

**GENOA CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
APRIL 20, 2021 - 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. The members and staff of the Zoning Board of Appeals were present as follows: Greg Rassel, Jean Ledford, Bill Rockwell, Craig Fons, Michelle Kreutzberg, and Amy Ruthig, Zoning Official. Absent was Marianne McCreary.

Pledge of Allegiance: The Pledge of Allegiance was recited.

Introduction: The members of the Board and staff introduced themselves.

Approval of the Agenda:

Moved by Board Member Rockwell, seconded by Board Member Kreutzberg, 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.

1. 21-04... A request by Paulette Skolarus, Challis Court Tax ID 4711-26-200-029, for two front yard setback variances to construct a new home.

Ms. Paulette Skolarus and Mr. Ron Godair were present. Mr. Godair stated they are proposing to construct a single-family residence. The hardships are that this is a corner piece of property so there are two front yards as well as the drastic grade changes from the front to the back of the site. He showed a site plan depicting the right of way of the cul de sac of the private drive. They originally had the entrance coming off of the private drive, but now they will have the driveway off of the private road, which facilitates the ingress and egress better. They have moved the house back and will curve the driveway off of the road. They are requesting 23.9 foot and 36.9-foot variances. He does not believe that they have overbuilt this site and the house is not a deterrent for the neighbors. Ms. Skolarus noted that the home sits 40 feet back from the roadway.

Ms. Skolarus stated that the water runoff will not enter on the next door neighbor's property. She stated that fire trucks were here a few months ago and they did not have trouble accessing the area.

Mr. Rockwell noted that the Fire Marshal did not do a review of the request. Ms. Ruthig agreed. The review that was done by the Fire Marshal was done in 2017 and was regarding a different matter and not the proposed location of this home.

Mr. Fons does not feel there was any effort made to conform to the setbacks. There is room to move the home back and still provide a setback from the road. Mr. Godair stated they have spent a lot of time and money on the plan. Also, if the setbacks were met, the corners of the home would be cut off and it would not meet the size requirements. He reiterated the difference in topography from the front to the back of the property. Mr. Fons stated it may be expensive, but the lot can be graded to lessen the variance that is needed. Mr. Godair disagreed.

The call to the public was made at 6:55 pm.

Mr. Roger Myers, the attorney for Mr. and Mrs. Bray, who own the property further to the east of this parcel. The applicant has not demonstrated a hardship. The hardship cannot be financially based or self-created. The applicant does not want to spend the money to change the grade and she created her own hardship by splitting the property the way she did. Another issue is the width and pitch of the drive that is serving those homes. The pitch is too steep so the only way fire trucks could respond to homes further down the road is to come in at an angle. This area of this road is a hazard so adding another home and a septic field would increase the hazard. Additionally, the proposed home does not meet the covenants and restrictions of this area; the proposed home is too small. All four factors of granting a variance have not been met by the applicant. He and his clients are requesting that the variances be denied.

Ms. Skolarus stated that Mr. Bray created the hardship for the roadway. Mr. Godair stated that the septic fields are 35 feet away from the roadway so the fire trucks have room to maneuver to the homes further down. He showed how they would maneuver on the site plan.

Chairman Rassel noted that covenants are not the authority of the Zoning Board of Appeals; they are a civil matter. The Township has received two letters from neighbors who are in support of the variances.

The call to the public was closed at 7:08 pm.

Moved by Board Member Ledford, seconded by Board Member Kreutzberg, to deny Case #21-04 from Paulette Skolarus, Challis Court Tax ID 4711-26-200-029 for a south front yard variance and an east front yard variance to construct a new home, based on the following findings of fact:

- The topography of the lot prevents the use of the property for residential development and therefore is an unbuildable lot.
- The greatly-reduced front yard setbacks do not support substantial justice to other property owners in the district.

- The proposed location of the home is not similar or consistent with the majority of other properties in the area. The applicant split the lot without securing a feasible building envelope, making the need for a variance self-created.
- The original approval private road site plan was designed for the road runoff to flow to the vacant lot.
- To eliminate an unbuildable lot, the applicant should consider combining the property that abuts the subject parcel, which is under common ownership.

The motion carried (Fons - yes; Rockwell - no; Kreutzberg - yes; Rassel - yes; Ledford - yes).

2. 21-06...A request by Haran and Kayla Lerma, 3205 Old Carriage Trail, for height variance to install a 6-foot fence.

Ms. Lerma was present. They are requesting a variance for a six-foot fence along the back of their property. Their backyard backs up to Dorr Road, which has a lot of traffic and is noisy. It is also a safety issue. Their home is the closest to the road than any other home on their street. They are not able to build trees as a barrier due to the location of the septic field. She showed a sketch plan showing the location of the fence. They want to put a four-foot chain link fence on the sides of the home and a six-foot white vinyl fence along the back.

Board Member Ledford stated the applicant requested a six-foot fence in April of 2018 due to Dorr Road. Ms. Lerma stated that letter was written when the Township was proposing to require a variance for a six-foot fence, but would allow a four-foot fence.

Board Member Ledford noted that the applicant should have known Dorr Road was heavily traveled before they purchased the home. Ms. Lerma said they did not know how busy Dorr Road was when they viewed the home before they purchased it. They always viewed it at off peak times. She noted that she submitted letters from eight neighbors who are in support of her request.

Board Member Ledford is not in favor of this request.

Board Member Rockwell asked why the six-foot high fence is needed. Ms. Lerma stated the six-foot provides more privacy and safety.

Board Member Kreutzberg asked Ms. Ruthig if she is aware if the six-foot fence ordinance is in the process of being reviewed and approved. Ms. Ruthig stated the ordinance change has been drafted and is going to be presented to the Planning Commission and the Township Board for review and approval; however, she is not sure when.

The call to the public was made at 7:26 pm.

Mr. Gabriel Garcia of 3235 Old Carriage Trails lives to the south of Ms. Lerma. His home is not as close to the road as hers. He is in favor of granting this request. The chain link fence would be covered by the trees he has on his property. He would not see the white six-foot fence from his yard. He agrees that vehicles drive very fast down Dorr Road.

The call to the public was closed at 7:30 pm.

Board Member Rassal understands the applicant's concerns; however, he would not like this subdivision to be overtaken by six-foot fences so he is in agreement with Board Member Ledford. Perhaps the ordinance will be changed.

Moved by Board Member Ledford, seconded by Board Member Rockwell, to deny Case #21-06 for Haran and Kayla Lerma of 3205 Old Carriage Trail to install a six-foot fence at the rear of the property, based on the following findings of fact:

- Strict compliance with the Zoning Ordinance in regards to the fence ordinance would prevent the applicant from constructing a 6-foot fence at the rear of the property, but would not unreasonably prevent use of the property and is not necessary for the preservation of the property. A six-foot fence is not a property right possessed by other properties in this zoning district or vicinity.
- The need for the variance is self-created and poses no significant hardship to the applicant in that a six-foot fence is allowed on the side and ten feet past the rear of the home only. Granting the variance will not make the property more consistent with surrounding properties.

The motion carried unanimously.

3. 21-07...A request by Marcel Normand, 4137 Clifford, for a variance to create a lot with a detached accessory structure without a principal structure.

Mr. Wayne Perry of Desine Engineering was present to represent the applicant. This request was before the board in 2018 and granted. It is a request to temporarily allow for an existing garage to remain on the site while a land division progresses and then after that is complete, a principal residence will be constructed. The conditions that were imposed in 2018 and the original purchase fell through; however, there is a new purchase agreement for the property, which includes that the existing garage remains.

Board Member Ledford stated that in 2018, the structure and property were in very poor condition.

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

Mr. Edward Lonieski, who is the potential property owner, will be removing the garage and building a new home when the purchase agreement is finalized.

The call to the public was closed at 7:49.

Board Member Rockwell does not understand why this is being requested. If the garage is going to be removed by the new owner. Ms. Ruthig stated that many times purchase agreements are not completed so the variance is needed to split the property with the garage still there. If it is removed, it would be removed by a new owner.

Moved by Board Member Kreutzberg, seconded by Board Member Ledford, to approve Case #21-07 by Marcel Normand, 4137 Clifford, for a variance to create a lot with a detached accessory structure without a principal structure, based on the following findings of fact:

- The current parcel was approved with the current out building on it. The structure was approved for a permit in 1993 and built in 1994 and at that time was permitted for its current zoning and in compliance
- The availability of the property to be divided is unique with this parcel and granting this variance will give substantial justice to the current owner or potential new owner with the compliance figures we are placing regarding the variance and the strict compliances for allowing the outbuilding on the property or denying it after a time as such as a permit would have been expired.
- The property as it sits originally is nonconforming and the need for the variance 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, comfort, morals or welfare of the inhabitants of the Township of Genoa.
- The proposed variance would have little or no impact on the appropriate development, continued use, or value of adjacent properties.

The granting of this variance is conditioned upon the following:

1. The seller will provide to the realtor and to the Township and his engineer the vacant land disclosure that will disclose the terms of how the variance will be complied with.
2. That document will be provided to all parties upon the listing and the sale of the purchase of this property.
3. The applicant shall be required to completely remove the detached accessory structure under the following conditions:
 - a. If a permit to construct a new principal residence is not issued within 6 months of the split being approved by Township Assessor; and/or
 - b. If the applicant fails to obtain final occupancy certification from the Livingston County Building Department within 1 year of Land Use permit issuance.
 - c. Township staff shall have discretion to approve extensions to the above deadlines under proven special or extenuating circumstances but in no case shall that extension exceed 6 months for Item (a) or 12 months for Item (b).
4. The seller will be willing to sign an affidavit and the deed shall be recorded noting the variance and the terms of the variance for the split.

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5. If improvements are requested for the expansion of the current accessory building, they shall comply with Section 24.04.06 of the zoning ordinance.
6. The affidavit shall require township attorney approval and shall be recorded immediately after the split.
7. The accessory structure cannot be expanded.

The motion carried (Fons - yes; Rockwell - yes; Kreutzberg - yes; Rassal - No; Ledford - yes)

Due to the time and the next meeting scheduled to begin at 7:30 pm, it was suggested that all Administrative business be moved to the 7:30 meeting agenda.

Moved by Board Member Rockwell, seconded by Board Member Kreutzberg, to move all Admin Business to the 7:30 meeting agenda. **The motion carried unanimously.**

Moved by Board Member Kreutzberg, seconded by Board Member Rockwell, to adjourn the meeting at 8:00 pm. **The motion carried unanimously.**

Respectfully submitted:

Patty Thomas, Recording Secretary