

**Town of Geneva
Zoning Board
February 26, 2019**

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

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

Others present: Patrick Cardinale, Paul Cosentino

Acting Chair Douglas Roll called to order at 7:00 pm.

Pledge of Allegiance

**Regular Meeting
Continuation**

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.

The applicant, Paul Cosentino, provided a photo of the proposed garage and then presented reasoning for his case, going through each of the four criteria for a use variance. He went over the costs that would be involved in using the vacant lot as a permitted use, which would involve installing fire service to the lots on the road and widening the road. He went over why his situation was unique, and why it would not alter the essential character of the neighborhood. Lastly, he went through why he felt the hardship was not self-created.

Douglas Roll asked questions about easements and about quotes for the estimates provided. He also questioned why fire service would have to be put in. Floyd Kofahl, Code Enforcement Office, explained that it was state code for a private drive with more than 3 lots. Technically this should have been done before, and would have to be completed before a house could be built on one of the remaining vacant lots. The board discussed what the process for this would be and how the costs would be handled between the residents of the road. Floyd also mentioned that since it was a private drive, to meet fire safety standards the road would also have to be widened to 14 ft.

The board members discussed point number 4, whether or not the hardship was self-created. They clarified with Floyd if previous codes would have allowed the accessory structure on a vacant lot, which would not have been allowed. They also discussed how the changes in the code over the years would make it difficult to subdivide the lot in the future should the applicant combine his two existing lots. The applicant would be able to combine now, but would have to get variances to divide in the future. Robert Rose also confirmed with Floyd that nothing was submitted by the neighbors.

The applicant was asked whether or not the structure could be put on his existing property. He went through why the layout and topography of his current lot would require the removal of trees and addition of fill to make work. Douglas Roll confirmed with Floyd that the

county did not need to review the application. James Smith questioned the ownership of the other lots on the private drive and specifically who owned the two vacant lots.

Douglas Roll led the board members through a discussion of each of the four necessary criteria in a use variance.

The Board discussed whether they felt the applicant proved he could not realize a reasonable return in using the lot as an allowed use. After discussing, the conclusion was made that the applicant has proved to the Board and demonstrated that all permitted uses that the code allows, the cost to do so would not allow a reasonable return.

Next, the Board discussed whether the alleged hardship was unique. They discussed the slope and topography of the applicant's lot with his house. Other neighbors in the area do not have this issue as they already have garages on their lot. Also, other lots in the area are not as wooded and do not have drainage swales on their property. After discussion, it was concluded that due to the physical attributes of the property, the hardship is unique.

The board members discussed whether the essential character of the neighborhood would be altered. It was concluded that from the plan submitted and the proposed use submitted, the essential character of the neighborhood is not altered.

Lastly, the Board discussed whether the hardship was self-created. The board members discussed with Floyd. James Smith revisited the idea of combining the two lots into one. The board discussed this option, and what the potential issues the applicant could encounter in the future. They also discussed with the applicant why he wants the ability to keep the lots separate in the future. John Robbins added that this would be the best use of this lot without a large financial burden. The board members discussed with Floyd again all of the options for the applicant in this situation. The conclusion was made that even though the hardship is self-created, this does not outweigh the fact that the residential accessory use does not impact the neighborhood's character, actually it matches it. In addition, based on the financial burden to comply, this in and of itself outweighs the self-created request.

Motion made by John Robbins to grant the use variance with the condition that it is only a residential use as allowed for an accessory structure. 2nd by Robert Rose.

Roll Call Vote:

James Smith – Yes

Phillip Ilacqua – Yes

John Robbins – Yes

Robert Rose – Yes

Douglas Roll – Yes

Motion carried.

Continuation

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.

Floyd informed the board members that this has not gone before the County yet. It is on the agenda for the March 13th meeting. The Zoning Board can look at the new data and discuss the criteria, but will be unable to take any action until after the County reviews.

Applicant Pat Cardinale went through each of the four criteria and how his situation met each one. He discussed the potential of building on the lot and the amount of area on the lot that

would be unusable. He reviewed the process that he took with purchasing and using the lot, and the uniqueness that was presented when the zoning changed. He discussed with the board his reasoning for the timeline he followed. Pat went over why he thought his plans would improve the neighborhood. He also presented why the hardship was not self-created, due to the research he done prior to purchasing and the subsequent zoning changes. He also went over the background of his family and business and reviewed the current project his business was involved in that was using the pile currently on the lot.

The board members discussed with Floyd what the county would be looking at in their review and whether any further work was required on the SEQR process. Douglas Roll went through the four criteria for a use variance with the other board members. Because of the shape of property, it was agreed that the options would be limited. The board requested more specific cost information from the applicant. It was agreed that the hardship was unique. Only two properties in the area were affected in this way due to the zoning change.

Next, they discussed whether it would alter the character of the neighborhood. The Board discussed what the land had previously been used for and what the look and feel of the proposed operation would be. They went over conditions that they could place on the operation. The number of trucks currently going through the area was also mentioned. It was also discussed that much of the neighborhood is still zoned agricultural and that the proposed use would still fit into the character of an agricultural neighborhood.

The Board revisited the discussion of potential conditions to be placed on the use variance. It was suggested that they could ask the Town Attorney for advice regarding this particular case.

Motion made by Douglas Roll to request information from the Town Attorney, 2nd by James Smith. All in favor. Motion Carried.

The board members discussed whether the hardship was self-created. Due to the timeline of the applicant's intent and the zoning change, it was concluded that it was not self-created. The request will be reviewed at the next regularly scheduled Zoning Board Meeting.

Meeting Minutes from January 22, 2018

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

New Business

PUDs

Floyd went over the progress of both the PUDs for Geneva Crossing and for Seneca Turk Resort and the role that Zoning Board will play in each process as things continue to move forward.

Other Business

Floyd went over training items that he included in the board members' packets.

Motion made by Douglas Roll to close the meeting with a 2nd by John Robbins. All in favor. Motion carried at 9:32 pm.