

**Town of Geneva
Zoning Board
July 28, 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: Amy Cram, Jim Somers, Mark Petzold, Caroline Travalia, Sebastiano Lucci, John Mancuso

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

Pledge of Allegiance

**Public Hearing (Continuation)
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 updated information to the board, including rough estimates for building the garage attached to his house, detached in the front yard, and in the requested spot.

Phil Ilacqua asked whether the proposed building location would be overtop the existing utilities, including water and sewer lines. Mr. Somers confirmed that it would be. Floyd confirmed for the board that the applicant would have to get approval from the Water and Sewer Department to build overtop of an existing line and that the board could make any decision conditional on obtaining approval from the Water and Sewer Department. There was also discussion regarding needing to move utilities if the garage was built attached to the house. Mr. Somers stated that he did not intend to build an attached garage. Robert Rose asked if the building would be taxable, which Floyd confirmed that it would be.

John Wilson confirmed there were no other members from the public wishing to speak.

Motion made by John Robbins to close the Public Hearing. 2nd by Phillip Ilacqua. All in favor. Motion carried.

**Public Hearing (Continuation)
Somers Property ZB2020-005**

John Wilson checked if the applicant had anything new to add that was specific to the use variance request. He did not. There were no members of the public wishing to speak.

Motion made by Douglas Roll to close the Public Hearing. 2nd by John Robbins. All in favor. Motion carried

Somers Property ZB2020-004

The Board returned to the area variance request for discussion. Douglas Roll spoke in support of granting the variance, stating that he thought it would blend in with the community and that the neighbors were in support. John Wilson explained his concerns with granting a 0-foot setback. There was discussion on this. John Robbins expressed concern over the precedence that could be set. Mr. Somers interjected that the precedence is set in the neighborhood. There was further discussion regarding the setback, putting a permanent structure on a rental property, and whether this was the best scenario. Douglas Roll discussed the costs associated with each option and discussed how each property is different and how many of the lots on the lake do not have a lot of area. Floyd explained that many of the sheds on that side of the road are small enough that a building permit was not required and that there are detached garages located in the front yard of other properties on the road. The board confirmed the size of the proposed structure.

John Wilson spoke to the option of building the garage detached in the front yard and how that would fit in with the neighborhood. Douglas Roll commented on the added congestion this would cause.

The board members discussed the area variance criteria:

1. John Wilson thought that it would create an undesirable change to the neighborhood. Douglas Roll disagreed. Phillip Ilacqua and John Robbins agreed that if the neighbors do not care, it would not be an undesirable change.
2. It was decided that it could be achieved by some other feasible method. The applicant questioned if this was in regard to the front versus the back of the house. The Board was in agreement that the garage could not be built in the back of house and discussed whether it was feasible to build in the front yard versus on the other side of the road as requested. Floyd explained to the board that economics could not be part of the discussion of feasibility.
3. It was agreed that the request is substantial.
4. It was agreed that the request will not result in an adverse physical or environmental effects.
5. It was agreed that the alleged hardship was self-created as the structure could be built somewhere else.

Motion made by John Wilson to deny the area variance on the grounds that the setback is 0 and it is a significance variance. 2nd by John Robbins.

Roll Call Vote:

James Smith – Deny	John Robbins – Deny	John Wilson – Deny
Douglas Roll – Grant	Phillip Ilacqua – Grant (with permission of the water/sewer superintendent)	

Motion carried to deny the area variance.

Somers Property ZB2020-005

Motion made by John Wilson to dismiss based on the fact that the use variance is no longer needed based on the decision of ZB2020-004. 2nd by John Robbins

Roll Call Vote:

James Smith – Yes	John Robbins – Yes	John Wilson – Yes
Douglas Roll – Abstain	Phillip Ilacqua – No	

Motion carried to dismiss the request for a use variance.

There was a discussion between Floyd and the applicant as to what his next steps could be.

Public Hearing (Continuation)
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, noted that they had sent a letter in response to the previous meeting. Said letter is a matter of record in the Zoning Board application file. He once again went over the applicant’s request, stating that they are asking for clarification of the “deeded rear property line” per Town Code Section 165-10(E)(5).

Mark Petzold spoke to the Board. He expressed his views that any measurements should be taken from a survey of the land, which would define the property lines based on the deed.

Caroline Travalia spoke regarding an article that she referenced at the previous meeting, providing a copy of said article to the board members.

John Wilson checked if there were any other members of the public wishing to speak and then asked Floyd if he had anything new to add. Floyd explained that when the building permit application for the house originally came in, he noted that there were decks and balconies that would go into the setback based on his interpretation of the code. He added that he was part of the committee that reworked this section of the code. While making his interpretation he based his decision on what the committee’s intention was with the wording in this section.

Motion made by Douglas Roll to close the Public Hearing. 2nd by John Robbins. All in favor. Motion carried.

John Wilson opened the discussion among the Board. He explained that he too was on the committee with Floyd that reworked the Code and that the intent of the committee was for it to be the metes and bounds and if the intent was to be the low or mean high-water mark they would have used that language. There was a discussion about using the mean high-water mark and John also stated that for this property the metes and bounds description is the same as the mean high-water mark.

Board members discussed using the low water mark and agreed this was not a feasible option. Floyd was asked to define metes and bounds for the Board. He explained that the metes and bounds description of a property defines the true measurements for the lot that the taxes are based on. The metes and bounds description begins at a given point and provides lineal measurements to another given point, to another given point, etc. until reaching back to the starting point. He also shared that on some lots the metes and bounds description matches up to the mean high-water mark and on others it does not. He has not seen a lot where the metes and bounds matches the low water mark.

Motion made by Douglas Roll that the language referring to the deeded rear property line in Section 165-10(E)(5) should be interpreted as meaning the metes and bounds property line.

Roll Call Vote:

James Smith – Yes

John Robbins – Yes

John Wilson – Yes

Douglas Roll – Yes

Phillip Ilacqua – Yes

Motion Carried.

Meeting Minutes from June 25, 2020

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

Other Business

Steve High's Report

Steve updated the board members on projects across the county and highlighted ongoing concerns over storage of large solar batteries.

Proposed Code Changes

There was a question about a previous conversation regarding a code change for accessory structures in the agricultural district. Floyd explained that a committee is working on a list of code changes and that is part of the list.

Other Business in the Town

Floyd updated the Board on the following projects:

The Geneva Crossing project and the next phase which will be an 80-unit apartment building.

The old BJ's has been approved as a PUD including a temperature-controlled storage facility and a 14,000 sq. ft. outbuilding. The outbuilding will be built upon securing the first occupant.

The Carter Road Solar Village is moving along. Phase 1 will include 72 units. There will be single-family units, duplexes, and 10-unit buildings.

The brewery at 566 Snell Road has gained subdivision approval and has presented their site plan to the Planning Board. They will be back before the Planning Board next month for Final Site Plan Approval and SEQR review.

There is an individual looking to purchase the old Pizza Hut building and turn it into a beverage center.

Floyd discussed updates to the Short-Term Rental Permit process with the Board and answered questions from board members.

Motion made by Douglas Roll to close the meeting with a 2nd by Phillip Ilacqua. All in favor. Motion carried at 7:45 pm.