

**Town of Geneva
Zoning Board
June 24, 2024
DRAFT**

Present: James Smith, John Robbins, John Wilson, Phillip Ilacqua, Robert Rose, Pat Cardinale

Staff: Floyd Kofahl, Code Enforcement Officer, Amy Naegele, Clerk of the Board, Steve High, Ontario County Planning Board Representative

Others present: 6 members of the public

Chair John Wilson called the meeting to order at 6:30 pm.

Pledge of Allegiance

**Old Business – Use Variance & Area Variance
Gringeri Property ZB2024-001 & ZB2024-002**

The applicant wishes to rebuild a boat house. The new structure would be 15 ft. by 52 ft. Based on the plans, the new structure meets the definition of a dwelling unit. Per Town of Geneva Code 165-10 B, multiple detached dwelling units are not allowed and would require a use variance. Per Town of Geneva Code 165-10 E (5) Minimum rear yard setback shall be 25 feet, and in the case of lots bordering the lake, the rear yard setback shall be measured from the deeded rear property line. The proposed structure would be 10 ft. from the rear property line, making this a 60% area variance. This setback is based on the structure being a dwelling unit. If the use variance is not granted the setback requirements for an accessory structure are 10ft from the side and rear property lines.

Anthony Gringeri addressed the Board. He did not have new information but spoke to the board about the complaints at the last meeting pertaining short-term rentals and confirmed again that they were not planning on renting out the building and were asking for a use variance because they wanted to have a kitchenette and bathroom in the building.

John Wilson asked Floyd for his comments. Floyd discussed use variances and area variances. He explained that use variances have 4 criteria that must be met. Area variances have 5 suggested guidelines to aid in review. He also reminded the board members that they could not consider the fact that a portion of the building was already built.

John asked Steve High for his report from the County Planning Board. Steve explained that the use variance (County #123.0-2024) was found by the County Planning Board to not meet the 4 criteria for a use variance and was returned with a recommendation of denial. The area variance (County #123.1-2024) had additional measurements included and an administrative review was done. It was also returned with a recommendation of denial. He confirmed that a super majority vote would be required for the Zoning Board to approve either variance.

John Wilson led the board members through the 4 criteria of a use variance. He reminded the other members that they need to see actual financial data to support that an applicant cannot realize a reasonable return. This data was not provided, and the Zoning Board agreed that it had not been proven that the applicant cannot realize a reasonable return. The Zoning Board agreed that the hardship is not unique as the entire neighborhood has the same zoning.

The Zoning Board members noted that there were other buildings in the neighborhood withing a similar distance of the property lines, but that these buildings did not have the same use. They agreed that the variance would alter the essential character of the neighborhood. Lastly, the Zoning Board agreed that the alleged hardship is self-created due to the applicants' desire to build the structure.

Motion made by John Robbins to deny ZB2024-001; the requested use variance. 2nd by John Wilson.

Roll Call Vote:

Jim Smith – Deny	John Robbins – Deny	John Wilson – Deny
Phillip Ilacqua – Deny	Robert Rose – Deny	
Grant – 0, Deny – 5		

Requested variance denied.

The Board moved onto ZB2024-002. Since the use variance was denied, the setback requirements are no longer based on the building being a dwelling unit, but rather an accessory structure. Per Town Code 165-24, accessory buildings shall be allowed no closer than 10 feet to any side or rear property line. The Zoning Board confirmed that applicant is requesting to build a structure 9 feet 10 inches feet from the rear property line, which is a 1.67% variance and 9 feet 6 inches from the side property line, which is a 5% variance.

John Wilson led the board members through the 5 criteria for review. As to whether the benefit can be achieved by other means feasible to the applicant, the board members agreed that yes, the building could be moved to meet setback requirements. The Zoning Board agreed that there would not be an undesirable change to the neighborhood, as the variances being asked for are 2 inches and 6 inches. It was agreed that the request is not substantial. The rear setback is a 1.67% variance and the side setback is a 5% variance. The board members also agreed that the request will not have adverse physical or environmental effects. Lastly, The Zoning Board agreed the alleged difficulty is self-created due to the applicants' desire to put the building in that location.

Motion made by John Wilson to grant ZB2024-002; a 2 inch and 6 inch area variance for an accessory structure. 2nd by Phillip Ilacqua.

Roll Call Vote:

Jim Smith – Grant	John Robbins – Grant	John Wilson – Grant
Phillip Ilacqua – Grant	Robert Rose – Grant	
Grant – 5 Deny – 0		

Requested area variance granted.

Meeting Minutes from May 28, 2023

Motion made by John Robbins to approve minutes with a 2nd by John Wilson. All in favor. Motion carried.

Steve High's Report

Steve confirmed that the county reviewed the plans for the medical building at 833 Route 5 and 20, which will be before the Planning Board on June 26, 2024. The county was pleased to see that they were using the existing building and decreasing impervious surfaces.

Steve also spoke about the continued use of moratoriums on alternate power and a new bill currently on the governor's desk regarding short-term rentals. The state is working on creating a short-term rental registry that all short-term rentals would need to register with. This would come with heavy penalties for any offenders and would also allow the town to impose an occupancy tax. Floyd added that any websites would also be held accountable to make sure any listings were properly registered with the state.

Other Business

Floyd explained to the Board that it has been approved for him to start looking for a full-time assistant. This person would start as a building inspector and get training to work their way to code enforcement.

Motion made by Phillip Ilacqua to close the meeting with a 2nd by John Wilson. All in favor. Motion carried at 6:48pm.