

**Town of Geneva
Zoning Board
June 25, 2020**

Present: John Wilson, James Smith, John Robbins, Douglas Roll, 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: Kristen Brubaker, Jim Somers, Shawn Peisher, John Mancuso, Caroline Travalia, Sebastiano Lucci, Mark Petzold, Tom Castiglione, Janet LaRocca, Rocky LaRocca

Chair John Wilson called meeting to order at 6:32 pm.

Pledge of Allegiance

**Public Hearing
Guererri Property ZB2020-001**

Mr. Guererri has withdrawn his application.

Motion made by Douglas Roll to close the Public Hearing with a 2nd by John Robbins.

All in favor. Motion carried.

Motion made by John Robbins to accept the withdrawal of the application with a 2nd by Douglas Roll. All in favor. Motion carried.

**Public Hearing
Brubaker Property ZB2020-002**

Kristen Brubaker has built a pole shed on her property. She is asking for an area variance as the shed is in what will be the front yard. Per Geneva Zoning Code Section 165-24 A, accessory buildings are to be constructed in the rear yard only. The shed is located in what will be the front yard, therefore this is a request for an area variance.

Ms. Brubaker presented her request to the Board, explaining what the barn was being used for, the location of the barn, and why they decided to place it in that location. She also explained the future plans for the site.

Floyd spoke to the board, stating that this would be a 100% variance request. He also explained that a Building Permit has been issued for the house, therefore a use variance is not required and confirmed that this barn had been built without a building permit. He also confirmed the location of the future house.

Steve High shared the County Planning Board comments.

There was discussion among the Board, Floyd, and the applicant regarding a building permit application that the applicant submitted in 2017, an incorrect email address, and confusion regarding building in the agriculture district. Floyd reconfirmed that a building permit was not issued. The applicant answered a question regarding the foundation of the barn.

Chair John Wilson asked if there were members of the Public wishing to speak, which there was not. Motion made by Douglas Roll to close the Public Hearing with a 2nd by James Smith. All in favor. Motion carried.

The board members discussed the 5 areas of consideration for an area variance.

The Board decided that yes, the benefit can be achieved by other means feasible to the applicant, as the barn could be placed in a compliant location.

It was decided that no, an undesirable change in the neighborhoods character or to nearby properties would not occur.

The request is a 100% variance and is therefore substantial.

The Board agreed that the request would not have adverse physical or environmental effects.

It was agreed that the hardship was self-created as the applicant has a choice of where to place the barn.

There was further discussion regarding the application completed by the applicant before building the barn and the location of the house and driveway on the site. The Board discussed the code requirements with Floyd and the options they have to request to allow an extension of compliance.

Motion made by John Wilson to deny ZB2020-002, the request for an area variance, with the exception that a 1-year extension to comply is granted with a 2nd by John Robbins.

James Smith – Deny

John Robbins – Deny

John Wilson – Deny

Douglas Roll – Abstain

Phillip Ilacqua – Grant

3 Votes to Deny - Motion Carried.

There was a discussion among the applicant, the board members, and Floyd regarding the possibility of petition the Town to change the code.

Public Hearing

Somers Property ZB2020-004

Jim Somers is requesting to put an accessory building in a location that would be partially in his front yard and partially on the vacant neighboring parcel (owned by railroad – proposed lease included). Per 165-24 A, Accessory Buildings are to be constructed in the rear yard only. Per 165-24 A, Accessory buildings are allowed only on the same property as the principal building. The applicant has submitted a request for both an area variance (ZB2020-004) and a use variance (ZB2020-005).

The applicant presented his request to the Board. He explained there was not room to build/access the garage in the rear yard/lake front and that attaching to the house was not viable from a cost/layout perspective. He gave reasoning as to why he did not want it right in front of the house and explained why he was looking to build the garage at this time. He also stated that he has a lease (unsigned) from the Railroad and he has letters from the neighbors on each side in support of his plans.

The board members asked questions regarding the size, the layout, and the amount that would be built on the Railroad property. They also discussed the maintenance of the private road and the topography of the lot. The board questioned different possible locations for the garage and asked Floyd about other accessory structures in the area. There was further discussion regarding the road and deeded access for other residents.

John Wilson checked if there were further questions at this time.

Motion made by Douglas Roll to adjourn until the next meeting to give the applicant time to provide financial information to the Board with a 2nd by John Robbins. All in favor. Motion Carried.

Public Hearing
Somers Property ZB2020-005

Jim Somers is requesting to put an accessory building in a location that would be partially in his front yard and partially on the vacant neighboring parcel (owned by railroad – proposed lease included). Per 165-24 A, Accessory Buildings are to be constructed in the rear yard only. Per 165-24 A, Accessory buildings are allowed only on the same property as the principal building. The applicant has submitted a request for both an area variance (ZB2020-004) and a use variance (ZB2020-005).

This application was discussed as the Board reviewed ZB2020-004. Floyd confirmed the need for the use variance was for the request to put the garage on a parcel without a primary structure. Steve High shared that the Ontario County Planning Board did not have any comments on the area variance, but the use variance had been determined incomplete due to the lack of financial information.

The Board confirmed that the application could go back before the county since it had been sent back as incomplete.

Motion made by John Wilson to adjourn until the next meeting and request that the applicant provide financial data with a 2nd by Douglas Roll. All in favor. Motion carried.

Public Hearing
Fox Property ZB2020-003

Shawn Peisher has requested that the ZBA make a formal interpretation of Section 165-10(E)(5) of the Code of the Town of Geneva that the “deeded rear property line” of the Property is the low water mark of Seneca Lake or, alternatively, the mean high water line as interpreted by the ZBA by determination rendered on November 28, 2017. Per Geneva Zoning Code Section 165-105. Appeals, the Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by the Code Enforcement Officer under this chapter in accordance with the procedure set forth herewith.

John Mancuso, attorney for Shawn Peisher and Stephen Fox, presented the request to the Board. He explained that the Code had changed since the previous interpretation that the Zoning Board made regarding the rear property line of the site in question. He explained that the deed to the property had been submitted along with an affidavit from a title company supporting the applicant’s request.

Floyd explained his interpretation of the Code to the Board and how he made his determination. He also confirmed that the Zoning Board did make the interpretation in November of 2017, before the Code change, that the rear property line for purpose of measuring rear setbacks should be the mean high-water mark.

Douglas Roll asked for clarification of what the applicant was asking for. Mr. Mancuso explained the interpretation that they were requesting and confirmed they were asking for clarification of where they should be measuring from for rear setbacks.

John Wilson opened the Hearing up to comments from the public. Mark Petzold spoke against both options requested by the applicant. He spoke in favor of the Zoning Board retracting their previous interpretation made in 2017 and of using the survey to determine the rear property line and gave his reasoning as to why. He also asked that the Board have the line marked on the survey before making their determination. Information submitted by Mark Petzold is a matter of record in the Zoning Board application file.

Caroline Travalia handed out a letter and supporting documents to the board members. She read her letter to the board members, explaining why she felt that the lot lines should be determined by the survey that was recorded with the deed. She explained her reasoning and where the board members could find supporting information in her documents. She also spoke about the timeline of events during the project and the effects it has had on her and her family. Information submitted by Caroline Travalia is a matter of record in the Zoning Board application file.

Tom Castiglione spoke in support of the others who had talked before him and stated that when he built his shed, he could not go beyond the high-water mark.

Shawn Peisher addressed items from Ms. Travalia's letter, including bringing fill into the property, stone for use with the wall, the height of the wall, and the building process in general.

Mr. Mancuso spoke again, explaining that the applicant is not currently before the Board asking to build anything. They are asking for clarification of where to measure the rear setbacks from, which they are asking the Board to interpret.

Mark Petzold asked the applicant to indicate where the mean high-water elevation is on the survey. There was discussion between Mr. Mancuso and Mr. Petzold regarding the wall and the mean high elevation.

Floyd read a letter from Bernie and Lorrie Naegele into the record speaking against using the low means water mark as the property line. The letter submitted by Bernie and Lorrie Naegele is a matter of record in the Zoning Board application file.

John Wilson asked if there were further questions from the Board. He explained that due to the new information received from the Board and the inability of the Town Attorney to attend the meeting (due to the date change caused by the Elections) he would like to adjourn until the next meeting.

Motion made John Wilson by to adjourn the Public Hearing until the next Zoning Board meeting with a 2nd by Douglas Roll. All in favor. Motion carried.

Meeting Minutes from February 25, 2020

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

Other Business Self-Storage PUD

Floyd explained a proposed PUD at the locations of the old BJ's, which would include a self-storage facility and a new 3-4 unit strip mall in front of the current building.

Carter Road Solar Village

Floyd went over information regarding a subdivision application that will be before the Planning Board in July for a proposed Solar Village on Carter Road.

Snell Road Brewery

Floyd presented another application that will be before the Planning Board in July, including a minor subdivision and plans for a new brewery.

Other

Floyd confirmed that he had spoke with Jeff Graff and that he will be at the next meeting. Floyd requested that the board members forward him any questions they may have for Jeff so that he can forward to him.

There was further discussion on the previous court case that went to the Appellate Court.

Motion made by Douglas Roll to close the meeting with a 2nd by John Wilson. All in favor. Motion carried at 9:30 pm.