

**Town of Geneva
Zoning Board
October 25, 2022
DRAFT**

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

Staff: Floyd Kofahl, Code Enforcement Officer, Steve High, Ontario County Planning Board Representative

Others present: 7 members of the public

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

Pledge of Allegiance

**Public Hearing – Area Variance – ZB2022-009
Mitchell Property**

The applicant is requesting a reduction in the rear property setback for accessory structures Town of Geneva Code 165-24 Accessory Buildings which requires a 10 foot setback from the rear property line. The Applicant is asking to be 8 foot from the rear property line. This is a 20% reduction request. Daniel Long, representing the property owners, presented the request. Mr. Long stated that the request is to add an area for additional storage to the existing accessory structure. Mr. Long presented his responses to the 5 criteria that the Zoning Board uses to guide them. This was submitted in typed form handed out to the Board members. Mr. Long stated that the new addition would only be 4 inches closer to the property line because of the curvature of the property boundary. John Robbins asked about the existing piers. Mr. Long stated that there would be new piers placed for the addition. Phillip Ilacqua asked if the existing was previously approved. Mr. Kofahl stated it was. Peter Mitchell stated that a permit was applied for and received. Mr. Kofahl stated that the existing accessory structure was pre-existing non-conforming. Steve High reviewed the Ontario County Planning Board comments and that they recommended denial. The Zoning Board closed the public hearing and then discussed the application and the 5 review criteria. The Zoning Board then voted and unanimously approved the request.

**Public Hearing – Area Variance – ZB2022-007
Brewery Ardennes**

The applicant is asking for a 100% variance (no vegetated buffer) on the east side of the property along Snell Road. Per Town Code 165-15 Section (I)(3) as amended by L.L. #4-2022. (3) Where the property on which Agricultural Commerce or Agricultural Tourism events will take place abuts a residential parcel or a residence, there shall be a vegetated buffer area conforming to the standards set forth in section 165-40, not less than 15 feet in width, planted

with trees and shrubs spaced in a manner that will result in a continuous visual screen along the property boundary abutting the residential parcel or residence.

Derek Edinger presented to the Board. He went over what they would like to propose as an alternative to the requirements of L.L. #4-2022. He displayed a rendition of the property showing the areas they feel need the most addressing. Their proposal showed a landscaped area of approximately 30 feet by 50 feet with 2 evergreen trees and mulch with some small plantings. The second area was near the private driveway and had a smaller area with 1 evergreen and some mulch and flowers. He also stated that this would be a significant hardship. He added that to install and maintain a buffer would be approximately \$20,000 and they are working very hard at this point just to remain profitable. He also went over alternatives and consequences and explained special circumstances for their property. These items are also explained in detail in their application letter.

John Wilson asked for other members of the public wishing to speak. Carole Higgins, of 569 Snell Road, addressed the Board. Carole spoke in opposition to the variance request. A copy of her letter to the Board is on file in ZB2022-007. In addition to the points in her letter, she added that Derek had spoken about the view from their property being a major attraction to their business. She explained that the view from their property is her yard. She also stated that the Town went through a long process to make this Local Law. In doing so the Town Board took into consideration that the residents have a right to enjoy their property and views, this is why she believes the Town Board added this condition to the local law.

Matt Higgins, son of Tom and Carole Higgins, also addressed the Board. He stated that we all agree that a buffer is required. A variance to allow just a couple of trees is not what the Local Law was established for. The buffer would not stop the business from operating. The buffer was a compromise created to protect the other residents. This was Ardennes choice to have their business at this location and to place the outdoor seating. This variance could set a precedence if approved. This was a quiet road. He also added that the Town Board did not define any exclusions to the buffer requirement based on the distance of the neighboring homes. He echoed Carole's concerns that the view is his parents' yard. He also stated that the Town Board was trying to strike a balance between the business owners and the residential owners.

John Wilson confirmed that there were no other members of the public wishing to speak. Motion made by John Robbins to close the Public Hearing. 2nd by John Wilson. All in favor, motion carried.

John asked Floyd for his comments. Floyd explained that the request is for a variance on the vegetated buffer requirement. He explained that the new law that was passed earlier this year was worked on for several months by a committee and then brought to the Town Board for review. The Town Board agreed that the wineries and breweries should have the ability to have events, which would help with tourism and economic development for the Town. The Town Board recognized concerns from the residents and put considerations into place when passing the law. One of these considerations was that a 15 ft buffer would be required for visual screening and noise reduction.

John Robbins asked what Local Law #4-2022 defined as a buffer. Floyd explained that a 15 ft wide staggered buffer would be required wherever there were residential properties or residences, abutting the property in question. John asked how the requirement of the buffer would be enforced, Floyd stated that he would be the one to work with the business to make sure they comply with the requirements of the Local Law #4-2022. Jim Smith stated that the proposed location and placement of the buffer submitted by the applicants does nothing to comply with the

local law requirements. Jim also stated that he felt that the cost was not that great an expense for the overall comfort of the Town residents. John Robbins mentioned that the applicant's proposal of the buffer does not address the area of visibility coming from the southwest to the property. John also stated that the proposal submitted was not satisfactory to comply with the local law.

A motion to deny was made by John Robbins and second by John Wilson. A roll call vote was taken and approved for denial 5 to 0.

Meeting Minutes from September 27, 2022

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

Steve High's Report

Steve had nothing new to report.

Other Business

Floyd stated that there has been no change to the issues with the City sewer situation. The City did submit for a grant to help with the cost of the expansion. We should hear by the end of the year.

Motion made by John Wilson to close the meeting with a 2nd by John Robbins. All in favor. Motion carried at 7:29 pm.