

**GENOA CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
July 19, 2022 - 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, Marianne McCreary, Bill Rockwell, Jean Ledford, Michelle Kreutzberg and Kelly VanMarter, Community Development Director/Asst. Township Manager.

Pledge of Allegiance: The Pledge of Allegiance was recited.

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

Approval of the Agenda:

Chairman Rassel noted that Case #22-19 was requested to be removed by Staff as a variance is not needed and Item #3 should read "770 and 780 **Sunrise** Park".

Moved by Board Member McCreary, seconded by Board Member Rockwell, to approve the agenda with the removal of Case #22-19 and the change to Item #3. **The motion carried unanimously.**

Call to the Public:

The call to the public was made at 6:32 pm with no response.

1. 22-15...A request by Philip and Melissa Casteleyn, 582 Hilltop Drive, for a rear yard setback variance for an addition to remain and to construct another addition on an existing home.

Mr. Castelyn stated that he has provided the revised measurements from Boss Engineering. He is now requesting a 35-foot variance for the south addition and a 12-foot variance for the north addition.

Board Member Rockwell questioned if the Board needs to approve both variances or if they can approve one and deny another. Ms. VanMarter stated the Board can approve both, one or neither.

The call to the public was made at 6:36 pm with no response.

Board Member McCreary thanked the applicant for completing the Board's request from the last meeting. She noted that the Board must look at the hardship and the four factors that must be met in order for a variance to be granted. When a non-conforming structure is altered, it should be brought more into compliance and not be made more non-conforming. She is in support of the front/north variance, but not the one for the back/lakeside/south as it is self-created.

Mr. Casteleyn stated the deck that was approved by Genoa Township extended past the path and then to the staircase. Ms. VanMarter stated the law states that if a permit is issued in error, it does not give the right for the structure to remain.

Board Member Rockwell stated that the changes that were made from the last meeting are clearer and he is comfortable with both of the variance requests.

Moved by McCreary, seconded by Kreutzberg, to approve Case #22-15 for Philip and Melissa Caseleyn for the property located at 582 Hilltop Drive for a rear-yard/north side setback variance of 12 feet from the required 40 feet, for a setback of 28 feet for an existing addition to remain, based on the following findings of fact:

- The Board finds that the request has met all of the requirements of Section 2305.03 of the Zoning Ordinance.
- Strict compliance with the letter of the ordinance would prevent the applicant from constructing the proposed addition. The home has a predominantly undeveloped building envelope in the front of the home. Granting the variance would provide substantial justice and is necessary for the preservation and enjoyment of substantial property rights similarly possessed by other properties in the same zoning district and vicinity of the subject parcel. It is also located closer to the building envelope and partially within the building envelope.
- The extraordinary circumstances are the location of the existing single-family home and the expansive area in the front of the home to be able to reconstruct an addition. The variance is also 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 variance will not have an impact on the appropriate development, continued use or value of adjacent properties and the surrounding neighborhood.

This approval is conditioned upon the following:

1. Structure must be guttered with downspouts.
2. No work on the property can commence without obtaining a land use permit and a building permit from the Livingston County Building Department.
3. A deck or patio would have to conform with the Zoning Ordinance and obtain a land use permit.
4. Any work proposed for the interior of the home will require a land use waiver and a Livingston County Building permit.

5. If any personal equipment (trucks, trailers, boats, etc.) are stored on the lot, they must follow the Township ordinance.
6. Any repairs to the existing retaining walls will require a land use waiver and any new retaining walls will require a land use permit.

The motion carried unanimously.

Mr. Castelyn questioned why there is going to be a need for him to remove the footings. This would compromise the integrity of his existing home. Board Member Kreutzberg agrees that if the applicant is not able to install any retaining walls, etc. it could cause erosion issues as the home is at the edge of the hill. Ms. VanMarter stated that the Township cannot allow a resident to build on property that is not theirs. She added that the Livingston County Drain Commissioner's office is not concerned with the footings being removed. After a brief discussion, the Board agreed to allow Staff to determine if the footings will need to be removed based on the outcome of the pending lawsuit regarding the path.

Moved by McCreary, seconded by Kreutzberg, to deny Case #22-15 for Philip and Melissa Caseleyn for the property located at 582 Hilltop Drive for a rear-yard/south side setback variance of 35 feet from the required 40 feet, for a setback of five feet to construct an addition, based on the following findings of fact:

- The request does not meet all of the standards of Section 2305.03 of the Zoning Ordinance.
- Homes in the nearby area that have reduced setbacks to the pathway that runs parallel to the adjacent parcels have utilized their forward building envelopes for house footprints. The greater area in the "front of the house" would be the least amount requested for a variance as it is undeveloped and falls in the greater opportunity to conform.
- The extraordinary circumstances are that the need for the variance to reconstruct this addition is self-created. The applicant removed the non-conforming structure without receiving approval or permits. There is ample building room available to construct an addition and comply in the front of the home.
- 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 variance will not have an impact on the appropriate development, continued use or value of adjacent properties and the surrounding neighborhood.

This denial is conditioned upon the following:

1. The remaining floor of the addition in the rear of the home shall be completely removed.
2. Due to the pending litigation, Township Staff will pursue removal of the existing non-permitted footings through the existing legal proceedings based on the pending litigation.

The motion carried unanimously.

2. 22-16...A request by Jeremy Clarke, 3742 Westphal, for a side yard and rear yard setback variance to construct a detached accessory structure.

Mr. Clarke stated he would like to build a pole barn. He has wetlands and woods in the rear of his property and the septic field is in the front. The proposed location is the only place where it can be built. He is one of the few residents on their road that does not have a pole barn. He has spoken to his neighbors and none are against it.

Chairman Rassel noted that one neighbor sent a letter in opposition to the variance.

Board Member McCreary suggested the structure be moved further to the south so that it is less in the sight line of the neighbor to the west. Mr. Clarke stated none of his neighbors will be able to see the barn outside of any of their windows. He did not want to remove trees; however, he would agree to that. Board Member Kreutzberg agrees with Board Member McCreary's suggestion due to the size of the proposed structure.

The call to the public was made at 7:22 with no response.

Board Member Rockwell is not in favor of approving the variances because of the size of the structure. It could be made smaller and comply with the setbacks. Board Members McCreary and Kreutzberg agree. Mr. Clarke reiterated that he will be willing to move the building further to the south or construct a 60 x 30 barn and eliminate the need for one variance.

The Board suggested tabling this item this evening to allow the applicant to return with a revised plan.

Moved by Board Member McCreary, seconded by Board Member Kreutzberg, to table Case #22-16, at the application's request, until the August 16, 2022 Zoning Board of Appeals Meeting. **The motion carried unanimously.**

3. 22-18...A request by Tim Chouinard and Teri and Steve Zacharias, 770 Sunrise Park, for a rear yard setback variance to demolish two existing structures and construct a new single-family home.

Mr. Chouinard stated the topography and the depth of the lots are causing the need for the variance. The lot would not be buildable without a variance. They will be combining the properties and removing both of the structures, which will decrease the number of residences on the street. The retaining walls will be within the setback requirements and he will obtain the appropriate approval.

Board Member McCreary wants to ensure that erosion will be controlled during construction. Mr. Chouinard stated they will be installing silt fencing. He explained where the home will be located in relation to the slope on the property.

The call to the public was made at 7:46 pm with no response.

Moved by Board Member Kreutzberg, seconded by Board Member Ledford, to approve Case #22-18 for Tim Chouinard on behalf of Teri and Steve Zacharias of 770 and 780 Sunrise Park Drive (Parcel #'s 4711-09-201-112 and 4711-09-201-114), for a rear yard setback variance of 25.7 feet from the required 40 feet, for a setback of 14.3 feet to demolish three existing structures and construct a new single-family home, based on the following findings of fact:

- Strict compliance with the setback would unreasonably prevent and restrict use of the property or cause it to be unbuildable.
- The variance will provide substantial justice, is the least necessary, and would make the property consistent with outer properties and homes in the area as there are several homes with reduced rear-yard setbacks. The variance is necessary due to the topography and shape of the lot, narrow building envelope, and location of the storm drain. The need for the variance is not self-created.
- 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 threaten public safety, comfort, morals or welfare.
- The proposed variance would have little or no impact on appropriate development, continued use or value of adjacent properties and the surrounding neighborhood.

This approval is conditioned upon the following:

1. The two lots must be combined prior to issuance of land use permit.
2. Structure must be guttered with downspouts.
3. Any retaining walls must comply with Article 11.04.03 (J) Retaining Walls section of the Zoning Ordinance.
4. Any steps or stairs installed to access the lake or Sunrise Park Drive must comply with Article 11.04.03 (g) and (h) of the Zoning Ordinance.
5. Building height cannot exceed 25 feet.
6. Must receive approval from the Livingston County Drain Commissioner's office prior to land use permit issuance.
7. The survey must be corrected to depict the covered deck prior to land use permit issuance.

The motion carried unanimously.

Administrative Business:

1. Approval of minutes for the June 21, 2022 Zoning Board of Appeals meeting.

Moved by Board Member McCreary, seconded by Board Member Ledford, to approve the minutes of the June 21, 2022 meeting as presented. **The motion carried unanimously.**

2. Correspondence - There were no correspondence this evening.
3. Member Discussion - There were no items to discuss this evening.

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4. Adjournment - **Moved** by Board Member McCreary, seconded by Board Member Ledford, to adjourn the meeting at 7:52 pm. **The motion carried unanimously.**

Respectfully submitted:

Patty Thomas, Recording Secretary

DRAFT