

GENOA CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
July 21, 2015
6:30 P.M.
Minutes

Chairperson Jeff 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 members and staff of the Zoning Board of Appeals were as follows: Jean Ledford, Jerry Poissant and Barb Figurski. Absent was Marianne McCreary. Also present was Township staff member Ron Akers and Recording Secretary Kathleen Murphy. There were 19 people in the audience.

Pledge of Allegiance: The Pledge of Allegiance was recited.

Introduction: The members of the Board introduced themselves.

Approval of Agenda: Moved by Ledford, seconded by Figurski to approve the agenda as submitted. **Motion passed.**

Call to the Public: was made with no response. *(Please Note: The Board will not begin any new business after 10:00 p.m.)*

5-12 ... A request by James and Connie DeBrincat, 2608 Spring Grove, for a side yard setback variance in order to construct a detached accessory building.

James DeBrincat was present for the petitioner.

He addressed questions that came up last month regarding the septic field on the property. The proposed driveway is over the existing septic field. The owner indicated that due to this he would remove the driveway from the plans.

Dhaenens asked why not attach the proposed garage, extending the house. It was noted that if the applicant did this a variance would not be needed. Ledford asked why the out building was needed, to which DeBrincat said to house a vehicle, lawnmower, etc. Poissant asked about the 10-foot separation; Akers responded that this was an ordinance requirement.

A call to the public was made with no response.

Moved by Poissant, seconded by Ledford, to approve Case 15-12 for James and Connie DeBrincat, 2608 Spring Grove, for a side yard setback of 23.9 feet, which is a variance of 6.1 feet for a 28-foot by 24-foot accessory building. The practical difficulty is that strict application of the side yard setback requirement would prevent the applicant from building a detached accessory building on the property and the narrowness of the lot. Granting of the requested variance would not deny an adequate supply of light and air to the neighboring property or streets, and granting of

the requested variance would not interfere with the appropriate development or continued use of adjacent properties in the surrounding areas.

Motion carried unanimously.

15-13 ... A request by Jess Peak, 3828 Highcrest, for a variance in order to construct a detached accessory building in the front yard.

Jess Peak was present for the petitioner.

Peak addressed the location of the sewer lines. He indicated that an MHOG representative came out and provided options to relocate the sewer line. He also indicated that there will be the same siding and finishes on the new building as the home on the property.

Dhaenens asked about the concrete pad on the property. Peak said they would break it apart to get it to the required level and rebuild it.

A call to the public was made with no response.

Moved by Ledford, supported by Figurski, to approve Case 15-13, 3828 Highcrest, Petitioner Jeff Peak, to build a 22-foot by 32-foot detached accessory building in the front yard.

Practical difficulty is due to the location of the house being on the northeast corner of the property and a driveway easement along the southern boundary and size of the rear and side yard makes the placement of a detached accessory bldg. limited. Variance will have little impact on appropriate development, continued use or value of adjacent properties and surrounding areas. There is sufficient distance from the road and adjacent properties and should have a limited impact on values. Will not impair adequate supply of light and air to adjacent properties, will not increase congestion in public streets or increase the danger of fire, safety, comfort, morals or welfare of neighbors. Approval is contingent upon petitioner relocating the sewer line out of the way of the new garage and installing gutters and downspouts on the garage.

Motion carried unanimously.

15-14 ... A request by Tim Chouinard, 1185 Sunrise Park, for a side yard setback variance and a front yard setback variance to construct an attached garage and second story addition on an existing home.

Tim Chouinard was present for the petitioner.

Chouinard said it is a very small lot that he and the owners are trying to turn it into a home the owners can use in retirement. The front yard setback variance needs to be 24 feet for the garage, which would be located behind the house. Chouinard said he did try to make it smaller and Figurski questioned the size. Poissant asked about property and plat and questioned whether the property lines extended to the water's edge. Akers said Sunrise Park was platted in 1930s or 1940s, and it is unclear where the property lines go to. Poissant said he thinks the building exceeds the 35% lot coverage rule. Dhaenens questioned the 3-foot setback on the one side.

Akers said at the previous meeting there was a letter received from a neighbor in opposition to the project. He also received a call from an anonymous resident saying the land was actually park land; and that person wanted that brought to the Board's attention.

Call to the public was made with no response.

Dhaenens suggested tabling the case due to the percentage of structure occupancy on the land in order to find out if this meets the 35% requirement.

Moved by Ledford, supported by Poissant, move to table Case 15-14 to the next regularly scheduled meeting on August 18, 2015 and to be able to add a calculation of the 35% structure occupancy on the land in order to find out if it meets the 35% requirement.

Motion carried unanimously.

15-16 ... A request by Rickey F. Novak, 140 S. Hughes Road, for a variance to construct a detached accessory building in the front yard.

Rickey F. Novak was present for the petitioner.

Novak said the side yard of his home is a flood zone, the septic field is located in the rear yard and he would have to remove a great deal of habitat to put the detached accessory building there. He said in the front it would basically be hidden. Figurski said it is hard to see the house from the road. Dhaenens commented that the back and side of the home was tight. He said he understands why Novak is not requesting to place it in the back yard.

Call to the public:

Brenda Klemmer, 100 S. Hughes Road, wants to know why the proposed building is not attached to home and what the material used would be. Novak said it would be vinyl sided and match the existing home. It is possible for him to attach it to house but would have many additional costs. That is a primary reason for not attaching.

Moved by Ledford, supported by Figurski, to approved Case 15-16, 140 S. Hughes Road, Richard Novak, Petitioner, for a variance to construct a 30x40 detached accessory bldg. in the front yard.

Extraordinary circumstances due to the presence of a flood plain area in the rear and side yard and the location of the septic system. Granting the variance will not impair an adequate supply of light and air to adjacent properties or increase congestion on public streets or endanger public safety, comfort, or welfare to the township and will not diminish the value of adjacent properties in the neighborhood. Approval is conditioned upon the building having gutters and downspouts.

Motion carried unanimously.

15-17 ... A request by Jeffrey and Susan Wood, 2166 Webster Park Drive, for a variance to make repairs, improvements and modernization to a non-conforming structure which exceeds one-half (1/2) of the value of the structure during a period of twelve (12) consecutive months.

The petitioners, Jeff and Susan Wood, were present.

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Susan said they are looking for a place for a summer cottage. The purchase agreement is contingent upon this variance being granted. They need to spend more than \$15,000 of the \$30,000 cash value.

Dhaenens said it appears the renovation exceeds the value. Susan said salvaging the structure is not realistic according to one estimate. Figurski asked about tear down. Jeff said they may need to tear it down. Poissant asked if tear-down would be a different variance. He said front yard setback variance would be needed and potentially side yard. Susan said the goal is a cottage and the foot print is fine for their use. It isn't just a question of money but also whether or not that this is a sound decision. A county official said a new build would require a new septic field and the county would not allow a new septic field. The Woods said they are prepared to walk away. Akers and Dhaenens advised them to get another opinion.

Call to the public:

Deborah Hall, 2165 Webster Park: She said that house has been an eyesore for years and it is just a matter of time before something happens. It is not secure. She is not opposed to this because it would make the neighborhood better.

Kelly DuBine, 2172 Webster Park: She is here to support the request. She said the property is dangerous.

John Graham, the Woods' real estate agent: He urged the board to approve the variance because they aren't done yet trying to make the cottage a reality and he is not giving up on it yet.

Motion by Ledford, seconded by Figurski, to approve Case 15-17, 2166 Webster Park Drive, Petitioners Jeffrey and Susan Wood. The petitioners are requesting a variance to make repairs, improvements and modernization to a non-conforming structure which exceeds ½ of the replacement value of the structure during a period of 12 consecutive months based on the following findings of fact:

Extraordinary circumstances of the property is the lot size and large setback requirements and because the date of the home was built is uncertain and it is considered to be a non-conforming structure and is in a dilapidated condition. Estimated cash value of the building is \$30,000. The zoning ordinance limits the annual cost of improvements to \$13,286.50 per Section 24.04.06 of the Zoning Ordinance, however petitioner requested and is granted a variance removing the expenditure restriction of \$15,000 per year which is over 50% of the cash value. Improving this dilapidated structure will improve conditions in the area as well as the value of adjacent properties.

Motion carried unanimously.

15-18 ... A request by David Gruber, 4066 Highcrest, for shoreline setback variance, a rear yard setback variance, and a front yard setback variance in order to construct a new single family home.

The petitioner Dave Gruber was present.

Gruber wants to build a modestly-sized home on a small lot. It would be smaller than many homes in the area. Said he needs a professional staked survey to identify the property lines.

Dhaenens worried about how close it was to the shoreline. Gruber said the shoreline is farther than the actual property line. Gruber said he is 26 feet from the shoreline. He said the stakes are inaccurate because he doesn't know the property lines. Figurski brought up the percentage of the lot coverage. Poissant asked about a staked survey.

Call to the public.

Pete Bruder, 4058 Highcrest: He was concerned about the stake closest to the water, which is only 17-18 feet from water. Bruder's setback is about 40 feet. That property would affect his view. If setback is farther back, it would be ok but not where the stake is currently located.

Dhaenens expressed apprehension and said Gruber needs to come back anyway for the lot coverage but wants to see less of a shoreline setback variance and be more consistent with other houses in the neighborhood.

Moved by Ledford, supported by Poissant to table Case 15-18, 4066 Highcrest, Petitioner David Gruber, until the next meeting on August 18, 2015.

Motion carried unanimously.

15-19 ... A request by Mark W. Cameron, 6258 Cunningham Lake Road, for a variance to construct a detached accessory building in the front yard.

Mark Cameron was present for the petitioner.

Cameron said his hardship was the topography of the land. He said the only spot to put a detached two-car garage is the front side of his driveway.

Dhaenens asked about the concrete pad and why not attach garage to the house. Cameron said that would require extensive foundation work and be very expensive; and also ruin the view. Ledford wondered about the foundation, but Cameron said that is a retaining wall and the driveway is gravel. He said he has a tree line that would block the neighbor's view of his garage. He also mentioned that a neighbor farther away has a detached garage.

Call to the public.

Paul Wholihan, 6259 Cunningham Lake Road: He said he would not see the garage and he lives across the road. He has no objection. His wife emailed her support.

Sheila Davis, 6264 Cunningham Lake Road: She has no objection and she sent a letter of support.

Moved by Poissant, supported by Figurski, to approve Case 15-19, 6258 Cunningham Lake Road, to approve Petitioner Mark Cameron's request for a variance to construct a detached accessory building in the front yard.

Practical Difficulty/Substantial Justice: Compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk, density, or other dimensional provisions would unreasonably prevent the use of the property. Granting of a requested variance or appeal would do substantial justice to the applicant as well as to other property owners in the district and is

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

Extraordinary Circumstances: There are exceptional or extraordinary circumstances or conditions applicable to the property or the intended use which are different than other properties in the same zoning district or the variance would make the property consistent with the majority of other properties in the vicinity. The need for the variance was not self-created by the applicant. Public Safety and Welfare: 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. Impact on Surrounding Neighborhood: The variance will not interfere with or discourage the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.

Motion carried unanimously.

15-20 ... A request by Mark S. Cummer, 4811 Pine Eagles Drive, for a variance from the setback requirements between condominium units in order to remove and replace an existing deck.

Mike Kiker was present for the petitioner.

Owners proposed to extend deck but keep the width the same (common wall to common wall). A 2013 variance approved an even larger deck extension in the same neighborhood: 6 feet as opposed to Cummer's 3 feet. Request has been approved by their neighbors and association.

A call to the public was made with no response.

Moved by Figsurski, supported by Ledford, for a variance from the setback requirements between condominium units in order to remove and replace an existing deck.

Practical Difficulty/Substantial Justice: Compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk, density, or other dimensional provisions would unreasonably prevent the use of the property. Granting of a requested variance or appeal would do substantial justice to the applicant as well as to other property owners in the district and is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and vicinity of the subject parcel. Extraordinary Circumstances: There are exceptional or extraordinary circumstances or conditions applicable to the property or the intended use which are different than other properties in the same zoning district or the variance would make the property consistent with the majority of other properties in the vicinity. The need for the variance was not self-created by the applicant. Public Safety and Welfare: 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. Impact on Surrounding Neighborhood: The variance will not interfere with or discourage the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.

Motion carried unanimously.

Administrative Business:

1. Approval of minutes for the June 16, 2015 Zoning Board of Appeals meeting. Moved by Poissant, supported by Ledford to approve the 6-16-15 Zoning Board of Appeals minutes as amended. Motion carried unanimously.
2. Review of Rules of Procedure: Amended to give a policy for postponing decisions. Marianne wants to specify that a new application fee be specified after two postponements. Figurski moved that the review of the rules of procedure as specified by Ron is approved. Ledford seconded. Motion carried unanimously.
3. Correspondence: Ron talked about Supreme Court sign ruling now requires communities to re-do sign ordinances. Mentioned Citizen Planner Course.
4. Township Board Representative Report: Ledford talked about Brighton Church of Nazarene: land use failed. Talked about Ron's new job in Van Buren Township. Board complimented him.
5. Planning Commission Representative Report: Nazarene Church approved with Figurski no. Approved church façade. Approved Culvers.
6. Zoning Official Report: Working on transition and trying to get some projects done. Ron will do all staff reports, etc, but not be at meeting.
7. Member Discussion: Talked about Nazarene Church. Traffic was an issue.
8. Adjournment: Moved by Ledford, supported by Figurski, to adjourn the meeting at 9:03 p.m.

Signed,

Kathleen Murphy
Recording Secretary