance.

The call to the public was opened at 7:34 pm with no response.

**Moved** by Board Member Kreutzberg, seconded by Board Member McCreary, to approve Case #22-22 for Steven Rochon of 1295 Pond Bluff Way for a side-yard variance of 9 feet, 6 inches from the required 30 feet for a setback of 20 feet, 6 inches to construct an 8 x 24 addition to the existing home, based on the following findings of fact:

- Strict compliance with the setbacks would unreasonably restrict use of the property. This variance will provide substantial justice, is the last necessary and would make the property consistent with other properties and homes in the area that encroach on side yard setbacks.

Genoa Township Zoning Board of Appeals Meeting

October 18, 2022

Approved Minutes

- The variance is necessary due to extraordinary circumstances, such as the location of the home on the west side of the property.
- The granting of the variance will not impair an 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.

This approval is conditioned upon the following:

1. Any new retaining walls would require a land use permit

**The motion carried unanimously.**

**Administrative Business:**

1. Approval of minutes for the September 20, 2022 Zoning Board of Appeals meeting.

Needed changes were noted.

**Moved** by Board Member Rockwell, seconded by Board Member Kreutzberg, to approve the minutes of the August 16, 2022 meeting as amended. **The motion carried unanimously.**

2. Correspondence - Ms. Ruthig stated there will be three cases on next month's agenda.

3. Member Discussion

The Board discussed their voting on items that are pending litigation.

4. 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