

**GENOA CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
February 20, 2024 - 6:30 PM**

MINUTES

Call to Order: Chairperson McCreary called the regular meeting of the Zoning Board of Appeals to order at 6:31 pm. The members and staff of the Zoning Board of Appeals were present as follows: Bill Rockwell, Craig Fons, Marianne McCreary, Jean Ledford and Kelly VanMarter, Township Manager. Absent was Michele Kreutzberg.

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, 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 opened at 6:33 pm with no response.

1. 24-03...A request by Jacob Lubig of Ventures Design, 3910 Honors Bluff, for a rear yard setback variance and any other variance deemed necessary by the Zoning Board of Appeals to construct an addition to an existing home.

Mr. Lock Durrant and Mr. Jacob Lubig of Ventures Design were present.

Mr. Lubig stated they are requesting a variance to build a covered deck to replace the existing deck. The need for the variance is due to the property having a uniquely shallower rear yard than other homes in the neighborhood. The lot is also a trapezoid shape so the home was placed further back on the lot. Other properties in the area have covered decks so allowing this variance would provide the applicant with substantial justice. This would not have any negative effects on the public safety or welfare of the neighborhood.

Mr. Durrant stated he disagrees with the staff report. He reiterated the practical difficulty stated by Mr. Lubig, which is that the lot is a trapezoid shape. Additionally, the setbacks were set by the developer and then enforced by the township. The HOA has approved this project, with an even less setback than they are requesting. He presented an aerial map showing the tee boxes

on the adjacent golf course, which cause many golf balls to be hit into the applicant's yard. Having the covered deck would shield them from this. It is a safety concern.

Chairman McCreary noted that there have been two previous rear yard variance requests for this property and they were denied. Also having golf balls hit into the yard should be expected when you choose to live on a golf course. Mr. Durrant stated that those two variances were also requested to protect them from the many golf balls being hit into their yard.

Board Member Rockwell noted that there is still part of the deck and a patio that is not covered so those areas will not be protected from golf balls.

Board Member Ledford noted that one of the criteria for approving a variance is to show a specific reason connected to the land. Mr. Durrant reviewed the aerial view map that shows the shape and narrow depth of the lot, and how the home had to be placed further to the rear of the lot to meet the side-yard setbacks. This is what is causing the hardship and practical difficulty with the property.

Board Member Fons stated that the lot existed before the house was built. A different, smaller house could have been built. He would consider approving this only because the new deck and roof is within the existing deck footprint.

Ms. VanMarter advised the Board that because this deck is covered, it should be considered an addition to the home, and not a deck. Mr. Lubig understands that the ordinance considers this an addition; however, it is not the same as a full building addition.

The call to the public was opened at 7:01 pm.

Mr. Brandon Bertrang with Ventures Design stated that building a house smaller could be applied to almost any variance request. This lot is the smallest in this zoning district.

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

Moved by Board Member Rockwell, supported by Board Member Fons, to deny Case #24-03 for Jacob Lubig of Ventures Design and Adam and Madison Cregar for 3910 Honors Bluff for a rear yard setback variance of 16 feet from the required 50 feet for a rear yard setback of 34 feet, based on the following findings of fact:

- Strict compliance with the rear yard setback would prevent the applicant from constructing a covered deck; however, it would not prevent the use of the property. Granting of the requested variance would not do substantial justice to the applicant as well as other property owners in the district. It is not necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same vicinity of the subject parcel.

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- There are no exceptional circumstances of the property. Although the lot is the smallest in the Oak Pointe Honors Subdivision, the home is larger than the average home in the neighborhood, which is a self-created condition by the original owner.
- The granting of the rear yard variance should 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 rear yard variance would have little or no impact on the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.
- The requested variance is not the least amount necessary.

The motion carried unanimously.

Mr. Durrant questioned the reason for the denial, noting they could build a covered deck that will meet the ordinance. Board member Fons stated he voted against the request because they could build something similar to achieve the same goal without needing a variance.

2. 24-04...A request by Jon and Danielle Wlodarczak, 4183 Homestead Dr., for a side yard setback variance and any other variance deemed necessary by the Zoning Board of Appeals to install a whole house generator.

Mr. Wlodarczak stated the variance is necessary due to the non-conforming, narrow layout of the lot and the location of the home on the lot. Meeting the setback requirement would prohibit the installation of a whole home generator. It is the least necessary. There are numerous homes on Homestead Drive with generators and A/C units outside encroaching on the property line so this request is not unique. This would not have a negative effect on the surrounding neighborhood.

Ms. VanMarter stated there was confusion with regard to the variance request. The required setback for this feature is 36 inches off of the property line and the applicant is asking for the generator to be 16 inches off of the property line, which would be a variance of 20 inches.

Mr. Eric Osburn of Osburn Services, the generator contractor, stated that having a whole house generator is a safety issue. He noted that per the manufacturer's requirements, this is the only location where it can be placed.

A letter from the Township Utilities Director approved this location for the generator. An email was received from Jeff and Wanda Tanis of 4183 Homestead stating they have no issues with the variance request.

The call to the public was opened at 7:22 pm with no response.

Board Member Fons noted that a backup generator is a necessity. He visited the site and could not find another location where it could be located. Chairperson McCreary agrees.

Board Member Rockwell stated that portable generators can be used without the need to put a permanent fixture on the property. Board member Fons noted that portable generators only work when someone is home to hook them up.

At this time, there was an outburst by Brandon Bertrang with Ventures Design where he accused the Board of being biased. He continued to disrupt the meeting, using the “f-word” multiple times. Chairperson McCreary asked him to leave. As he walked toward the door, he again used the “f-word” and walked out of the room.

There was a discussion regarding changing the ordinance for setbacks for mechanical units due to the increase in whole house permanent generator requests.

Moved by Board Member Rockwell, supported by Board Member Fons, to approve Case #24-04 for Jon and Danielle Wlodarczak of 4183 Homestead Drive for a side yard setback variance of 1 foot, 8 inches, from the required 3 feet, for a side setback of 1 foot, 4 inches to install a whole house generator, based on the following findings of fact:

- Strict compliance with the setback would cause the applicant to be unable to install the generator. There are other homes in the vicinity with reduced projections into the side yard with air conditioning units that 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 vicinity of the subject parcel.
- The exceptional or extraordinary condition of the property is the narrowness of the lot and it is a non-conforming lot in the LRR district.
- 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 little impact on the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood. The direct neighbor is located 19 feet from the proposed location of the generator. In addition, staff received correspondence from the neighbor and they have no objections to the variance request.

This approval is conditioned upon the following:

1. Generator shall be sized to accommodate the connection of the grinder pump per recommendation by MHOG Utility Director.
2. The weekly test of the generator shall not be scheduled between 10:00 p.m. and 7:00 a.m. and must be in compliance with the Township Noise Ordinance.

The motion carried unanimously.

3. 24-05...A request by Kristie Dennes, 6511 Forest Beach Dr., for a side yard setback variance and any other variance deemed necessary by the Zoning Board of Appeals to install a whole house generator.

Ms. Dennes stated that her lot is non-conforming for her zoning district so there is no location on her lot where the generator can be placed to meet the setbacks. The generator is proposed to be five feet from the lot line and eight feet from the house.

Ms. VanMarter stated that the requirement is to be 27 feet from the lot line and the applicant is requesting to be 5 feet from the property line, so it is a setback variance of 22 feet.

Mr. Osburn stated that due to the non-conforming lot width, any location on the property would require a variance. This location meets the requirements of the generator manufacturer. Ms. Dennes stated it will be placed in front of their home.

An email from Patrick Michael of 6517 Forest Beach Drive states he and his wife are in support of this variance request.

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

Mr. John Myers of 6505 Forest Beach Drive stated a generator is needed because they lose power in this neighborhood at least once a month for many days at a time.

The call to the public was closed at 7:41 pm.

Moved by Board Member Fons, supported by Board Member Rockwell, to approve Case #24-05 for Kristie Dennes of 6511 Forest Beach Drive for a side yard projection setback variance of 22 feet, from the required 27 feet, for a side yard projection setback of 5 feet to install a whole house generator, based on the following findings of fact:

- Strict compliance with the setback would cause the applicant to be unable to install the generator. While it does not unreasonably prevent use of the property, there are other homes in the vicinity with reduced side yard setbacks that would support substantial justice.
- The exceptional or extraordinary condition of the property is the narrowness of the lot and the non-conforming size in the LDR zoning district. The variance request 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.
- The proposed variance could have an impact on the appropriate development, continued use or value of adjacent properties and the surrounding neighborhood, but this is addressed in the above bullet point.

This approval is conditioned upon the following:

1. The weekly test of the generator shall not be scheduled between 10:00 p.m. and 7:00 a.m. and must be in compliance with the Township Noise Ordinance.
2. This generator cannot be used as a permanent source of power for the home.

The motion carried unanimously.

4. 4. 24-06...**REQUEST TO WITHDRAW** A request by Craig Sheffer, 855 Victory Dr., for a capacity variance for a fuel storage tank and any other variance deemed necessary by the Zoning Board of Appeals to allow 1,000 gallons of fuel storage.

Moved by Ledford, supported by Fons, to note that Case #24-06 has been requested to be withdrawn by the applicant. **The motion carried unanimously.**

5. 24-07...**REQUEST TO WITHDRAW** A request by John Cleary, 3820 Crystal Valley Dr., for a front yard setback variance and any other variance deemed necessary by the Zoning Board of Appeals to install a whole house generator.

Moved by Ledford, supported by Fons, to note that Case #24-07 has been requested to be withdrawn by the applicant. **The motion carried unanimously.**

Administrative Business:

1. Approval of minutes for the January 23, 2024 Zoning Board of Appeals meeting.

Board Member Ledford noted one change needed.

Moved by Board Member Ledford, supported by Board Member Fons, to approve the minutes of the January 23, 2024 Zoning Board of Appeals meeting as corrected. **The motion carried unanimously.**

2. Correspondence

Ms. VanMarter stated there are three cases scheduled for the March meeting.

Board Member Fons will not be in attendance at the March meeting.

3. Member Discussion

The Board discussed how whole-house, permanent generators will be addressed in the future as the requests for them have increased. Is this a property right or should the township ensure they are being installed properly and in the proper location. Ms. VanMarter is not sure an ordinance amendment is needed at this time; however, she will monitor the requests.

4. Adjournment

Moved by Board Member Ledford, supported by Board Member Fons, to adjourn the meeting at 7:59 pm. **The motion carried unanimously.**

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Respectfully submitted:

Patty Thomas, Recording Secretary