

**Town of Geneva  
Zoning Board  
January 22, 2019**

Present: James Smith, Douglas Roll, John Wilson, Phillip Ilacqua, and Robert Rose

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

Others present: Patrick Cardinale, Todd Powers, Earnest Cardinale, Steve High, Dana Cohrs, Paul Cosentino

Chair John Wilson called to order at 7:00 pm.

**Pledge of Allegiance**

**Regular Meeting  
New Application and Public Hearing  
Carter Road Extension ZB 2019-001**

The applicant, Paul Cosentino, wishes to place an Accessory Structure on a vacant Parcel. Per Geneva Zoning Code Section 165-24 A, accessory buildings are allowed only on the same property as the principal building. This vacant lot has no principal building; therefore, this is a review for a use variance.

Paul Cosentino explained his request to the board. The vacant lot is next to his current property. Due to the size of the garage he is looking to build, he cannot place it on the same lot as his principal building and wishes to place it on the adjacent vacant lot. The board members asked questions regarding combining the two lots, the zoning of the lots, and the use of the area behind the property, known as Loomis Woods. John Wilson verified with Code Enforcement Officer Floyd Kofahl that this would not need to be referred to the County.

John Wilson reminded the board members that they need to review four specific criteria for a use variance, the first being if the applicant could realize a reasonable return for the current use. The board discussed with Floyd cost of building a house on the lot and/or combining the two parcels into one. The applicant explained that he did not want to combine the lots in case he wanted to sell one of the parcels down the road.

John Wilson asked if any members of the public wished to speak. There were none. Motion made by Douglas Roll to close the Public Hearing with a 2<sup>nd</sup> by James Smith. All in favor, motion carried.

John Wilson returned to the four criteria required for a use variance. The board would like to see more information on the costs involved in using the property as an allowed use. They discussed whether the hardship was unique to that property, pointing out that all vacant parcels would have this hardship. They discussed if it would alter the essential character of the neighborhood. It was agreed it would not, as there are other garages in the neighborhood. Lastly, they discussed if this was a self-created hardship. Floyd pointed out as this is a want and not a need, it is self-created. Douglas Roll added that the fact that the applicant cannot build on his current lot is not a self-created hardship.

Floyd reminded the board members that all four criteria must be met for a use variance. John Wilson asked the Board if they wanted to move forward with the SEQR process or deny the request. The board members asked if there were any official comments submitted, which there were not, and the timeframe of the project.

Motion made by Douglas Roll to move forward and consider the request at the next regularly scheduled Zoning Board Meeting, and having the applicant address each of the four criteria. 2<sup>nd</sup> by James Smith.

Roll Call Vote:

James Smith – Yes

Douglas Roll – Yes

John Wilson – Yes

Phillip Ilacqua – Yes

Robert Rose – Yes

Motion carried.

### **New Application and Public Hearing Tru Lawn Care ZB 2019-002**

The applicant wishes to have a New Business for raw topsoil storage and screening operations. The vacant parcel is located in the Town of Geneva Zoning District R-2 Residential Rural District. This Zoning District does not allow for this type of business. The Town Zoning District I-1 General Industrial District is where this type of business is allowed.

Applicant Pat Cardinale explained his request to the board. He runs a small landscaping business and purchased this lot 3 or 4 years ago. He had spoken with the Code Enforcement Office at the time about the possibility of getting a variance for this type of business. He explained his ongoing plans for the pile of topsoil currently on the lot, being used for the Remediation Project in the City of Geneva, the timeline for how long it would be there, and the size of the operation and amount of topsoil he would wish to have there in the future. He went over the machinery that would be going in and out of the location, equipment that would be stored there, the number of men that would regularly working there, and the amount of time that the lot would actually be in use.

The board members asked questions to clarify if there would be more raw material being brought in and the location of where the raw material would be stored on the lot. John Wilson verified with Floyd that the lot size was acceptable. John Wilson asked if there were any other questions for the applicant or if there were any members from the public that wished to speak. Pat added that there would be no water, sewer, or natural gas to the property.

Motion made by Phillip Ilacqua to close the Public Hearing with a 2<sup>nd</sup> by Douglas Roll. All in favor, motion carried.

Floyd Kofahl shared his report on this application. He explained to the board that when the applicant spoke to the previous Code Enforcement Officer when the property was purchased, the applicant would have needed a special use permit as the property was zoned Agricultural. When the Town updated the Zoning, this lot became R-2 Residential Rural and it now requires a use variance. Floyd initially received phone calls pertaining to trucks pulling in and out of the lot back in 2017. The initial concern was the fact there was no defined driveway and there are curves on the road. The board questioned whether it was a legal use of the lot when zoned Agricultural, which it was not.

John Wilson checked if there were other questions for Floyd and then began going through the four criteria for a use variance. He explained to the applicant that if the board moved

forward with the application, they would want to see evidence regarding whether or not the lot could be used as an allowed use for a reasonable return. The board questioned whether the hardship was unique, with John Wilson pointing out it would apply to any lot in this district. They discussed whether or not it would alter the character of the neighborhood, pointing out that it is noticeable, even though the applicant stated he will try to move everything to the back. It is a business in a residential district, but was zoned differently when the applicant purchased. Pat added what the timeline would be like for his business and the future plans for the property.

John Wilson asked Floyd if a Use Variance could have a time limit, which it cannot. It stays with the property, but can be conditioned to the type of use. John Wilson also verified that the Board could place operating restrictions on the use. The board members questioned the applicant on whether he could move the material further back on the property and if some sort of barrier could be put up between the material and the road. Dana Cohrs, who lives near the property explained that she would like if there was some sort of barrier so the pile was not so visible, a building for the equipment, and hours of operation in place.

Douglas Roll asked Floyd what would happen if the use variance was not granted. The applicant would then have 30 days to remove the material on the property and bring into compliance. Floyd also confirmed that this application would have to go before the County for review.

John Wilson returned to the criteria for a use variance, questioning whether the hardship was self-created. Floyd confirmed that the process for approval was different when the applicant purchased the property and it would have been a simpler process.

Motion made by Douglas Roll to move forward and consider the request at the next regularly scheduled Zoning Board Meeting, and having the applicant address each of the four criteria. 2<sup>nd</sup> by James Smith.

Roll Call Vote:

James Smith – Yes

Phillip Ilacqua – Yes

Douglas Roll – Yes

Robert Rose – Yes

John Wilson – Yes

Motion carried.

### **Meeting Minutes from November 27, 2018**

Motion made by Douglas Roll to approve minutes with a 2<sup>nd</sup> by Phillip Ilacqua. All in favor. Motion carried.

#### **New Business**

##### **PUD – Geneva Crossing**

Floyd updated the Board on the progress of this project. The Town Board has approved Lead Agency and everything is moving forward. At the next Town Board meeting on February 12<sup>th</sup>, they will be looking to pass the local law for the PUD. The 3<sup>rd</sup> Public Hearing will be held for the local law. Floyd explained that there are currently 19 conditions included in the law. He also updated the Board on potential clients interested in some of the buildings.

##### **PUD – Seneca Turk Resort**

Floyd updated the Board on the progress of this project. The Town Board did not complete the approval process for this. The Town Board requested further information on the

traffic study. There are a number of issues that need to be addressed before moving forward. The applicant will be addressing those issues and presenting a possible solution at the next Town Board Meeting. He also discussed conditions that would be placed if the Town Board moves forward. The board members discussed with Floyd the PUD approval process, the potential of the Zoning Board to play a role, and the role that the Planning Board would eventually play in Site Plan Approval.

### **Other Business**

Floyd went over other items he included in the board members' packets. He included the code section for General Industrial which would be the zone the proposed business from Tru Lawn Care would normally be operated in. John Wilson also had State prepared resources to share with the other members. They briefly discussed use variances. Floyd explained to the Board that there were new training lists in their packets, and he would be providing more. John Wilson added that he would like to thank Douglas Roll for his leadership over the last few years as the Chairman of the Board.

Motion made by Douglas Roll to close the meeting with a 2<sup>nd</sup> by Phillip Ilacqua. All in favor. Motion carried at 8:27 pm.