

**Town of Geneva
Zoning Board
April 26, 2022
DRAFT**

Present: James Smith, John Wilson, Phillip Ilacqua, Robert Rose

Absent: John Robbins, Pat Cardinale

Staff: Floyd Kofahl, Code Enforcement Officer, Amy Naegele, Clerk of the Board

Others present: 4 members of the public

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

Pledge of Allegiance

**Public Hearing – Area Variance
Klementowski Property**

The applicant is requesting a variance to build a garage with a front setback of 8-ft, where a 25-ft. setback is required.

John Wilson opened the Public Hearing. Patricia Klementowski spoke to the board. She explained that they did not have anything new to add since the last meeting. They are requesting an 8-ft setback instead of a 25-ft setback. They have obtained a letter of approval from the railroad company. The building will be used as a garage, workshop, and storage location. She added that they do not have an attic or basement in the house and needed extra storage space.

John Wilson asked the board members if they had any questions for the applicant. Phillip Ilacqua asked if the existing shed was going to be removed, which she confirmed would be. John Wilson asked if there was room on the other side of the private drive for the garage. Trish explained there was not room due to the septic location. Robert Rose asked Floyd if he had received any letters of opposition. Floyd explained that he received one phone call inquiring about the project. Once the project was explained, the individual did not have any opposition.

John Wilson checked if there were any members of the public wishing to speak. Then he asked Floyd for his comments. Floyd explained that there are several sheds on that side of the private drive in the area. It will be a one-story garage and will not block any views. He added that this parcel is unique because they own a chunk of property on the other side of the private drive. He also confirmed that the fire department did not have an issue with the location of the garage and the proximity to the private drive. John Wilson confirmed with Floyd that the front of the property was the boundary line near the railroad, which would be the rear of the proposed garage. Floyd confirmed this is correct.

John checked again if any members of the public wished to speak. There was nobody. John Wilson closed the Public Hearing.

John acknowledged that the Zoning Board had received the Ontario County Planning Board minutes. This application was returned with one comment, which was to consider stormwater management practice for roof gutter runoff. Floyd addressed the Board and explained that the drainage will go the railroad drain ditch.

John checked to see if there were any questions and then led the board members through the criteria for an area variance. The board members agreed that the benefit cannot be achieved by another means feasible to applicant because it would not be practical to make the garage smaller to meet the correct setbacks and it cannot be placed on the other side of the private drive due to the location of the septic. It was decided that there would not be an undesirable change to the neighborhood as there are other buildings on that side of the private drive in the neighborhood, including the applicant's own existing shed. The Board agreed the request is substantial as it is a 17 ft variance to a 25 ft setback. The board members agreed that there would not be adverse physical or environmental effects. It was decided that the alleged difficulty is self-created due to the applicants' desire to have this size garage.

Motion made by Phillip Ilacqua to grant the area variance as requested. 2nd by James Smith.

Roll Call Vote:

Jim Smith – Grant John Wilson – Grant Phillip Ilacqua – Grant Robert Rose – Grant

Motion Carried.

Meeting Minutes from March 22, 2022

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

Steve High's Report

Steve sent an email to John Wilson due to his absence. John shared this email with the board members, highlighting the comment received about the Klementowski property and the current project in Farmington Town Center. Report accepted.

Other Business

John Wilson addressed the Board and referenced an email he had sent out to everyone that included a letter. He asked the board members to consider sending this letter to the Town Board regarding the potential change to the ag commerce law to allow events. This has been something that the Town Board has been working on.

John explained that the Town Board has discussed that if they do allow events that they may require either site plan approval and/or a special use permit. As it stands right now, the Town Board is not putting much criteria before that process. John went on to explain that he does not wish for the Zoning Board to take a position as to whether or not they should allow events, but rather proposes that they ask the Town Board to consider things that they would be asking the Zoning Board to consider when and if a special use permit for events comes before the Zoning Board. In the letter he listed items that he thought the Town Board should consider, mentioning hours, parking, health and safety welfare, and music noise levels. In the letter he asks that the Town Board give the Zoning Board specific guidelines to the permit process. He also pointed out in the letter that in other parts of the code, where special use permits are required, there are very specific details of what is entailed and how the applicant can obtain a special use permit. He referenced breeding facilities as an example and the amount of information outlined in the code defining and regulating such facilities. He feels it is incumbent upon the Town Board to do that for this also. In his letter, he reminds the Town Board to not forget that a special use permit runs with the property, including whatever conditions are or are not put on it, meaning unless somebody violates the permit, there would not be much opportunity to change it in the

future. He explained that Floyd was also looking into whether a special use permit is subject to the same criteria as a use variance. He wanted to point out to the Town Board that if this is the case, to remember that a use variance has a very specific criteria regarding the financial burden. Floyd added that with a use variance the 4 criteria have to be met, unlike the 5 criteria for an area variance. John asked that the board members consider the letter and expressed that he would like to formalize the letter and submit it to the Town Board on behalf of the Zoning Board.

Floyd added that the financial burden criteria can only be met if the applicant can prove that they cannot go on without the added benefit. For example, if an approved winery or brewery wanted to do events, they would need to prove that they cannot be financially stable without the additional ability to do events. It is Floyd's opinion that a special use permit would fall under the same criteria, but others disagree, and they are working on getting an interpretation.

John asked the other board members for their thoughts and inputs. He explained that this is something that directly affects the Zoning Board. If the Town Board does not do their due diligence at this point and put in criteria and outline it as elected representatives, then it will be up to the Zoning Board to guess what the intentions of the town are in the future.

Phillip Ilacqua asked if each site or facility wishing to hold events would come through as its own application, which Floyd and John confirmed it would. John explained that this made sense due to the uniqueness of each site. Bob Rose asked if the law would require each applicant to come in or if it would be blanket change to the code and Floyd confirmed it would depend on how the Town Board approved it.

John added that with the recent code changes, they have taken out a lot of the ambiguity in the code and he would hate to see it be added back in. Floyd added that the burden of subjectivity should not be placed on the Zoning Board but rather criteria should be put in place and that the state already has criteria set up to make such determinations.

Motion made by John Wilson that the Zoning Board send the letter, refined with the comments from tonight's meeting to the Town Board regarding the proposed code change. 2nd by James Smith. All in favor, motion carried.

There was a discussion regarding the public hearing and workshop regarding the proposed change. Floyd added that a lot of ideas and comments were brought up at the workshop that the Town Board is hopefully considering. He also brought up examples of different wineries and breweries and the uniqueness of their situations.

Floyd updated the Board on upcoming projects:

STAR Storage at the old BJ's should be fully opened within 1 week. It is a temperature-controlled storage facility with units ranging from 2 ft. by 4 ft. to 20 ft. by 30 ft. They have overhead doors which allows individuals to drive into the building and unload. Access is controlled by codes and there is a manager on site during business hours. Floyd added that mini-storage is still in high demand.

CCMI have their framing done and the drywall is being finished. They are hoping to be open by the end of May.

RealEats is open. The entire operation is now housed in the old Cheribundi building. They are growing and are up to approximately 250 employees.

Floyd explained that most other projects are currently on hold.

It was brought to the Board's attention that the June meeting date is the same date as the primary election. Motion made by John Wilson to change the June Zoning Board meeting from June 28, 2022 to Wednesday, June 29, 2022. 2nd by James Smith. All in favor, motion carried.

Phillip Ilacqua asked Floyd about the manufactured home park on Carter Road. Floyd explained that this would have been for double wides and referenced Gypsum Mills in Victor. This project is on hold. He added that according to town code, approximately 560 lots would be possible but the developer wanted to do around 300 lots, making them larger. He was asked about the interior roads and he explained that they would not be town roads but they would be built to town standards.

There was a discussion regarding the current situation with the City of Geneva and the sewer. Floyd confirmed that the solar village on Carter Road, Phase 4 of Orchard Park, and Phase 3 of Bay Heights all received approval from the City. Another project, the creamery being built in the town of Seneca, has been denied. They have had meetings with the city and are trying to come up with solutions. The Town of Geneva has already had two commercial businesses change their mind and decide not to come into to the town because they did not want to wait.

So far, Rochester Regional is still moving forward with their plans for the old Alison's.

The 80-unit apartment building in Geneva Crossings PUD has been approved and has secured funding.

Motion made by Phillip Ilacqua to close the meeting with a 2nd by John Wilson. All in favor. Motion carried at 7:04 pm.