

GENOA CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
August 18, 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, Marianne McCreary, and Barb Figurski. Also present were Township staff member Mike Archinal and Recording Secretary Kathryn Poppy. There were 22 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 Poissant to approve the agenda as amended, tabling case 15-18. **Motion carried unanimously.**

Call to the Public: A call to the public was made with no response.

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

Tim Chouinard was present as the petitioner. Due to the lot size and a small corner space available on the lot, the request is for a 6 ft. side-yard setback. Easement status is unknown after investigation. The request is to add a second floor on an existing variance. The property is non-conforming. The east side is currently built over the setback line. The requested setback is for 4.3 ft. variance on the west side and a 5.4 ft. variance on the east.

Ledford confirmed that a statement had been provided by John Dickson and asked whether or not there had been conversation between Mr. Chouinard and Mr. Dickson. Mr. Chouinard indicated they had talked. Mr. Dickson is a renter.

A call to the public was made with no response.

Moved by Poissant to approve case #15-14 at 1185 Sunrise Park for side-yard setback variances to construct a two-story addition to an existing house. A side-yard setback of 5.4 ft. next to Lot 13 and a side yard setback of 4.3 ft. next to Lot 11 are requested. These are variances of 4.6 ft. and 5.7 ft. respectively from the required setback of 10 ft., based on the following findings of fact:

1. Strict application of the side-yard setback requirements would prevent the applicant from constructing an addition to the existing house.

2. The applicant has significantly reduced the scope of the addition originally requested in order to comply with the maximum coverage limitation of the code.
3. The variances requested are not materially different from existing variances.
4. The small, narrow lot coupled with the location and orientation of the house on the lot creates an extraordinary set of circumstances prohibiting the use of the property in a compliant manner to construct improvements similar to other properties in the area.
5. There are several homes in the vicinity which do not comply with the side yard setback requirements.
6. Granting of the requested 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.
7. Granting of the requested variance will not interfere with or discourage the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.

Support by Ledford. **Motion carried unanimously.**

15-18 ... A request by David Gruber at 4066 Highercrest, for shoreline setback variance, a rear yard setback variance, a front yard setback variance, and a variance from the maximum lot coverage in order to construct a new single family home.

The petitioner, David Gruber was not present; however, he provided a request in writing, asking that the project be tabled.

Moved by Figurski to table the request to the September 15 meeting. Support by Ledford. **Motion carried unanimously.**

15-15... A request by James Richard Ireton at 6221 Wagon Drive, for a rear yard setback variance in order to construct a detached accessory building.

James Ireton Jr. was present as the petitioner. He would like to construct a 24 x 37.5 ft. building. The house is positioned far back on the property. There is not a 60 ft. clearance available. He is looking for a variance for a 21'9" setback rather than a 60 ft. setback. Neighbors will not be affected as the accessory structure will not be visible. The house is on a hill. The 10 ft. minimum distance will be present between the building and the house. There is no plan to add to the driveway at this time. The building is 14 ft. tall from grade to mid-point of roof. There would be a walk-out basement type access at the bottom of the hill. It is a difficult site because of the hill and it is built in the middle of a swamp-like area. Their goal is to keep the building behind the house with easy access from the house. They are seeking storage on grade level. Materials are brick and vinyl, matching the house.

A call to the public was made with the following response:

Michael Suciu of 1071 Sunrise Park offered support for the project.

The call to the public was closed.

Moved by Ledford to approve case #15-15 at 6221 Wagon Drive for a 21.75 ft. rear yard setback to construct a 24 x 37.5 ft. detached accessory building, based on the following findings of fact:

1. The practical difficulty is that strict compliance with the rear yard setback would prevent applicant from constructing a larger detached accessory building.
2. The need for the variance is created by the location of the house on the property which was constructed toward the rear yard and the drainage easement is also at the rear of the property.
3. The shed will be removed from the northeast corner of the property.
4. The need for the variance is not self-created.
5. The granting of this variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase 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.
6. The proposed variance would have little impact on the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.

Support by Figurski. **Motion carried unanimously.**

15-21... A request by David and Kathy Mancini at 4212 Highcrest, for a front yard setback variance in order to construct an addition to the existing single family home.

David and Kathy Mancini were present as the petitioners. The request is to build a first floor master and attached garage as this is to be their full-time home. This will permit their cars to be further away from the road than they are right now. They visited their neighbors and showed them the project. Another home up the street was built with the same variance this past winter. No side-yard variances are being requested. The setback would be 27 feet from the road and 15.5 ft. from the lot line. The variance would be for 19.25 feet. This is similar to the neighboring properties. There are limitations with the lot. This requires tree removal. Some trees removed previously were hollow inside by 10 inches. They are doing a 26 ft. addition, not a 28 ft. addition as originally planned.

A call to the public was made with the following response:

Larry Tengel of 4206 Highcrest was present and stated that he has no objection to the project. The setback will be the same as his home.

Thomas Rafferty of 4244 Highcrest was present and stated that he is in favor of the project request as well.

Moved by Poissant to approve case #15-21 at 4212 Highcrest for a variance from the 35 ft. front yard setback requirement to a front yard setback of 15.75 ft. in order to construct an attached garage and an addition to the existing home, based on the following finds of fact:

1. Strict compliance with the front yard setback requirement would prevent the applicant from erecting an otherwise compliant addition to their home including a garage.
2. The limited depth of the lot is an extraordinary circumstance which is common in this area.
3. Front yard setback variances are common in this area. In fact, a similar variance exists at 4174 Highcrest which is a few homes down the street.
4. Cars parked in the proposed garage will be further from the street than where they are currently parked.
5. 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.
6. The proposed variance would have little impact on the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.

Support by McCreary. **Motion carried unanimously.**

15-22... A request by Brandon Montney at 6518 Grand Circle Drive, for a front yard setback variance in order to construct a roof over an existing front porch.

Brandon Montney was present as the petitioner. The request is for a roof over his front porch. The house does not fall into the setback requirements. It is a non-conforming lot. To move forward, he is requesting a front yard setback. There is a deck on the back of the house. Neighbors have awnings and porches.

A call to the public was made with no response.

Moved by McCreary to approve case # 15-22 at 6518 Grand Circle Drive for a 21.1 ft. front yard variance in order to construct a roof over an existing front porch, based on the following findings of fact:

1. The practical difficulty is that the property is zoned LDR, however the zoning requirements in this district were changed after the zoning was installed.
2. Extraordinary circumstances are that many lots and structures within the Mountain View subdivision are also legal non-conforming.
3. The need for a variance is not self-created.
4. 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.

5. The proposed variance would have little impact on the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.

Support by Figurski. **Motion carried unanimously.**

15-23... A request by Lyn Hewitt at 837 Sunrise Park, for a variance from the maximum lot coverage in order to construct a detached accessory building.

Lyn Hewitt was present as the petitioner. This request is for PLS Investments. The property was remodeled from a summer cottage to year-round residence. They would like to consolidate clutter and are requesting a land coverage variance. The proposed garage is designed to house two vehicles and lawn equipment. The new garage would allow removal of trashcans from the driveway and the removal of a small “tired” building on the property. This project also allows improvement in drainage on the property. They are planning to add drainage across the driveway and efforts are being made to improve ponding and water flow. Current lot coverage is less than the allowed coverage; the proposed building would bring the property to 40.6 percent. There are neighboring lots with comparable coverage in the area. Over time, topography in the area has changed. An attached garage was considered. The road is a single lane road.

Poissant indicated that if the garage was just slightly smaller, perhaps 20 x 24, the variance would not be required. Figurski stated that staying within 35 percent is preferred. McCreary stated that a neighboring shed blocks the view for traffic. There appears to be a traffic safety issue. The petitioner stated the garage would be 20 ft. from the road. McCreary stated that this building would protrude more than buildings on neighboring properties. The petitioner stated that a 20 x 24 garage would not permit equipment storage or their vehicle.

Dhaenens recommended tabling to September 15 to look at another plan closer to compliance or something that might be more likely to get approval. It appears there are concerns about the safety of pulling out of the driveway and the size of the project and lot coverage. It is a tight spot.

A call to the public was made with the following response:

Written letters indicate support from neighbors.

Karen and David Arsneault of 831 Sunrise Park Drive were present. Ms. Arsneault stated they live directly next door to the property, closest to the garage. The lot level next door was raised above the lot level of their property. There are issues with water. Water is coming down from the hill of the street and is draining from this property as well, causing serious effects. “Water from their yard drains into our yard; I can’t raise my house.” Water is going beneath railroad ties. There is six inches of water that goes through to their lot. Also, if the building is built, the sun will not be able to dry the area, making water issues worse. The wind goes between the two houses and this problem would become more fierce. Doors blow open harshly in that space. The building will impair vision, though it would give more room. “We are not opposed to the entire project.

We would like the drainage addressed.” The sprinkler system is also on the lot line and sprays on their cars. Ms. Hewitt stated that the sprinkler system has not been turned on this summer.

Dan Wagar at 843 Sunrise Park was present and stated there is an issue with drainage. There is an issue with water. He has spoken with Ms. Hewitt’s husband and understands that the drive will be lowered. The drain commission attempted to fix the drains but the problem got worse. As far as traffic, the petitioner has been backing-out of that lot for some time.

Mr. Hewitt spoke. The plan is to remove top two slabs at the driveway, creating a bowl, directing to the drain and tying into the drain underground. Part of the driveway has to be taken out to accomplish the drain.

Michael Suciu of 1071 Sunrise Park offered support for the project.

Ms. Arsneault stated there needs to be a drain into the lake on the petitioner’s property, like other properties.

Dhaenens stated that tabling might be beneficial. Perhaps address the drainage with the drainage commission. Try to be more in compliance with lot coverage and safety. Provide a plan at the next meeting. Letters of support were recognized from neighbors.

Moved by Figurski to table motion at the petitioner’s request. Support by Poissant.
Motion carried unanimously.

15-24... A request by Erich Pearch at 3990 Beattie Road, for a rear yard setback variance in order to construct a detached accessory building.

Erich Pearch was present as the petitioner. Jack Smith from Garlock-Smith Land Surveying was also present. This is a request for an accessory building. Setbacks would place the building too close to the septic tank and field. The house was built in 1971 and has the original concrete field. A new field is planned. The setback would be in the area of the new field.

This is a 2.33 acre parcel in an area zoned for five-acre parcels. It appears that the lot was split and created in 1985 which didn’t leave a lot of room. Two concerns include isolation of the septic field from the proposed building and existing home. If the building came to 60 feet, it would be lined up immediately next to the garage and would sit next to the current septic field. A front entrance to the garage is planned. There are trees which would need to be removed if the setback variance was not permitted. The field is directly behind the addition.

Dhaenens stated that there are two front yards because it is a corner lot. Much of the yard cannot be used. There is limited capacity recognized in the back yard.

A call to the public was made with no response.

Moved by Ledford to approve case #15-24 at 3990 Beattie Road for a 25 ft. rear yard setback to construct a 30 x 40 ft. accessory building, based on the following findings of fact:

1. Strict application of the rear yard setback would prevent the applicant from constructing a maximum sized detached accessory building.
2. The extraordinary circumstances of the property are the limited size of the back yard which is due to the lot being a corner lot and the location of the existing home.
3. The need for a variance is not self-created.
4. The shed in the northwest corner is to be removed.
5. Approval is conditioned upon installing gutters and downspouts.
6. The granting of this variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase 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.
7. The proposed variance would have little impact on the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.

Support by McCreary. **Motion carried unanimously.**

15-25... A request by Gordon & Robb MacKay at 4030 Highcrest, for a front yard setback variance in order to construct new single family home.

Gordon and Robb MacKay were present as the petitioners. The request is for a front yard setback variance to construct a building that complies with square-footage requirements. The project will definitely improve the look of the neighborhood. The rendering of the house in the packet is like the house that is planned. The front-side and back of the home structure would appear differently. It would be an 1800 sq ft home, including the garage. Without the variance, the lot permits an 870 sq ft home. The only variance needed is the setback from the street. The house would be 29 x 48 ft. The new building would be farther back from the road than the existing building.

Ledford asked whether five feet was enough distance to accommodate the grinder on the side of the house. It was recommended that the grinder be moved to a more convenient location. Perhaps the floor plan could be flipped. It was confirmed that the existing home would be completely demolished.

A call to the public was made with the following response.

Thomas Rafferty of 4244 Highcrest was present and stated full support for the project. There is currently the smell of mold coming from the existing building and there are raccoons on the property. "Build whatever you can; the neighbors are better served."

McCreary asked whether the approval might be subject to approval of the final house plan. Dhaenens said that the plan is smaller than envelope being proposed. The house would have to fit in the 24 x 48 envelope.

Motion by Ledford to approve case #15-25 at 4030 Highcrest for a 24.2 ft. variance to allow a 10.8 ft. front yard setback to construct a new single family dwelling and demolish the existing dilapidated house based on the following findings of fact:

1. New construction is to be in character with existing homes in the area.
2. Extraordinary circumstances are due to small and narrow lot size.
3. The need for the variance is not self-created.
4. The location of the driveway and the proposed home will provide sufficient area for off-street parking.
5. House is to be guttered and run-off is to be directed toward the lake.
6. 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.
7. The proposed variance would have little impact on the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.

Support by Figurski. **Motion carried unanimously.**

Administrative Business:

1. **Approval of minutes: Moved** by Figurski, supported by Poissant to approve the July 21, 2015 Zoning Board of Appeals meeting minutes with corrections. **Motion carried unanimously.**
2. **Correspondence:** Archinal pointed to the correspondence in the packet.
3. **Township Board Representative Report:** Ledford stated that the August 3, 2015 Township Board meeting clarified previous action regarding Livingston Christian School at Brighton Church of the Nazarene. Culvers Restaurant was approved. Also approved was the removal of a dangerous building at 1112 Chemung. There was standing room only at this meeting as a result of attendance from local schools. Many comments from the public were heard.
4. **Planning Commission Representative Report:** Figurski stated that at the August 10 meeting, Cleary University requested rezoning from OSD-IND to MUPUD. REU's are being confirmed. Riverbend office complex parking improvements were approved.
5. **Zoning Official Report:** Archinal stated that interviews for Akers replacement are taking place this week.
6. **Member Discussion:** The board expressed appreciation for the service of Ron Akers.
7. **Adjournment: Moved** by Poissant, supported by Ledford, to adjourn the meeting at 8:42 p.m. **Motion carried unanimously.**

Signed,

Kathryn Poppy
Recording Secretary