

**Town of Geneva
Zoning Board
December 22, 2020**

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

Absent: Robert Rose

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

Others present: 10 members of the public

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

Pledge of Allegiance

**Public Hearing (Continuation)
Bournique Property ZB2020-011**

The Applicants, Marissa Turnbull Bournique and Neal Bournique, request that the ZBA review the Code Enforcement Officer's interpretation of 165-39. John Wilson confirmed that the board had received written correspondence that had been submitted to the file since the last meeting and asked if there were any members from the public wishing to speak.

John Cleere, owner of 4795 Harmony Beach and 4791 Harmony Beach, spoke on behalf of himself and his wife Bette. He explained that he provided a written submission to the Board, including information that he had received via a FOIL request. He explained that it is his position that the application that was submitted for a Short-Term Rental Permit by the applicants on September 4, 2020 must be reviewed based on the code at the time submitted. He feels that the decision made by the Code Enforcement Officer on September 24, 2020 was the correct decision and did not find anything in his research that would change that decision. He spoke of the applicants' reliance on third-party advice and that ignorance of the law is not an excuse. He ended stating that the Code Enforcement Officer's decision followed the laws and code in place at the time of the application and he asked that the Zoning Board uphold this decision by the Code Enforcement Officer.

Pamela Bell, of 4783 Harmony Beach, also spoke in favor of the Code Enforcement Officer's decision. She stated that understands the applicants' plea of hardship, especially during this time, but is opposed to the property being rented. She explained that rentals in the area create a hardship to the residents.

Marissa Turnbull Bournique spoke to the Board. She explained that she was happy to answer any new questions that the board members may have or to discuss their integrity as renters. She also asked that the timeline and hardships already discussed to be considered in the decision. John Wilson confirmed that there were no questions from the Board.

Tim Buckley addressed the Board. He explained that he would like to see the additional documentation that had been submitted by Mr. Cleere. He also spoke about how the Code Enforcement Officer at the last meeting stated that the Board must decide if he made the correct decision. Mr. Buckley explained that he disagrees with this and that the board should take into

account the equities of the applicants. He also talked about the fact that although others may have also been denied permits since the new code was put into effect, the circumstances of each case are unknown, and the Board should just be looking at only the circumstances of this situation. He also stated that the vagueness of the statute in the code from 2018, talking about the timeline for a new owner to register their name with the town, should be held against the drafting party, not his clients. He ended stating that the decision should not be based on the attitude of the neighbors against his clients, but rather on the equities of the case.

John Wilson confirmed with Tim Buckley that the Board could provide written submission as requested and hold the Public Hearing open until the next meeting.

Motion made by John Robbins to hold open the public hearing until the next meeting, scheduled for January 26, 2021, and to allow additional written comments to be submitted up until January 16, 2021. Seconded by John Wilson. All in favor, motion carried.

Meeting Minutes from November 24, 2020

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

Steve High's Report

Steve shared information on the ongoing events regarding solar storage in the area. He highlighted that the Town of Richmond just put a moratorium in place.

Phil Ilacqua asked for more information regarding the storage units. Floyd explained the size of the batteries and the purpose of them. They store the power produced by solar fields and release it back into the grid at a manageable rate. There was a discussion on solar farms in the area, their sizes, the changing laws, and the potential issues towns could have with the storage batteries.

Other Business

Floyd did not have anything specific to report at this time but did state that there are new projects in the works that he should have more information on soon. He also explained that the next meeting would also be the Board's organizational meeting and provided an update regarding the Missick properties.

Motion made by John Robbins to close the meeting with a 2nd by John Wilson. All in favor. Motion carried at 7:00 pm