

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

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

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

Others present: Virginia LaFaro, Arthur LaFaro, Mary Alice Wheeler, Melissa Button, One Unknown Individual

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

Pledge of Allegiance

**Public Hearing (Continuation)
LaFaro Property ZB011-2019**

Mr. and Mrs. LaFaro are looking to build a single-family residence on an existing lot. In completing the site layout, it was found that the home that they would like to build will not meet the current setbacks that are required in the Zoning District. They are before this Board for a side yard and a rear yard setback variance.

Virginia LaFaro spoke to the board. She explained that they have owned the property to the west of lot 147.16-1-33.000 for 37 years. They purchased the vacant lot 23 years ago with the intent to eventually build on it. She spoke about privacy concerns her and her husband had when the neighbors, the Wheelers, built on their own lot and confirmed they never had any issues. She does not see any privacy concerns with their own new build now.

Arthur LaFaro also spoke to the board, addressing water runoff and septic concerns. He provided information to the board regarding tests that have already been completed and plans for a perimeter drain all the way around the property. He also gave information regarding the septic design that was based on the findings of the water runoff tests. He also provided information regarding the financial investment they have into the property and pointed out the plans as presented would not have needed a variance prior to the code change last year.

John Wilson confirmed the board members had a received a copy of the correspondence from the neighbors and double checked if there were other members of the public wishing to speak.

Floyd confirmed that the applicants are requesting three variances, one on each side of the property, and one in the rear. He discussed the setback requirements on the lot when originally approved for subdivision and explained that due to the changes made to the Code last year, the property was now in a different Zoning District with different setback requirements, making the variance request necessary. He also spoke about the proposed perimeter drain, the location of the driveway, and the effect that each would have on drainage. He presented the board members photos that were submitted by the Wheelers that document the issues they had with drainage and their septic when they originally built. He confirmed that the septic design submitted by the LaFaros meets the requirements. Floyd informed the Board that the neighbors,

the Wheelers, requested that the Board consider the possibility of shifting the plans so that there was a 20-foot setback on the north side, to allow for more space between the houses.

John Wilson confirmed that there were no other questions for Floyd. He confirmed with Steve High that there were no comments from the County regarding this request. The Public Hearing was closed.

A discussion was held by the board members. They discussed the location of the septic, the possibility of moving the rear property line to the west, and the possibility of moving the garage to minimize the variance request. The LaFaros explained the location of the garage and the need for room to turn around without backing onto State Route 14. They presented alternative plans to the Board that had the garage aligned with the house. These plans have an 18-foot setback on the north side, a 31-foot setback on the south side, and a 30-foot setback on the west side. The board members reviewed the plans and asked the applicants if they would be willing to shift the proposed building to have a 19-foot setback on the north side and a 30-foot setback on the south side. The LaFaros agreed to this. The variance request for the south side setback is no longer needed.

John Wilson asked the board members to discuss the criteria based on the request of an 11-foot variance of the side setback on the north side of the property and a 20-foot variance of the rear setback on the west side of the property. Regarding whether the benefit can be achieved by other means feasible, the board members agreed that the alternative that was presented was the best alternative. The Zoning Board determined it would not be an undesirable change in the neighborhood as it is a residential building in a residential area. The Zoning Board determined it was not a substantial request as it is less than half of the required setback. The Zoning Board determined that the original concerns regarding drainage were addressed and the project will not result in adverse physical or environmental effects. The Zoning Board determined the alleged difficulty is not self-created. The applicant owned the lot prior to the Code change in 2018. Prior to the code change they would not need to request variances for the plans as submitted.

John Wilson confirmed the board members had no need for further discussion.

Motion made by John Robbins to grant an 11-foot variance on the North Side of lot 147.16-1-33.000 and a 20-foot variance on the West Side of the property. 2nd by Phillip Ilacqua.

Roll Call Vote:

James Smith – Grant

John Robbins – Grant

John Wilson – Grant

Phillip Ilacqua – Grant

Robert Rose – Grant

Motion Carried.

Public Hearing Button Property ZB012-2019

This is for an Area Variance for the placement of a hot tub and for an Area Variance for the placement of a shed. Before the Public Hearing began, Floyd clarified with the Board that the hot tub is in compliance and an area variance was no longer being requested. The area variance for the shed is still being requested.

Melissa Button presented the request to the board members. She explained that the shed was already in place on a stamped stone foundation. They had not been aware the building permits for their new home did not include accessory structures. As soon as they were made aware by the Code Enforcement Officer that they needed to obtain separate permits, they filed the necessary paperwork. She explained why they had placed the shed in the current location,

explaining that none of their neighbors could currently see it from their homes. If they move it to the rear yard, it will be visible to the neighbors. She also expressed concerns of disrupting the dry well or drainage they were required to put in the rear yard while building their home. She questioned the reasoning for the Code requirement and asked that if the variance not be granted, that they be given an extension to comply.

John Wilson confirmed that no members of the public wished to speak. Floyd presented to the board. He explained how he became aware of the placement of the shed and reminded the board members that although the shed has already been placed in the side yard, they cannot take that or the burden of replacement into consideration for the variance request. He confirmed that the berm to the south of the shed is located mostly on the Buttons' property and that they intend to keep the berm there. He also discussed with the board members the layout of the neighboring property and confirmed that the section on the other side of the berm is too narrow to be built on. The distance from the shed to the boundary line was also confirmed. John Wilson closed the Public Hearing.

Melissa Button asked for clarification of the Code requirement and reasoning. Floyd explained that primary reason is for fire access space between houses and the secondary reason is appearance. John Wilson confirmed with Floyd that the area variance would stay with the property. There was further discussion on what else could be built if the variance was granted. Floyd verified that the variance would only grant the placement of this building, specific to size and location, in the side yard.

The board members discussed the five criteria. The Zoning Board determined that yes, the benefit could be achieved by other means as the applicant could place the shed in the rear yard. The Zoning Board determined that although there are no other sheds located in the side yards in the neighborhood, the shed would blend in the house and would not be an undesirable change. It was determined that yes, the request is substantial as it is a 100% variance. The Zoning Board determined that no, there would not be adverse physical or environmental effects. It was determined that the hardship is self-created.

The applicant was questioned about possible placement locations in the rear yard. Melissa explained the topography of the yard and the issues they have had with water. The board members reviewed alternative placement locations with applicant and the code enforcement officer, also discussing the house plans, topography, and grading of the rear yard. John Wilson reminded the Board that the fact that the shed has already been placed cannot play a role in their decision.

Motion made by Phillip Ilacqua to deny the request for an Area Variance to allow a shed to be placed in the side yard. 2nd by John Robbins.

Roll Call Vote:

James Smith – Deny

John Robbins – Deny

John Wilson – Deny

Phillip Ilacqua – Deny

Robert Rose – Deny

Motion Carried.

Melissa asked about an extension for moving the shed. The Board explained she would need to contact Floyd regarding this matter but confirmed they did not have any objections to an extension.

Meeting Minutes from October 22, 2019

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

Other Business

Town Board Public Hearing

Floyd updated the Board on a Public Hearing taking place for a local law regarding new definitions for “Weeds” and “Yard” and new property maintenance regulations.

Town Side at Pre Emption

Floyd provided an update on the progress, explaining that a conditional Certificate of Occupancy has been issued for the last building and the final should be issued next week. Almost all units are either occupied or spoken for at this time.

Other

At Geneva Crossing they are looking to move items into the Medical Office Building the second week of December.

Nothing new on the old Alison’s. Have not heard anything since March.

Dollar Tree is moving into City at the location of the old Top’s. Currently nobody moving into Dollar Tree building.

Floyd has received a few calls regarding the old Pizza Hut but nothing planned yet.

Motion made by John Wilson to close the meeting with a 2nd by John Robbins. All in favor. Motion carried at 7:28 pm.