

**GENOA CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
September 19, 2023 - 6:30 PM**

MINUTES

Call to Order: Vice Chairperson McCreary 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: Marianne McCreary, Jean Ledford, Craig Fons, Michelle Kreutzberg, and Amy Ruthig, Planning Director. Absent were Greg Rassel and Bill Rockwell.

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 6:33 pm with no response.

OLD BUSINESS:

1. 23-20...A request by Dave McManus, 4143 Highcrest Drive, for front, side, building lot coverage, impervious surface lot coverage and waterfront setback variances and any other variance deemed necessary by the Zoning Board of Appeals to construct a new home.

Mr. McManus stated that he has made revisions to his plans and is only requesting three variances, not the five listed on the agenda. Ms. Ruthig said there are four variances needed due to the cantilever. Mr. McManus was not aware a variance was needed for that. He would be willing to eliminate the box out windows to eliminate the need for this variance.

Mr. McManus stated that after he purchased the home and did a survey, there is a 10 percent difference in the square footage of the lot and it is 17 feet shallower from what is shown on the Livingston County parcel viewer. If the County's website was correct, he would only need two variances. Two practical difficulties are that the neighbor to the south's garage is less than five feet from the property line, his shore line is seven feet less than his neighbors, his lot is very narrow and has a trapezoid shape. The average distance from the closest corner of the house to the curb is 16.3 feet, with some being as close as 3.5 feet and he is requesting a setback of 15.5 feet. Also, the average distance from the shoreline to the rear structures is 33.1 feet, with two being as close as 10.6 feet and 14.9 feet, and his request is for 43 feet.

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There will be no negative impact on the public safety, welfare or the surrounding neighborhood. This house will be a good addition to the neighborhood and the lake.

He has made the following changes from his previous submittal:

- Eliminated the retaining wall along the north side walkway leading to the front porch
- Eliminated the poured concrete walkway leading up to the front port
- Reduced the width of the house from 34 feet to 31.6 feet
- Reduced the square footage footprint from 1,962 square feet to 1,842 square feet
- Reduced the building lot coverage from 41.7 percent to 37.9 percent
- Redacted the impervious surface coverage from 55.2 percent to 49 percent
- Eliminated the south side yard setback and impervious surfaces lot coverage variances

Vice Chairperson McCreary appreciates that some changes were made, but questioned if more could be done to make the variances closer to the least necessary. Mr. McManus stated he can only make the home smaller. He does not want to put in a third floor or an elevator. He noted that other properties in the area have much more lot coverage than what he is requesting, and one was almost 50 percent. This would provide him with substantial justice. He reiterated that he would be willing to remove the cantilever windows to reduce the number of variances he is requesting.

Board Member Ledford noted that the planners report states that if the two windows are converted to traditional bay windows, then a side-yard variance would not be needed.

Board Member Fons said the house can be made 200 square feet smaller and it would conform to the lot coverage requirement. He is not against the front and side yard variances as these are very common setbacks granted by the board.

Mr. McManus worked with his architect to make the house narrower and reduce the side-yard setback variances requested. He wants to build a house and not a cottage.

The call to the public was made at 7:11 pm with no response.

Mr. McManus questioned if lot coverage variances have been granted within the last year. Ms. Ruthig does not recall any. Board Member Fons stated he has been on the board for four years and he does not remember any being granted.

There was a discussion and direction was given to the applicant regarding the difference between the box out windows and a bay window and how they affect the setbacks.

Moved by Board Member Kreutzberg, seconded by Board Member Fons, to table Case #23-20 for Dave McManus, 4143 Highcrest Drive, for front, side, building lot coverage, impervious surface lot coverage and waterfront setback variances to construct a new home until the November 21, 2023 Zoning Board of Appeals meeting, at the applicant's request.

The motion carried unanimously.

2. 23-21...A request by Tiffany and Chris Trotter, 2621 Spring Grove Drive, for side yard setback variance and any other variance deemed necessary by the Zoning Board of Appeals to be allowed to move an already-constructed pole barn to the lot line.

Ms. Trotter is requesting additional time to have the pole barn moved. She has submitted all of the required paperwork. She stated that the builder did not obtain permits and built the pole barn into the setback. Her new builder will be moving it to meet the setback requirements. They have stated they can schedule this work in November.

Board Member Kreutzberg asked if the debris had been removed from the neighbor's property and if the shed has been removed. Ms. Potter stated the debris will be removed when the building is moved. She would like to keep the shed. The neighbor agrees with allowing it to stay. Ms. Ruthig advised that this was required to be removed as it is not allowed to be in the front yard. She stated that the board can grant this variance or it can be moved to behind the house. Ms. Potter stated this area drops off so it cannot be moved there.

The call to the public was made at 7:42 pm.

Mr. Thomas Dougan of 2601 Spring Grove Drive lives next door to the Trotters. He would like the pole barn and all of the gravel and debris to be moved off of his property as quickly as possible. The shed has been moved and is on the applicant's property.

The call to the public was closed at 7:44 pm.

The applicant's contractor stated they will begin their portion of the work so it is ready for the company who is going to move the barn. They estimate this all being completed by December 1, 2023. If it is not moved by then, they will tear it down.

Ms. Ruthig advised Ms. Trotter that the fence cannot be put back up.

Board Member Kreutzberg **moved** to approve Case #23-21 for a front yard variance to allow a second accessory structure to remain in the front yard with a setback of a minimum of 13 feet, based on the following findings of fact:

- Strict compliance with the setbacks would unreasonably restrict the intended use of the property.
- This variance will provide substantial justice, is the least necessary and would make the property consistent with other properties and homes in the area.
- As previously granted, variance was necessary for the preservation of property rights similar to other homes in the same zoning district.
- The extraordinary circumstances are the condition/topography of the property, location of the home, irregular lots harp and the location of the well and septic.

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- Granting this variance will 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 appropriate development, continued use or value of adjacent properties and surrounding neighborhood.

This approval is conditioned upon the following:

1. This structure shall be moved by October 19, 2023.

The motion failed for lack of support.

Moved by Board Member Kreutzberg, seconded by Board Member Ledford, to approve Case #23-2~~13~~ submitted by Tiffany and Christopher for a front yard variance for a total setback of 10 feet to relocate an accessory structure, based on the following findings of fact:

- Strict compliance with the setbacks would unreasonably restrict the intended use of the property.
- This variance will provide substantial justice, is the least necessary and would make the property consistent with other properties and homes in the area.
- As previously granted, variance was necessary for the preservation of property rights similar to other homes in the same zoning district.
- The extraordinary circumstances are the condition/topography of the property, location of the home, irregular ~~lots~~ harplot shape and the location of the well and septic.
- Granting this variance will 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 appropriate development, continued use or value of adjacent properties and surrounding neighborhood.

This approval is conditioned upon the following:

1. A Performance Guarantee will be provided and enforced if the structure is not relocated by December 1, 2023 per section 21.03 of the zoning ordinance.
2. The structure must be guttered with downspouts.
3. Section 03.03.02 Home Occupations of the Zoning Ordinance must be followed.
4. Must obtain a land use permit and a building permit from the Livingston County Building Department within 10 days.
5. The second detached accessory on the property in the front yard, must be removed within 30 days or relocated to conform to township ordinance. Remove fence and debris from neighboring property and restore it to its original condition.
6. The detached accessory structure or roof (lean to) cannot be enlarged.
7. If any business equipment or personal equipment (trucks, trailers, etc.) are stored on the lot, they must be brought into conformance with the Township ordinance prior to land use permit issuance.
8. The paved area that is located in the easement shall not contain any vehicles or equipment that would cause the adjacent property owner to not be able to access their property.

The motion carried unanimously.

NEW BUSINESS:

3. 23-26...A request by Treasure Rousselo, 3520 Pineridge Lane, a waterfront yard setback variance, size variance and any other variance deemed necessary by the Zoning Board of Appeals to allow for a non-conforming deck to remain.

Ms. Rousselo stated that she is requesting a variance for her existing deck because it is too large and too close to the lake. The current home is very small and the property drops down in the back. She and her uncle and a contractor built the deck. She trusted them to obtain the permits and conform to what is allowed. She stated that because the neighbor to the north has such a large lot, it affects her waterfront setback, to where she would not be able to build a deck.

Board Member Ledford asked why this deck was built when there is a deck connected to the house. Ms. Rousselo stated that the deck is not able to be used. She is hoping to remodel the deck with a three-season room or add onto the house.

Board Member Ledford advised the applicant that the homeowner's association has their own restrictions and they do not approve of this deck. This board does not have jurisdiction over homeowner's associations. She will not be voting in favor of this request.

Ms. Ruthig noted that the existing slab with the roof is not permitted. Ms. Rousselo was told that it was allowed because it is existing. Ms. Ruthig advised Ms. Rousselo that because she installed the deck, it is no longer permitted.

Board Member Fons stated he cannot find a hardship for the variance.

The call to the public was made at 8:34 pm.

Mr. Robert Pettengill of 3540 Pineridge Lane lives two doors down from the applicant. The residents on that side of the lake have understood they are not allowed to go past the ridgeline and this deck does. The deck does not negatively affect him; however, he supports adhering to the ordinance requirements.

The call to the public was closed at 8:36 pm.

Moved by Board Member Fons, seconded by Board Member Ledford to deny Case #23-26, [for Treasure Rousselo, 3520 Pineridge Lane,](#) based on the following findings of fact:

- A variance is not necessary for continued use of the property as a single-family residence. The residence already contains an attached deck, and strict compliance will not preclude the applicant from continued use of the existing deck.
- Most property owners are not entitled to multiple decks. As such, the board does not believe a variance is necessary for substantial justice.

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- The property is a nonconforming LRR lot with deficient lot area and width.
- Given the nature of the project, granting of the variance is not expected to adversely impact public safety and welfare. The applicant should provide the ZBA with additional
- information demonstrating compliance with the impact on the surrounding neighborhood and it has not been supplied.

This denial is conditioned upon the deck being removed within 180 days.

The motion carried unanimously.

4. 23-27...A request by Tim Chouinard, 924 Sunrise Park, for a side and rear yard setback variance and any other variance deemed necessary by the Zoning Board of Appeals to construct a detached accessory structure.

Mr. Chouinard stated they will be removing the existing garage and replacing it. The side yard setback will be changed to be in compliance and the rear yard setback will be where the existing garage is located so he is requesting a rear yard setback variance.

The call to the public was made at 8:45 pm.

Mr. Adam Wolack of 916 Sunrise Park lives next to this property. He knows the applicant is a commercial builder and he wants to ensure it is not being used to store his vehicles and equipment. He is concerned with the side yard setback. If he wants to add onto his property, how will this affect him.

Mr. Chouinard stated he will be moving the garage further from the lot line so it will actually help Mr. Wolack. He is a residential building, not a commercial builder, so he does not have large trucks or equipment. He has his truck and trailers.

The call to the public was closed at 8:48 pm.

Moved by Board Member Kreutzberg, seconded by Board Member Ledford, to approve Case #23-27 for Tim Chouinard, 924 Sunrise Park granting a rear yard variance of 7.9 feet from the required 10 feet, for a rear yard setback of 2.1 feet to remove and rebuild the garage, based on the following findings of fact:

- Strict compliance with the setbacks would unreasonably restrict the intended use of the property.
- This variance will provide substantial justice, is the least necessary and would make the property consistent with other properties and homes in the area with detached garages that encroach into rear yard setbacks.
- The new location of the garage will eliminate a previous, non-conforming side-yard setback.
- The variance is necessary due to the extraordinary circumstance of a smaller than average LRR property and narrow width.
- Granting this variance will not impair adequate light or air to adjacent properties, would not increase congestion or increase danger of fire or threaten public safety or welfare.

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- The proposed variance would have little or no impact on appropriate development, continued use or value of adjacent properties and surrounding neighborhood.

The motion carried unanimously.

5. 23-28...A request by Andrew Perri, 5311 Brighton Road, for setback variances and any other variance deemed necessary by the Zoning Board of Appeals to allow for outdoor commercial recreation at an existing commercial building.

Mr. Andrew Perri, his business partner, Sherry Young, and Todd Arnold, the construction manager, were present.

Mr. Arnold stated they are requesting a variance to maintain the existing patio at the old Burroughs building to use for entertainment. They will also be using a small portion of the building for entertainment and the rest of it will be used for Mr. Perri's business. They will be making modifications to the building also. They will be requesting approval for this from the township.

Mr. Perri stated this will be used from Memorial Day to Labor Day. He will be using the area for entertainment as well as leasing it to companies for them to use for entertainment. They do not intend to have the same entertainment that was at this location previously.

Vice Chairperson McCreary requested to have the patio area cleaned up and the debris and trash removed between now and when the construction will begin.

The call to the public was made at 9:04 pm.

Ms. Evelyn Dionise of 5038 Ashton Court is scared about whatever will be done with that property. The township has failed her on numerous occasions. She has lived in this area for 40 years and at her current home for 18 years. The last two owners of this property have allowed inappropriate behavior here. She will not live across from entertainment that she can hear from her home; she will be forced to move.

The call to the public was closed at 9:08 pm.

Mr. Perri stated he and his wife live on Clifford Road and he understands Ms. Dionise's frustration. He has been able to hear the music and the motorcycles. He can promise that it will not be the same entertainment as before. Mr. Arnold stated there will be an event manager that will oversee the events. They will monitor the decibel levels so they do not exceed the ordinance. Ms. Young stated they want to create good will and be good neighbors.

Moved by Board Member Kreutzberg, seconded by Board Member Fons, to approve Case #23-28 for Pinnacle Wealth and Andrew Perri of 5311 Brighton Road a front yard variance of 55 feet from the required 100 feet for a setback of 45 feet, a side yard setback variance of 46 feet from

the required 100 feet for a setback of 54 feet, a side yard variance of 65 feet from the required 100 feet for a setback of 35 feet, and a rear yard variance of 17 feet from the required 100 feet for a setback of ~~setback of~~ 83 feet, for redevelopment of a commercial office and event facility, based on the following findings of fact:

- Strict compliance with the setbacks would unreasonably prevent or restrict the intended use of the property.
- This variance will provide substantial justice, is the least necessary and as proposed, will maintain the current footprint with minimum change to the permitted land use.
- The variance is necessary due to the extraordinary circumstance of the age of the existing building and location on the property and the original manner for which the property was intended remains along with a change in the proposed use.
- Granting this variance will 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 appropriate development, continued use or value of adjacent properties and surrounding neighborhood.

This approval is conditioned upon the following:

1. The noise ordinance shall be complied with.
2. Approval of the Special Land Use and Site Plan from the Planning Commission

The motion carried unanimously.

6. 23-29...A request by Matt DeLapp/Faulkwood Shores Singh LLC, 300 S. Hughes, for a front yard setback variance and any other variance deemed necessary by the Zoning Board of Appeals to construct the new Faulkwood Shores Golf Course Clubhouse.

Mr. Mat DeLapp and Mr. Mike Moles, the engineer for the project, were present. Mr. DeLapp stated the old clubhouse burned down last year. It was over 100 years old. For golf courses, the ordinance requires a 75 foot setback; however, they are requesting a 35 foot setback, which is where the previous structure was located.

Mr. DeLapp stated the practical difficulty is that if they complied with the ordinance, it would impact the parking lot and the putting green. This is the least necessary and there will be no adverse effects to public safety and welfare or on the surrounding neighborhood. They will be requesting site plan approval from the township.

Mr. Moles stated that this request meets all four of the criteria for granting a variance. There is practical difficulty, extraordinary circumstances, it is not self-created, and will not adversely affect the neighborhood.

Board Member Fons does not believe that the least amount necessary is being requested. The building can be moved about 15 feet back. Mr. Moles stated that if it is moved, it will encroach on the parking and the putting green so this request is to allow for the least amount of disruption of the entire golf course.

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The call to the public was made at 9:42 pm with no response.

Vice Chairperson McCreary agrees that one of the hardships is the location of the other aspects of the golf course. Board Member Kreutzberg agrees.

Moved by Board Member Kreutzberg, seconded by Board Member Ledford, to approve Case #23-29 for Matt DeLapp of Singh Development a street front yard setback variance of 40 feet, 63 inches from the required 75 feet, for a front yard setback of 34 feet, 37 inches, based on the following findings of fact:

- Strict compliance with the setbacks would unreasonably prevent or restrict the intended use of the property.
- This variance will provide substantial justice, is the least necessary and would make the property consistent with other properties in the area.
- The proposed clubhouse is to maintain the original location and character of the area.
- The variance is necessary due to the extraordinary circumstances the damage from fire and the property layout, the existing course, parking and storage facility do not allow for an alternate clubhouse location without significant hardship or alteration of the existing course property.
- Granting this variance will 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 appropriate development, continued use or value of adjacent properties and surrounding neighborhood.

This approval is conditioned upon the following:

1. Approval of the Site Plan from the Planning Commission.

The motion carried unanimously with a roll call vote.

7. 23-30...A request by Ben Cross and Chris Bonk, 5680 Glen Echo Drive, for a height and setback variances and any other variance deemed necessary by the Zoning Board of Appeals to construct new retaining walls and a fence.

Mr. Ben Cross, the owner, and Mr. Chris Bonk, the contractor, were present.

Mr. Bonk acknowledged that the project was started without receiving approval. It was started by a different contractor than himself.

Mr. Cross stated he believed the contractor was doing the right things and it was irresponsible for him to not have checked.

Mr. Bonk stated this property has two front yards, the elevation drops on the west side about 12 feet and about eight feet on the other side. The property is eroding along the roadway. He showed photographs of the erosion and a survey describing where the retaining walls will be placed. He added that the neighbor is glad that the retaining wall will go all of the way to the property line as it helps with their erosion as well.

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They are requesting a variance to allow a six-foot high fence in the front yard. The hardship for this variance is because the property abuts a commercial business, which is not well maintained, so having a six-foot tall fence is necessary to allow Mr. Cross and his family to safely enjoy their property.

Board Member Kreuzberg stated this is the most difficult project she has seen. She would like to see the engineering plans. Mr. Bonk stated they have complete engineering plans; but they will not show elevations. He provided a description of the retaining walls, including their locations and heights.

Vice Chairman McCreary is concerned with the retaining wall being close to this road because it is on a hill and a curve.

Board Member Fons would like to see more details of the project showing how all of the elements tie together, such as the walls, the fence, the landscaping, etc. He suggested the applicant draw a profile. He would not be able to vote yes without all of that information. Mr. Bonk believes that they have provided that information on their plans.

Board Member Ledford would not vote for this tonight. She would like to see the additional information.

The call to the public was made at 10:32 pm.

Mr. Bill Cozart of 5716 Glen Echo Drive has lived here since 1980 and what is being proposed by Mr. Cross will be a benefit. It will provide better vision than what is there currently. The six-foot fence along the back is needed to shield the dumpster, tires, and other trash on the commercial property from the residents on Glen Echo. It is a safety and security issue.

Mr. Brian Monte of 5716 Long Point stated this is currently an eyesore, it's a safety hazard, and it is eroding into the lake. Mr. Cross is spending his own money to improve the neighborhood. He is in support of this project.

The call to the public was closed at 10:37 pm.

After a brief discussion regarding what additional information the board would like to see, the applicant requested to have their case tabled this evening.

Moved by Board Member Ledford, seconded by Board Member Kreuzberg, to table Case #23-30 until the next scheduled ZBA meeting of October 17, per the petitioner's request.

The motion carried unanimously.

Administrative Business:

1. Approval of minutes for the August 15, 2023 Zoning Board of Appeals meeting.

A needed change was noted.

Moved by Board Member Kreutzberg, seconded by Board Member Ledford, to approve the minutes of the August 15, 2023 Zoning Board of Appeals meeting as corrected. **The motion carried unanimously.**

2. Correspondence

Ms. Ruthig stated there will be six cases at the October meeting.

3. Member Discussion

There were no items to discuss this evening.

4. Adjournment

Moved by Board Member McCreary, seconded by Board Member Rockwell, to adjourn the meeting at 10:41 pm. **The motion carried unanimously.**

Respectfully submitted:

Patty Thomas, Recording Secretary