

**GENOA CHARTER TOWNSHIP  
ZONING BOARD OF APPEALS  
DECEMBER 17, 2019 - 6:30 PM**

**MINUTES**

**Call to Order:** Chairman Rassel called the regular meeting of the Zoning Board of Appeals to order at 6:30 pm at the Genoa Charter Township Hall. The members and staff of the Zoning Board of Appeals were present as follows: Greg Rassel, Marianne McCreary, Jean Ledford, Bill Rockwell, and Amy Ruth, Zoning Official. Absent was Michelle Kreutzberg.

**Pledge of Allegiance:** The Pledge of Allegiance was recited.

**Introduction:** The members of the Board introduced themselves.

**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 made at 6:32 pm with no response.

**Old Business**

1. 19-31...A request by Cathy Cedar, vacant, Parcel #11-22-302-029, Noble Drive, for a variance to allow a three story structure with side, front, and rear yard setback variances, lot coverage variance, and a height variance to construct a new home. (Request to postpone)

Ms. Ruthig stated that the applicant requested to have this item postponed this evening and is aware that her request can only be postponed one more time until it will need to be withdrawn.

**Moved** by Board Member McCreary, seconded by Board Member Ledford, to postpone Case #19-31 until the end of 2020, at the applicant's request. **The motion carried unanimously.**

2. 19-41 ... A request by Wallace and Sons Enterprises, LLC, 855 Victory Drive, for a front yard setback and natural features setback variance to allow existing structures.

Ms. Rebecca Cassell, representing the applicant, and Mr. Wallace were present. Ms. Cassell believes that her client is now in compliance with the ordinance. Mr. Wallace has worked over the last month to meet the requirements.

They are requesting two variances. Both of these are after-the-fact variances.

One from the front road setback for a small corner of the building. The building has already been completed. While it was being built, the contractor who laid the foundation put the footings just a little wider in one area and it resulted in one corner of the building to be built two feet, two inches into the 50-foot setback. It is not for the entire building; it is just the one corner.

The second one is the natural features setback. The applicant has hired ASTI to perform a wetlands study and that information was provided to the Township. This is where the cement storage bins are located. They encroach by four feet. It is not all of the bins, just the northern four bins.

Both of these variances were errors done by the contractors and they believed they were doing them properly. This is not a case where Mr. Wallace simply did not follow the ordinance. All of the proper steps were attempted to be taken when they were being built. They do not believe that approving these variances would be setting a precedent. The practical difficulty and substantial justice are that this is a 9,000 square foot building and the storage bins are poured concrete with rebar. If the variances are denied, both the building and the bins would have to be demolished and re-erected.

ASTI noted that the concrete bins are a great barrier to ensure nothing being stored in them would leach into the wetlands. The structures are very sturdy.

The contractors did their work in good faith and believed they were following the plans.

She noted that the public safety and welfare are not different than if the site was in strict compliance with the ordinance. Granting the variances does not pose a safety risk and the impact on the surrounding neighborhood is the same. They are relatively-small encroachments.

They have completed the permit for the overflow detention basin and submitted it to EGLE and are waiting for their response.

She added that no work or storage is being done on the site. They are aware that the building permits have expired and the completion of the building is on hold pending the outcome of these variance requests.

Board Member McCreary questioned Mr. Wallace as to when he learned that the footings were put in the wrong location. Mr. Wallace stated that the day the work was being done, the footings had to be twice as wide as they should have been because the soil was collapsing. Then the block contractor put the blocks in the incorrect location. He learned of this when the engineer provided the as-built plans. She advised him that he was required to report this information to the Township. Mr. Wallace stated the footings were in compliance; unfortunately the block contractor made the error. He did not follow the plan and followed the footings. Ms. Cassell

stated that the fact that the footings were built larger did not require the site plan to be reviewed and approved. Mr. Wallace knows that since he was the general contractor, he should have re-measured after the footings were installed.

Board Member McCreary questioned how the cement bins were built incorrectly. Mr. Wallace stated that he had the location for the bins marked; however, he was not on site the day the work was done and the contractor made the mistake. She understands that the contractor made the error; however, the applicant is responsible. She also noted that Mr. Wallace is on a land contract for this property so now the current property owner is affected by these errors. She reviewed the numerous citations that the Township issued and ignored. She believes the applicant was negligent and disrespected the Township by ignoring the citations.

Board Member Ledford asked the applicant that if he receives these variances, would he comply with the Township's requirements, obtain the proper permits, etc. Mr. Wallace answered, yes. Ms. Cassell stated that Mr. Wallace has hired her to assist him with the process and ensure that all of the steps are completed properly.

Board Member Rockwell asked if any of the contractors have admitted their negligence and Mr. Wallace stated, no. He asked why the bins were put so far back on the property and so close to the wetlands. Mr. Wallace agrees that he should have marked off further away from the wetlands than what he did to allow for any error by the contractor. Ms. Cassell noted the business that Mr. Wallace operates uses large and heavy equipment so there needs to be room for it to maneuver around the site and in and out of the building.

Board Member McCreary asked if a wetlands surveyor marked the area for the wetlands. Mr. Wallace stated that the engineer marked it off with ribbons. He noted the brush in that area was very dense and there may have been areas that were not able to have ribbons placed. Board Member McCreary advised Mr. Wallace that when work is being done near wetlands it needs to be done properly.

Chairman Rassel asked how these errors were discovered. Ms. Ruthig stated that she and Ms. VanMarter were performing a site visit and noticed how close the bins were to the wetlands so they requested as-built plans. Those plans showed the error for the bins as well as the building setback.

Board Member McCreary asked if soil borings were done and Mr. Wallace stated, yes. Based on the engineer's plans, he had to bring in sand and have it compacted to raise the grade. This is what collapsed when they were putting in the footings.

The call to the public was made at 7:21 pm with no response.

**Moved** by Board Member McCreary, seconded by Board Member Rockwell, to deny Case #19-41 for Wallace and Sons Enterprises, LLC of 855 Victory Drive for a front yard setback and natural features setback to allow existing structures, based on the following finds of fact

- This is self-created, which is one of the compliance features that has to be shown, that it is not self-created.
- There are no extraordinary circumstances except that the as-builts and submitted plans were not complied with to follow the plans approved by the Planning Commission.
- Granting this variance would not increase the congestion on streets or endanger the safety of the inhabitants of Genoa Township.
- The impact on the surrounding neighborhood could be questioned because there could be some impact on the significant wetlands in the area and they cannot just be ignored; it would set a precedent.

**The motion carried (Ledford - no; Rockwell - yes; McCreary - yes; Rassel - yes).**

### **New Business**

3. 19-42 ... A request by Sandra Gavin, 7900 Collingwood Drive (4711-13-400-003 and 4711-13-401-045), for a variance to split property to create a non-conforming lot.  
(Request to withdraw)

Ms. Ruthig stated that this request can be withdrawn because it is in compliance.

**Moved** by Board Member Rockwell, seconded by Board Member Ledford, to withdraw Case #19-42 for Sandra Gavin of 7900 Collingwood Drive for a variance to split property to create a non-conforming lot. **The motion carried unanimously.**

### **Administrative Business:**

1. Approval of the minutes for the October 16, 2019 Zoning Board of Appeals Meeting.

Board Member McCreary noted one change to be made.

**Moved** by Board Member McCreary, seconded by Board Member Ledford, to approve the minutes from the October 16, 2019 Zoning Board of Appeals Meeting. **The motion carried unanimously.**

2. Approval of the minutes for the November 17, 2019 Zoning Board of Appeals Meeting.

Board Member McCreary noted one change to be made.

**Moved** by Board Member McCreary, seconded by Board Member Rockwell, to approve the minutes from the November 17, 2019 Zoning Board of Appeals Meeting. **The motion carried unanimously.**

Zoning Board of Appeals Meeting  
December 17, 2019 Approved Minutes

3. Correspondence – Ms. Ruthig stated there are two cases for next month’s meeting.
4. Township Board Representative Report - Board Member Ledford provided a review of the December 2 and December 16 Board Meetings and the December 10 joint meeting between the Board and the Planning Commission.
5. Planning Commission Representative Report – Board Member McCreary provided a review of the November 19, 2019 Planning Commission meeting.
6. Zoning Official Report – Ms. Ruthig had nothing to report.
7. Member Discussion - There were no items to discuss this evening.
8. Adjournment - **Moved** by Board Member Ledford, seconded by Board Member Rockwell, to adjourn the meeting at 7:48 pm. **The motion carried unanimously.**

Respectfully submitted:

Patty Thomas, Recording Secretary