

**GENOA CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
October 17, 2023 - 6:30 PM**

MINUTES

Call to Order: Vice Chairperson McCreary called the regular meeting of the Zoning Board of Appeals to order at 6:34 pm. The members and staff of the Zoning Board of Appeals were present as follows: Marianne McCreary, Jean Ledford, Craig Fons, Michele Kreutzberg, Bill Rockwell, and Amy Ruthig, Planning Director.

Pledge of Allegiance: The Pledge of Allegiance was recited.

Election of Officers:

Vice Chairperson McCreary stated the former Chairperson of the ZBA has been appointed to the Planning Commission so new officers must be elected.

Moved by Board Member Rockwell, seconded by Board Member Kreutzberg, to elect Marianne McCreary for Chairperson. **The motion carried unanimously.**

Moved by Board Member Kreutzberg, seconded by Board Member Fons, to elect Bill Rockwell for Vice Chairperson. **The motion carried unanimously.**

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 Rockwell, to approve the agenda as presented. **The motion carried unanimously.**

Call to the Public:

The call to the public was opened at 6:40 pm with no response.

OLD BUSINESS:

1. 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 again apologized that the project was started without approval. A different contractor started the work and did not obtain the appropriate permits. He stated that they meet all of the

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criteria for granting a variance. There are six to eight foot drops in elevation on each side of the property, it is a corner lot so there are two front yards, there is an apartment building used as a halfway house with a Dumpster and parking lot directly behind the house, and there is over a 50 percent grade on the side adjacent to the roadway causing erosion. This project will make it safer for vehicles traveling down the roadway and hill. It will make a positive impact on the neighborhood.

He showed colored architectural renderings of the proposed project.

Chairperson McCreary noted that the applicant is requesting seven variances, which is more than typical, but there are hardships and it is the least amount necessary. She added that Staff noted the grade was changed by the applicant. Mr. Bonk stated that the figures on the plans are based on the normal grade of the property and do not include the dirt that they placed there. Mr. Bonk agrees that seven variances is excessive, but this is the bare minimum needed to retain the property.

Board Member Rockwell questioned if there is another path or easement between the two properties. Ms. Ruthig stated the only path is the six-foot-wide path that is behind the properties.

Board Member Rockwell suggested having trees or shrubs planted as a barrier between the two properties instead of a fence. Mr. Cross stated that due to the use and condition of the adjacent property, a fence would provide more safety for his family. Board Member Fons agrees with Board Member Rockwell. Mr. Bonk stated the fence was there when Mr. Cross purchased the home and he made a mistake removing it.

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

Mr. Bill Cozart of 5716 Glen Echo has lived next door to this property for over 40 years. There have been no complaints regarding the fence. It shields the residential area from the property in the rear. That part of the parking lot is a high traffic area.

Mr. Brian Monte of 5716 Long Point stated that safety is an issue regarding the neighboring property and its residents. He would like the fence to be allowed.

The call to the public was closed at 7:20 pm

Ms. Ruthig stated an option for Mr. Cross is to speak to the neighbor to the rear and obtain approval from them to put the fence on the property line.

Moved by Board Member Rockwell, seconded by Board Member Fons, to approve the following variances for Case #23-30 for Ben Cross and Chris Bonk at 5680 Glen Echo Drive.

1. Retaining wall front yard height variance of 4 feet, four inches from the required 3 feet for a height of 7 feet, 4 inches at the tallest point.

2. Retaining wall front yard setback variance of 16 feet from the required 20 feet for a setback of 4 feet at the closest point.
3. Retaining wall side yard height variance of 2 feet, 6 inches from the required 6 feet for a height of 8 feet, 6 inches at the tallest point
4. Retaining wall side yard setback variance of 2 feet from the required 2 feet for a side yard setback of 0 feet.
5. Steps projection variance from ROW of 16 feet from the required 25 feet for a front yard setback of 9 feet.

This approval is based on the following findings of fact:

- Strict compliance with the zoning requirements would prevent the applicant from completing the retaining wall project that has been started however would not prevent the use of the property. Please see attached pictures of the property prior to the work being started on the lot.
- The exceptional or extraordinary condition of the property is the irregular shape and topography of the lot.
- The granting of the variances will not impair an adequate supply of light and air to adjacent property. Due to the proposed location of the front retaining walls being located 4 feet from the road right of way and the topography from Grand River Avenue could 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 not have an impact on the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.

This approval is conditioned upon the following:

1. Grading and soil erosion plan shall be submitted by a civil engineer to ensure stabilization of slopes and there are no impacts on adjacent parcels.
2. The retaining wall construction plans must be certified by a licensed engineer prior to permit issuance.
3. The applicant must receive a permit from the Livingston County Drain Commissioner.
4. The applicant shall obtain Livingston County Road Commission approval.
5. The project complies with the engineering drawings submitted dated September 18, 2023

The motion carried unanimously.

Moved by Board Member Rockwell, seconded by Board Member Ledford, to deny the fence height variance of 3 feet and the impervious surface variance of 100 percent for Case #23-30 for Ben Cross and Chris Bonk at 5680 Glen Echo Drive, based on the following findings of fact:

- Strict compliance with the zoning requirements does not prevent the use of the property.
- The six foot, 100 percent impervious fence is self-created.
- The granting of the variances 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 variances would not have a limited impact on the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.

This approval is conditioned upon all fencing to comply with the township ordinance.

The motion carried (Rockwell - yes; Fons - yes Kreutzberg - no; Ledford - yes; McCreary - yes)

NEW BUSINESS:

2. 23-25...A request by Christina Papi, 1604 Green Meadows, for side and front yard setback variances, and any other variance deemed necessary by the Zoning Board of Appeals to construct a garage.

Ms. Papi and her realtor were present. Ms. Papi stated she is requesting a variance for the garage because there is a septic tank and a septic field in the location where the garage is allowed to go. She showed a site plan drawing.

Ms. Ruthig stated if the garage roof is attached to the home's roof at some location, and the garage is 35 feet from the road right of way and 12 feet from the side setback, then a variance would not be needed. It will need to comply with the fire code.

The call to the public was made at 7:44 pm with no response.

Ms. Papi requested to have her request tabled this evening to allow her to speak to her builder. If he can meet these requirements, she will withdraw her request.

Moved by Board Member Ledford, seconded by Kreutzberg, to postpone Case #23-25 for Christina Papi of 1604 Green Meadows until the November 21, 2023 ZBA meeting at the petitioner's request. **The motion carried unanimously.**

3. 23-31...A request by Daniel Lalko, 4845 Pinehurst Court, for a rear yard setback variance and any other variance deemed necessary by the Zoning Board of Appeals to construct a patio.

Mr. Lalko stated his property is an irregularly shaped lot and the home is already non-conforming. The new proposed covered concrete patio will not be any closer to the property line than the existing house. He showed a site plan drawing, noting that the fire place shown will not be installed.

The call to the public was made at 7:52 pm with no response.

Moved by Board Member Kreutzberg, seconded by Board Member Ledford, to approve Case #23-31 for Daniel Laldo of 4845 Pinehurst Court for a rear yard setback variance of 26 feet, 9

inches from the required 50 feet for a rear yard setback of 23 feet 3 inches to construct a 12.3 foot x 20 foot covered patio, 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.
- The variance is necessary due to the extraordinary shallow lot and previously non-conforming structure.
- 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.

4. 23-32...A request by John and Cheryl Cleary, 3820 Crystal Valley Road, for a front yard setback variance and any other variance deemed necessary by the Zoning Board of Appeals to construct a detached garage.

Mr. Cleary stated he has a corner lot in a cul de sac so a lot of his property is considered the front yard. The property has a lot of mature trees. His proposed location is the only place the garage can be placed due to the septic field, pool, and current driveway location. The practical difficulty is the large size of the front yard and the rear is heavily wooded. He is maintaining the required setbacks and this is the least amount necessary. It will not negatively impact the neighbors or traffic. The homeowner's association has reviewed this and it is meeting all of the neighborhood by-laws.

Call to the public at 8:06 pm.

Mr. Bob Shaw of 5277 Leelanau Court lives directly south of Mr. Cleary and he is in support of this garage.

Call to the public was closed at 8:07 pm.

Moved by Ledford, seconded by Rockwell, to approve Case #23-32 for John and Cheryl Cleary of 3820 Crystal Valley Road for the construction of a 772 square foot detached accessory building, based on the following findings of fact:

- The practical difficulty is the property configuration, location of the utilities and the topography, which makes it difficult to locate a detached accessory building.
- The extraordinary circumstance is the odd shape of the site and it is a corner lot with frontage along the side of a cul de sac. Topography and utilities complicate the placement when combined with the shape of the lot.

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- Granting of the variance will not impair the supply of light and air to adjacent properties, nor will it unreasonably impact traffic or public safety.
- Based on the combination of setback from the roadway and presence of existing vegetation, we expect that views of the accessory building will be limited.

This approval is contingent upon the applicant maintaining the vegetation to the greatest extent possible to help mitigate the impacts on the front yard placement.

The motion carried unanimously.

Administrative Business:

1. Approval of minutes for the September 19, 2023 Zoning Board of Appeals meeting.

Needed changes were noted.

Moved by Board Member Ledford, seconded by Board Member Kreutzberg, to approve the minutes of the September 19, 2023 Zoning Board of Appeals meeting as corrected. **The motion carried unanimously.**

2. Correspondence

Ms. Ruthig stated there will be at least two cases on next month's agenda.

She noted that each of the board members received a copy of the new solar ordinance. These should be placed in your zoning ordinance book.

3. Member Discussion

Chairperson McCreary asked if an alternate ZBA member had been selected. Ms. Ruthig stated they have received applications but no one has been chosen.

4. Adjournment

Moved by Board Member Ledford, seconded by Board Member Fons, to adjourn the meeting at 8:28 pm. **The motion carried unanimously.**

Respectfully submitted:

Patty Thomas, Recording Secretary