

**GENOA CHARTER TOWNSHIP  
ZONING BOARD OF APPEALS  
July 23, 2024 - 6:30 PM**

**MINUTES**

**Call to Order:** 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: Bill Rockwell, Craig Fons, Marianne McCreary, Michele Kreutzberg, 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 Kreutzberg, supported 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 6:32 pm with no response.

Chairperson McCreary reviewed the criteria necessary for a variance to be approved.

**OLD BUSINESS:**

1. 24-12... (APPLICANT REQUESTS TO BE POSTPONED) A request by Michael Brown, 4655 Sweet Road, for a side yard setback variance and any other variance deemed necessary by the Zoning Board of Appeals, to allow solar panels to remain.

**Moved** by Board Member Rockwell, supported by Board Member Kreutzberg, to postpone Case #24-12 until the August 20, 2024 ZBA meeting. **The motion carried unanimously**

2. 24-20...A request by James Frederick, 1632 High Haven, for front yard setback variance and any other variance deemed necessary by the Zoning Board of Appeals, to construct a new home.

Mr. James Frederick spoke with Livingston County and learned that he must be 5 feet from the septic field and 10 feet from the septic tank. He is proposing to relocate the home and is now

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asking for a variance of 12 feet. He did research purchasing a different home; however, he was not able to find one that he could afford that would fit on this site.

Mr. Frederick showed a sketch of the site and a floor plan of the home.

Chairperson McCreary stated that the need for the variance is self-created because the property is there and the septic field is there and the applicant is trying to fit his existing home here. She appreciates his research to relocate the home and lessen the variance amount requested. Mr. Frederick stated that the property is small. He is 23 feet behind the end of the fence line on the property.

Board Member Kreutzberg questioned if the size of the property has been verified. The plat says 125 feet, however, Mr. Frederick's plan shows it is 128 feet. Ms. Ruthig confirmed that it is 125 feet.

Board Member Rockwell agrees that the need for the variance is self-created.

The call to the public was made at 6:46 pm with no response.

**Moved** by Board Member Kreutzberg, supported by Board Member Rockwell, to deny Case #24-20, submitted by James Frederick of 1632 High Haven, based on the following findings of fact:

- Strict compliance with the setbacks would not unreasonably prevent/restrict intended use of the property or cause it to be unbuildable. The need for the variance is self-created.
- This variance will not provide substantial justice, is not the least necessary and would make the property inconsistent with other properties and homes in the area.
- There are no extraordinary circumstances as property will comfortably fit a smaller home.
- 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 or welfare.
- The variance would have little or no impact on the appropriate development, continued use or value of adjacent properties and surrounding neighborhood.

**The motion carried unanimously.**

NEW BUSINESS:

3. 24-21...A request by Christopher Malysz, 1330 Clark Lake Road, appealing the decision regarding interpretation of conditions for approval of Zoning Board of Appeals Case 14-21.

Chairperson McCreary reviewed the reason for the applicant's appeal, which is the requirement that an as-built drawing be signed and sealed by a licensed engineer.

Mr. Malysz stated he is appealing the interpretation of the condition. He requested additional time to review his paperwork to respond.

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The Board agreed to move onto Agenda Item #4.

He returned before the Board at 7:13 pm.

He reviewed the conditions of the approval from the 2014 minutes. He is contesting that the current Zoning Administrator is requiring him to present signed engineered drawings. This is not the same as as-built drawings. They are requiring something that is above and beyond the condition of the ZBA approval.

Chairperson McCreary was on the ZBA in 2014 and she recalls this case and the requirement for plans to be submitted when the project was complete. She reviewed documents provided in this evening's packet as well as a report from the township's planner dated July 16, 2024, which confirms that as builts are signed by a licensed engineer. Mr. Malysz stated it is a hardship for him to hire an engineer to review what was built. This will cost approximately \$10,000. He questioned how many applicants are required to provide engineered as builts. Chairperson McCreary stated it was required for Mr. Malysz because there were concerns with how the work was being done. The Board wanted to ensure that what was approved is what was built.

Board Member Kreuzberg asked that, since the applicant is a licensed builder, can he draw up the plans and have an engineer review and sign them. Ms. Ruthig stated that would be a decision that would need to be made by the Board.

Mr. Fons stated that as builts were required to be submitted after each of his projects. That information went from him to the engineer on the job, he or she reviewed it and made any necessary changes, signed and stamped them and submitted them as the final record of the project. There must be a person of authority who reviews and approves the final plans.

Ms. Ruthig stated that staff has required as builts be provided numerous times and they require an engineer's certification.

There was a discussion regarding the motions from previous ZBA meetings regarding Mr. Malysz's cases and a letter from William Goodreau, the applicant's engineer at the time the variance was granted.

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

Mr. Ken Frasheski of 1348 Clark Lake Road is pleased to hear that a certified civil engineer approves all projects. When someone lives on a lake, they are a steward of the environment and have to protect it. Mr. Malysz's earth moving has caused erosion on his property. He explained and showed a photograph of the erosion issues on his property. There was never an erosion barrier put in place to protect his property. He wants the engineered plans to be submitted.

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The call to the public was closed at 7:51 pm.

Board Rockwell asked for confirmation that the township requires as builts signed by an engineer. Ms. Ruthig stated that is correct.

Mr. Malysz asked for clarification of what is being required. Can he submit a set of drawings confirming the plans that were submitted is what was built? The Board agreed, stating the plans from 2011 that were signed and sealed by William Goodreau are what needs to be submitted as the as builts signed and sealed by a licensed engineer.

**Moved** by Board Member Rockwell, supported by Board Member Kreutzberg, to deny Case #24-21 for Christopher Malysz of 1330 Clark Lake Road appealing the decision regarding interpretation of conditions for approval of Zoning Board of Appeals Case 14-21. **The motion carried unanimously**

4. 24-22...A request by Doug and Jenifer Kern, 977 Sunrise Park, for front yard setback variance and any other variances deemed necessary by the Zoning Board of Appeals, to construct a new home.

Mr. and Mrs. Doug and Jennifer Kern were present. Ms. Kern stated that they are requesting a front yard variance to make their summer cottage a year-round home. The front of the new home will be in the same location as the current home. They will be widening it two feet, adding two feet towards the lake, and demolishing and rebuilding the garage. They are within the setbacks for the water's edge and the side-yard setbacks. They are keeping the same sight lines as their neighbors.

Ms. Ruthig stated that the applicant has worked with staff to ensure they are requesting the least amount necessary.

Board Member Rockwell asked for clarification on the amount of the variance needed based on the topographical map in the packet. Ms. Ruthig confirmed that the amount of the setback will be 14 feet. He advised the applicant that the deck cannot be covered.

The call to the public was made at 7:10 pm with no response.

**Moved** by Board Member Rockwell, supported by Board Member Kreutzberg, to approve Case #24-22 for Doug and Jenifer Kern of 977 Sunrise Park, for a front yard setback variance of 21 feet from the required 35 feet for a front yard setback of 14 feet, to construct a new single-family home, based on the following findings of fact:

- Strict compliance with the front yard setback would prevent the applicant from constructing the new home. There are other homes in the vicinity that have reduced front yard setbacks. Granting of this variance would do substantial justice to the applicant and is necessary for

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the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity of the subject parcel.

- The exceptional or extraordinary condition of the property is the topography of the lot and the narrow building envelope. The variance request appears to be the least amount necessary and provides for adequate parking on the lot. The variance request is not self-created.
- 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. The structure must be guttered with downspouts.
2. Any retaining walls must comply with Article 11.04.03 (J) Retaining Walls section of the Zoning Ordinance.
3. The building height cannot exceed 25 feet.
4. The detached garage shall be removed.

**The motion carried unanimously**

5. 24-23...A request by Keepin It Realz LLC, 3220 E. Grand River, for a variance to split property and any other variances deemed necessary by the Zoning Board of Appeals.

Mr. Adam Fasick, Mr. Saman Abro, and Mr. Zaid Abro were present. Mr. Fasick stated they are requesting a variance to parcel out a part of his property at 3220 East Grand River to the adjacent one at 3200 E Grand River. This will allow the property owner of 3200 to expand their car wash. Currently both of these properties are non-conforming. This transfer will allow one to conform to the ordinance and one to become less conforming than it is now.

Chairperson McCreary is concerned that one parcel will be less than one acre, without the required minimum width, which will make the need for any variances self-created and could affect the approval of variances in the future. Mr. Fasick noted that his property is already non-conforming. He does not have any plans to expand his business or increase the size of his building.

The call to the public was made at 8:19 pm with no response.

**Moved** by Board Member Kreutzberg, supported by Board Member Fons, to approve Case #24-23 for Adam Fasick of Keepin It Realz, LLC of 3220 E. Grand River for two dimensional variances to permit a land division/combination to reduce the conforming lot width of 3200 E. Grand River from 159.59 feet to 137.59 feet where a minimum of 150 feet is required and to permit a land division/combination to reduce the already nonconforming lot area of 3220 E.

Grand River from 0.97 acres to 0.83 acres where a minimum of one acre is required, based on the following findings of fact:

- This variance will provide substantial justice as it is not self-created, is the least necessary and would make the property consistent with other properties in the GCD zoning area, as there appears to be multiple developed properties along this portion of Grand River that fail to meet at least one of the GCD dimensional requirements.
- The variance is necessary due to extraordinary circumstances, such as both properties are currently deficient in minimum GCD dimensional standards. Strict compliance with the minimum GCD dimensional standards cannot be achieved for both properties, yet the request will eliminate non-conforming conditions on both properties, such as non-conforming property size and a nonconforming building.
- 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 or welfare.
- The variance would have little or no impact on the appropriate development, continued use or value of adjacent properties and surrounding neighborhood.

This approval is conditioned upon the following:

- The nonconforming accessory building shall be removed
- The application form shall be corrected to stated 22 feet of width and not 40 feet.
- Any future development on either property shall obtain necessary zoning approvals, including but not limited to, special land use and site plan review.

**The motion carried unanimously**

**Administrative Business:**

1. Approval of minutes for the June 18, 2024 Zoning Board of Appeals meeting.

**Moved** by Board Member Kreutzberg, supported by Board Member Fons, to approve the minutes of the June 18, 2024 Zoning Board of Appeals meeting as presented. **The motion carried unanimously.**

2. Correspondence

Ms. Ruthig stated there will be two cases on the August agenda.

3. Member Discussion

There were no items to discuss this evening.

4. Adjournment

**Moved** by Board Member Fons, supported by Board Member Rockwell, to adjourn the meeting at 8:34 pm. **The motion carried unanimously.**

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Respectfully submitted:

Patty Thomas, Recording Secretary