

**GENOA CHARTER TOWNSHIP
ZONING BOARD OF APPEALS**

April 15, 2014

6:30 P.M.

MINUTES

Call to Order: Chairman Dhaenens called the regular meeting of the Zoning Board of Appeals to order at 6:30 p.m. at the Genoa Charter Township Hall. The Pledge of Allegiance was then said. The members and staff of the Zoning Board of Appeals were as follows: Chris Grajek, Jean Ledford, Barbara Figurski, Marianne McCreary and Jeff Dhaenens. Also present was Township staff member Ron Akers. There were 9 people in the audience.

Approval of Agenda: McCreary indicated that she would need to recuse herself from case #14-05 due to conflict of interest as her company had listed the property. Grajek indicated he would recuse himself for case #14-07 due to friendship with the petitioner. **Moved** by Ledford, supported by Figurski to approve the agenda as presented. **Motion passed.**

Call to the Public: (Please Note: The Board will not begin any new business after 10:00 p.m.) There was no public comment.

14-04... A request by Dr. Cyr and Patricia Crane, Section 27, 4283 Clifford, for a shoreline setback variance to construct an addition to the existing house.

Mr. Robert Clark of Four Seasons of Ann Arbor was present for the petitioner.

Mr. Clark indicated they originally asked for a 10-foot variance last fall and that hardship or practical difficulty is due to the placement of the house on the property. The home was built in 1960 and is setback 38 feet from the lake. The issue is where the house is placed and is not self-created. When the petitioner was told last fall that a 10 foot variance was too far into the setback, the item was tabled and the petitioner has since revised the request to five feet.

The house is non-compliant at this point and is 38 feet from water line. Forty feet is the setback requirement. Because the house is already two feet into the setback, they are asking for three feet. The petitioners stated that the project does not create a detriment for the neighborhood. Neighbors will maintain their view of the lake. Homes next to property are two story homes.

Mr. Clark continued saying that in 2012, the property at 4390 Skusa was built, a huge house which received a 12 foot shoreline setback variance. By comparison, the 4283 Clifford project request is small.

Dhaenens indicated that each case is unique and that the neighbor's view would not be hindered. Clark indicated that the masonry fireplace will be taken down. Dhaenens indicated he struggles with identifying the difficulty.

Petitioner Patricia Cramer indicated that she appreciates the challenge the board has that people are compliant with keeping the rules and making sure the community is well taken care of. Their intent is to use the property as their retirement home. She believes the addition will reflect a nice,

well-made sunroom and that the Board has opportunity to make exception to the rules when things are in keeping with the proper use for the community.

Clark indicated the project expands out three feet from current home. Ron Akers indicated that the home would be five feet within the setback.

Figurski expressed concern for setting precedent. Grajek indicated that Clark states that the requirements at the time the home was built were different. McCreary stated that all properties are in a row along the shoreline in that area. This home would become unique.

Clark indicated that there is no functionality in the current 10-foot room and there is no line-of-sight issue.

Grajek indicated that the sea wall along the water creates a hard line which may not be fair to the petitioner. Akers indicated that 40 feet is the minimum setback.

Clark indicated that neighbors are okay with it. Neighbors wrote letters on behalf of the petitioner. The case was tabled before when 10 feet was too much. It seemed that if the petitioner made the project smaller, the board might approve it. Cramer indicated that the project is something that improves the area.

Grajek said that the practical difficulty is that the home is not new construction and was built under far different zoning. The project is not a detriment to other properties around it and there is no detriment to their safety.

Dr. Cyr indicated that the lake level is much higher now than it used to be, controlled by dams and rivers. His neighbor has lost beach front. If the dam level were adjusted there would be more land for setback.

A call to the public was made with no response.

Moved by Ledford, supported by Figurski, to deny case#14-04, based on the findings of fact that there is no practical difficulty. **Motion did not pass.**

Moved by Grajek, supported by McCreary for approval of case#14-04 with a variance of 5' shoreline setback due to practical difficulty of the placement of the home and the seasonal movement of the water which is the measuring point in which the setback is measured and due to the fact that the project does not impose on or adversely affect the neighboring community due to the fact there is no safety issue. Motion approved by McCreary and Grajek, opposed by Figurski and Ledford. Chair Dhaenens approved. **Motion passed.**

14-05...A request by Joseph Andrews, Section 10, 1115 Norfolk Drive, for a variance to use the existing building as a duplex.

McCreary recused herself due to conflict of interest. Akers indicated that four votes are needed to pass a motion related to this variance because a two-third majority of the entire board would be required as specified in the Zoning Enabling Act and therefore the remaining board members would need to be unanimous in their vote.

Mr. Joseph Andrews was present for the petitioner.

Mr. Andrews stated that the building is already a duplex. He was told by his realtor that the duplex was grandfathered in and zoned for a duplex but then when he talked to Akers he learned that the property was no longer zoned for duplex. The building is in desperate need of help. Mr. Andrews is proposing an overhaul of the building.

Akers indicated that the property is zoned Lake Resort Residential. Two family residential buildings are not allowed in that district. The building was an existing non-conforming use. Akers indicated that the Zoning Ordinance states that if a nonconforming use is discontinued for 12 continuous months, the property can only be used in conformance with the Zoning Ordinance.

Figuerski indicated that the property has one well. Andrews indicated that most duplexes are set up with one well and one sewer. Akers says that in order to use the property as a duplex, Mr. Andrews would need to pay additional sewer tap fees. Grajek indicated that 6 letters came in from neighbors asking that the property not be allowed to be used as a duplex. Andrews indicated he is not attempting to save the building. He wishes to primarily save the foundation.

A call for the public was made.

Ty Cole, 1120 Norfolk - Cole stated that the building is a tear down. Even if you put \$50,000 into it, you would still not get good renters. Dhaenens clarified that Mr. Cole is against it. Cole indicated yes. Dhaenens indicated that another letter indicated trouble with space in that area, parked cars, visitation, it's an uphill battle. Grajek indicated that neighbors felt a duplex would be a detriment.

The call to the public received no further response and the call to the public was closed.

Moved by Grajek, supported by Figuerski, to deny the use variance case #14-05 at 1115 Norfolk for use as a duplex due to the property being vacant for the past 12 months, the location has been reverted to single family residential, all of the neighboring properties are single family residential, based on the findings of fact that there is a lack of undue hardship. The need was created by the previous owner and the use of the property as a two family dwelling would alter the intended character of the neighborhood. **Motion passed.**

14-06...A request by Ronald Stotler, Section 29, 4337 Richardson, for a front yard setback variance, a side yard setback variance, a variance to allow an accessory building in the front yard, and a variance from the maximum allowable size of a detached accessory building to construct a detached accessory building.

Ronald and Margaret Stotler were present for the petitioner.

Mr. Stotler indicated that they are on a corner lot with rustic and wooded areas and additional storage is needed. The building and roof would be green and surrounded by evergreens and people will not notice it.

Dhaenens asked whether the pole barn would run along the neighbor's driveway and whether anything prevented the petitioner from complying with the maximum allowable square footage. Mr. Stotler

indicated that the neighbors are okay with the project and if he buys a 36-foot pole barn he would still need to pay for a 40-foot barn because it is a kit. McCreary indicated that no trees are being taken out. Mrs. Stotler stated that of the many trees on the property, only three small trees would be cut down. McCreary asked why the additional 60 square feet on the barn was needed. Mr. Stotler indicated that he has a lot of stuff to store.

Mr. Stotler clarified the location of the barn and the neighbor's driveway. The barn would be 25 feet from property line. Dhaenens indicated it should be 40 feet and that we are working with the zoning of that particular lot, asking what the hardship might be. The Stotlers indicated that this location is the only location available. The hardship is the existing pool, tree line, and location of septic field. Dhaenens indicated that a 65 foot variance and a 25 foot variance are being requested.

Dhaenens and McCreary indicated the size of the barn is an issue. Grajek indicated that the 960 square feet requested is more than the 900 square feet permitted and may require some compromise.

Grajek asked Akers if the petitioner builds his roof to 40 feet with an overhang would it still work but it would be 900 feet enclosed, moving the wall back two feet. Akers indicated he would check into those details. Dhaenens indicated that support for the size is difficult but there is support for other variances being requested. The project is not consistent with the neighborhood but can be considered due to two front yards.

A call to the public was made with no response.

Moved by Figurski supported by McCreary to approve a front yard setback variance of 65 feet, a side yard setback variance of 15 feet, and a variance to allow an accessory building in the front yard due to the practical difficulty of the non-conforming size of the lot, the location of existing trees, and the location of the pool and septic field. **Motion passed.** (please note that the variance from the maximum allowable size of a detached accessory building was not granted)

Ron Akers will check on the possibility of an overhang area which might allow Mr. and Mrs. Stotler to build with the 40 foot trusses.

14-07...A request by PB Development LLC, Section 22, 4252 and 4260 Highcrest, Tax ID #4711-22-302-209, for a variance from the required front yard setback and shoreline setback to construct a single family dwelling.

Grajek recused himself due to conflict of interest.

Mr. Blair Bowman was present for the petitioner.

Dhaenens indicated that the variance was granted last year but the petitioner did not move forward with the project. Bowman indicated that a redesign has been completed. A similar house with a smaller front yard variance request than what was approved a year ago. They did not apply for an extension. They believed they had two years. There was much support from the community.

Dhaenens indicated that because the project had been approved already, it appears to be able to move forward. Ledford indicated that the roof on the drawing shows ice shield and metal shielding but no guttering. Bowman indicated there are gutters.

A call to the public was made.

John Booker, 4260 Highcrest, adjacent to the property, indicated that the project looks great, conforms, and doesn't make as big of a footprint as it did previously. We are in favor of it.

The call to the public received no further response and the call to the public was closed.

Moved by Ledford, supported by Figurski to approve case#14-07 for the Blair Bowman residence at 4250 and 4260 Highcrest for a 10 foot front yard and a 2 foot shoreline variance for the construction of a single family residence, contingent upon the house being guttered, based on the following findings of fact: this request was originally approved at the January 15, 2013 ZBA meeting, case # 13-04, based on the topography and conditions of the lot and that the case was null and void because the applicant did not **request** an extension and the change has been made reducing the front yard setback variance request from 15 to 10 feet making the variance less impactful than previously requested. **Motion passed.**

Grajek indicated that Grajek recused himself at the January 15, 2013 meeting but that minutes from the meeting indicate that he voted nay.

Moved by Figurski supported by Ledford to approve the February 18, 2014 Zoning Board of Appeals minutes as amended. **Motion passed.**

Zoning Board of Appeals 2013 Year End Report - Ron Akers indicated that the format offered in the packet is a sample and the report will be crafted if this format looks good.

Correspondence - There is no additional correspondence. All correspondence is related to the cases on the agenda.

Township Board Representative Report - Ledford stated that there are steps being taken to revise the Township Zoning Ordinance regarding Tent Sales and Temporary Events. The Zoning Ordinance is scheduled to be voted on by the Board in June. Also, the ZBA Board will see a 1.9% increase in their pay.

Planning Commission Representative Report - Figurski stated that Latson Rd has changed from Rural Residential to Non-Residential PUD for the Howell Public Schools. A Zoning Text Amendment is under consideration which allows temporary sales for 28 days per year, up from 14 days. Northridge Church façade upgrades were approved with limitations placed on signage. Northridge may be coming before the ZBA for signage.

Zoning Official Report - The office has been very busy. Permits have been issued for four attached condo units and eight housing units. People are building homes.

Member Discussion - Members indicated that 2|42 church has been a positive change in the community. Dhaenens indicated that difficulty, safety, and not self-created items are being looked for in the packet. Grajek indicated that may be color coding in the packets would be helpful, positives in green, negatives in red.

Adjournment - Moved by Figurski, supported by Grajek to adjourn the Zoning Board of Appeals meeting at 8:27 p.m. **Motion passed.**