

**GENOA CHARTER TOWNSHIP  
ZONING BOARD OF APPEALS  
May 16, 2023 - 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, Marianne McCreary, Jean Ledford, Bill Rockwell, and Amy Ruthig, Planning Director.

**Pledge of Allegiance:** The Pledge of Allegiance was recited.

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

**Conflict of Interest:** None

**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 opened at 6:31 pm with no response.

1. 23-15 & 16...A request by Justin Tobey, 3823 E. Coon Lake Road, for front, side and a natural features setback variances and any other variances deemed necessary by the Zoning Board of Appeals to construct a new home.

Mr. Tobey stated the property is vacant and the hardship is that this property is .68 acres and is located in a five-acre minimum zoning, so the setbacks are not able to be met. The proposed front yard setback and size of the home are consistent with his neighbors. He showed the survey indicating the proposed building envelope and location of the home.

Board Member McCreary requested a letter be provided to the Township from the owner that gives permission for Mr. Tobey to request these variances as he is not the current owner of the property.

The call to the public was opened at 6:43 pm with no response.

**Moved** by Board Member Kreutzberg, seconded by Board Member McCreary, to approve Case #23-15 for a front yard setback variance of 22 feet from the required 75 feet for a front yard setback of 53 feet, a side yard setback variance of 30 feet from the required 40 feet for a side yard setback of 10 feet, and a wetland setback variance of 10 feet from the required 25 feet for

a wetland setback of 15 feet for Justin Tobey, 3823 E. Coon Lake Road, to construct a new home, based on the following findings of fact:

- Strict compliance with the setbacks would unreasonably prevent intended use of the property. The variance will provide substantial justice, is the last necessary, is not self-created and would make the property consistent with other properties and homes in the area. The wetland variance is necessary as it is intended for long-term usage of the rear yard with no disturbance to wetland.
- The building variance is necessary due to the extraordinary circumstances, such as the unconventional size of the property, narrow lot size, and location of wetland. The building envelope as it exists is unreasonably small without providing above variances.
- The need for the variances is necessary and not self-created
- Granting these variances would not impair adequate light or air to adjacent properties, would not increase congestion or increase danger or fire or threaten public safety.
- The variances would have little or no impact on the appropriate development, continued use or value of adjacent properties and surrounding neighborhood.

The approval is conditioned upon the following:

- No additional structures are permitted on the property.
- Silt fence shall be installed during construction to prevent run off to the wetland
- An authorization letter from the property owner shall be submitted to the Township
- Permanent demarcation signs shall be installed along the wetland setbacks.
- Post construction, permanent lawn and landscaping must be installed to maintain soil erosion and wetland condition.

**The motion carried unanimously.**

2. 23-17...A request by Janet Exline, 4437 Filbert Drive, for a variance and any other variance deemed necessary by the Zoning Board of Appeals to repair and construct an addition onto a non-conforming deck.

Ms. Janet Exline stated they would like to square off their oddly-shaped deck and add a second tier.

Chairman Rassel questioned if the applicant received the review letter from the Township. Ms. Exline stated she had not and requested time to review the letter.

**Moved** by Board Member McCreary, seconded by Board Member Kreutzberg, to table Case #23-17 until the end of the meeting to allow the applicant to review the letter provided by the Township Planner that was included in tonight's packet. **The motion carried unanimously.**

3. 23-18... A request by Robert Kuikahi, 6035 E. Grand River Avenue, for waterfront setback variance and any other variance deemed necessary by the Zoning Board of Appeals to demolish existing home and construct a new home.

Mr. Kuikahi stated they would like to move the home closer to the water. He showed elevations and a floor plan of the proposed home, but he did the site plan drawing himself. He is confident that his measurements are accurate. He noted that his neighbors are here tonight to support him. He will not be blocking the view of the lake for either of his neighbors.

Board Member McCreary stated she only saw two stakes at the back of the property. There were no other stakes. Mr. Kuikahi stated he has stakes showing the side setbacks. They are very close to where the existing home is located. Mr. Rockwell noted one was close to the recycling bin.

Board Member McCreary questioned why the home is so large. Mr. Kuikahi stated he has a very large family and he would like a garage for his boat.

The call to the public was opened at 7:03 pm with no response.

**Moved** by Board Member Kreutzberg, seconded by Board Member Ledford, to approve Case #23-18 for a waterfront yard setback variance of 25 feet 7 inches from the minimum required 110 feet for a waterfront yard setback of 84 feet 5 inches for Robert Kuikahi of 6035 E Grand River to demolish an existing home and construct a new home, based on the following findings of fact:

- Strict compliance with the setbacks would unreasonably restrict the intended use of the property. The variance will provide substantial justice and would make the property consistent with other properties and homes in the LRR zoning district. The need for the variance is not self created.
- The variance is necessary due to the extraordinary circumstances, such as the steep topography and the deficient lot width and area combined limit available building space on the property. These conditions are not self created and are exacerbated by the size of neighboring lots used to determine waterfront setbacks.
- Granting this variance would not impair adequate light or air to adjacent properties, would not increase congestion or increase danger or fire or threaten public safety.
- The variances would have little or no impact on the appropriate development, continued use or value of adjacent properties and surrounding neighborhood and will, in fact, maintain minimum street front setback from Grand River, specifically allowing safe entrance to traffic.

**The motion carried unanimously.**

4. 23-19...A request by Tim Chouinard and Mike Tiano, 576 and 572 Black Oaks Trail, for front yard setback variance and any other variance deemed necessary by the Zoning Board of Appeals to construct a new home.

Mr. Chouinard stated the two existing structures are non conforming. He would like to remove them and build one large home. He has placed the house as far off of the road to avoid the need for a waterfront setback variance. The practical difficulty is the size of the building envelope and neither of the existing homes are able to be salvaged.

There was a discussion regarding the discrepancy between the lot area noted on the site plan and what is in the Township's records in the Planner's review letter. The site plan notes 14,208 square feet, while the Township indicates 9,583 square feet. The letter notes that the latter would make this a nonconforming lot, which would be an additional burden or extraordinary circumstance.

The call to the public was opened at 7:19 pm with no response.

**Moved** by Board Member Rockwell, seconded by Board Member Kreutzberg, to approve Case #23-19 for a front yard setback variance of 30 feet from the required 35 feet for a front yard setback of 5 feet for Tim Chouinard and Mike Tiano of 576 and 572 Black Oaks Trail to construct a new home, based on the following findings of fact:

- Strict compliance with the ordinance would prevent the construction of a new home. The variance would support substantial justice and is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and vicinity.
- The exceptional or extraordinary condition of the property is the lot's irregular shape in being wider from the merger of two lots relative to its depth.
- 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 a limited impact on the appropriate development, continued use or value of adjacent properties and the surrounding neighborhood.

This approval is conditioned upon only one dock being allowed on the combined lots.

**The motion carried unanimously.**

2. 23-17...A request by Janet Exline, 4437 Filbert Drive, for a variance and any other variance deemed necessary by the Zoning Board of Appeals to repair and construct an addition onto a non-conforming deck.

Mr. Matt Richey and Ms. Janet Exline were present. Mr. Richey stated the project as it is proposed, is the first part would be the 14 x 19 addition to the existing structure to reconfigure the oddly shaped existing deck and square it off to the existing house. They would also like to repair the existing stairs. After reading the review letter, it appears they do not meet the criteria for the addition of the second tier. It already exceeds 16 feet and the maximum allowed is 15 feet. Ms. Exline noted that the home across the lake from them at 4030 Clifford has four tiers of decking. She showed a sketch of their proposal.

Board Member McCreary asked the applicant to provide the hardship for the need for the variance. Mr. Exline stated the existing deck is already non-conforming, so they required a variance to repair it so while they were asking for the one variance, they wanted to add the addition at the same time.

Board Member Rockwell agrees with the request to square off the existing deck but is not in favor of approving the additional tier to the deck. Board Member Kreutzberg advised the applicant that if a brick or concert area at the bottom of the stairs is less than six inches high, it would be allowed and would not require a variance.

The call to the public was opened at 7:38 pm.

Mr. James Walsh of 4443 Filbert submitted a FOIA request that he made to the Livingston County Building Department for a deck permit for 4337 Filbert and they did not have any

records for that permit. There are no other decks that stick out that far in their neighborhood. It substantially blocks his view of the lake. This would be an addition to an unpermitted and non-conforming deck.

The call to the public was closed at 7:40 pm.

Ms. Exline noted that on the survey she submitted, which has both her and her neighbor's properties, it shows a 12 foot shed on the neighbor's property. There is also another shed that is not shown on the survey.

Board Member McCreary stated that this deck protrudes further than both of the houses on either side. She is not in favor of adding on to the existing deck. This Board cannot address the issue of the existing deck being non-conforming.

Mr. Richey showed the floor plan of the home and deck and noted that the "triangle" portion toward the lake is being removed. That point extends 19 feet so they will be bringing that part back to 16 feet and then expanding it to the east and squaring it off to the side of the home.

Ms. Ruthig stated the applicant could add to the existing deck if the addition is only 15 feet from the house, not 16 which is the current size. They would still need a variance to make a repair that exceeds more than half the value of the existing deck.

Variance to repair a non-conforming deck on the same footprint  
Ordinance Section 24.04.06 which allows them to exceed 50 percent of the existing non-conforming deck.

To extend the deck as long as it is compliance

**Moved** by Board Member McCreary, seconded by Board Member Kreuzberg, to approve Case #23-17 for Janet Exline of 4437 Filbert Drive for a variance to repair a non-conforming deck in the same footprint, or less, per Article 24.04.06 of the Zoning Ordinance, referring to allowing the applicant to make repairs that exceed 50 percent of the value of the conforming deck, based on the findings of fact:

- The existing deck will be repaired for safety purposes as it is the access from the home to the rear yard.
- Granting this variance would support substantial justice and property rights similar to those possessed by other properties in the same zoning district and vicinity.
- Strict compliance with the ordinance would prevent the existing deck from being repaired.
- 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 a limited impact on the appropriate development, continued use or value of adjacent properties and the surrounding neighborhood.

**The motion carried unanimously.**

**Administrative Business:**

1. Approval of minutes for the April 18, 2023 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 April 18, 2023 Zoning Board of Appeals meeting as corrected. **The motion carried unanimously.**

2. Correspondence

Ms. Ruthig stated there are two cases scheduled for next month's meeting.

3. Member Discussion

There were no items to discuss this evening.

4. Adjournment

**Moved** by Board Member Ledford, seconded by Board Member McCreary, to adjourn the meeting at 8:09 pm. **The motion carried unanimously.**

Respectfully submitted:

Patty Thomas, Recording Secretary