

**CHARTER TOWNSHIP OF GARFIELD
ZONING BOARD OF APPEALS
MEETING MINUTES
November 16, 2023**

Call to Order: Chair Smith called the meeting to order at 6:00pm.

Pledge of Allegiance: Recited by everyone in attendance.

Roll Call of Board Members:

Members Present: Fudge, Rozycki, Fricke, Swan and Smith

Also in Attendance: Zoning Administrator Mike Green

1. Review and Approval of the Agenda – Conflicts of Interest (6:00)

Fudge moved and Rozycki seconded to approve the agenda as presented.

Yeas: Fudge, Rozycki, Fricke, Swan, and Smith

Nays: None

2. Review and Approval of Meeting Minutes – September 21, 2023 (6:02)

Roczycki moved and Fricke seconded to approve the minutes of September 21, 2023 as amended noting that on page three, Duell was listed twice on the roll call and Fudge was excluded.

Yeas: Roczycki, Fricke, Fudge, Swan, Smith

Nays: None

3. Public Hearings

4. Unfinished Business

- a. A request made by Cornwell Architects on behalf of Jeff and Joy Main for a variance from the lakefront setback requirements in Article 5, Section 535. The specific request is for a variance to allow a second story addition to an existing dwelling located within the lakefront setback area. The property is zoned R-1 Single Family Residential and is currently used as single-family residential. The property is located at 820 N. West Silver Lake Road with the property number of 05-031-060-00. Jeff Main, homeowner and Mark Humitz from Cornwall Architects talked about the variance request. He said that there are four separate encroachments. #1 is a new stairway to a second story deck; #2 is a new second floor deck, #3 is a new stair variance requested; and #4 is a new covered entry porch. Attorney Ed Roy spoke to board members about the Watershed Center letter from Heather Smith. He notably discussed the vegetative buffer. Board members discussed the stairway from the deck to the garage and agreed that they would like the deck moved to the west side.

Practical Difficulty:

- A. Special conditions or circumstances exist that are peculiar to the land, buildings, or other structures for which the variance is sought, do not apply generally to lands, buildings, or other structures in the same district, and could not reasonably be addressed through the formation of general regulation for such conditions. Special circumstances or conditions to be considered for variances shall include, but not be limited to, the circumstances as described in § 454.E.(3);

Board members decided unanimously that this condition was **met** since the applicants have demonstrated in their site plan that the shallowness of the lot limits the buildable area to the point where a dwelling could not be permitted without a variance, meeting Special Condition a) Physical Conditions under Section 454.E(3). Additionally, staff finds that Special Conditions (c) and (e) are also met as described further in this report.

- B. The special conditions and circumstances peculiar to the land, buildings or other structures did not result from a self-created condition or action taken by the applicant or an owner of the lands;
Board members agreed that the conditions were not created by the applicant because the shallowness of the lot was not created by the owner or applicant and was created by the location of West Silver Lake Road in relation to Silver Lake.

Board members decided unanimously that this condition was **met**.

- C. The special conditions and circumstances are such that strict application of the provisions of this ordinance would deprive the applicant of any reasonable use of the land, building, or structure authorized by this Zoning Ordinance; Board members found that this condition was **met** because the strict application of the setback requirements of this Ordinance precludes the applicant from building a dwelling meeting the minimum twenty-four (24) foot cross-section size (building width).
- D. Literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this ordinance.

Board members determined that this condition was **met** because the applicant has demonstrated that a denial of their request would deprive them of rights enjoyed by other properties in the same zoning district.

- E. For the purpose of this section, a practical difficulty shall not exist because an applicant would incur additional costs to achieve full compliance or could receive additional income with less than full compliance with the ordinance.

Board members determined that this condition was **met** because the applicant was not claiming a financial hardship.

General Criteria:

- A. The requested variance shall relate only to property that is under the control of the applicant.

All board members determined that this condition was **met**.

- B. No nonconforming neighboring lands, buildings, or other structures, legal or illegal, in the same district, and no permitted buildings, or other structures in adjacent districts, shall be considered as grounds for the issuance of a variance. Board members stated that the applicant was not asking for a variance based on any other non-conformities in adjacent properties or within the R-1 district.

All board members determined that this condition was **met**.

- C. The requested variance shall be in harmony with the general purpose and intent of this ordinance and shall not be detrimental to the public health, safety and welfare.

Board members decided unanimously that this condition was **met** because the special conditions highlighted by the applicant and as communicated in this report would likely not set precedent for similar requests. The project would likely not negatively impact Silver Lake based on representations of the applicant of no expansion of the existing footprint and use of the existing foundation and walls. The ZBA may want to stipulate that a new dwelling would not be permitted in the same location should the existing dwelling be demolished

- D. The requested variance shall not alter the essential character of the area or cause a substantial adverse effect upon properties in the immediate vicinity or in the district in which the property of the applicant is located;

All board members determined that this condition was **met** because the requested variance would not cause a noticeable effect on neighboring properties beyond what is permitted by right.

- E. The requested variance is the minimum variance that will make possible the reasonable use of the land, building, or structure, and there is no reasonable alternative location on the parcel for the proposed improvements for which a variance is sought where such alternative location would eliminate the need for the requested variance or reduce the extent of the condition(s) necessitating the variance.

Board members determined that the condition was **met** because the applicant has demonstrated that there are no other areas on the property that could be reasonably used for an addition.

Special Conditions of Circumstances:

Special conditions or circumstances to be considered for the purposes of § 454.E.(1) shall include, but not limited to, the circumstances as described below:

- (a) **Physical Conditions:** The proposed project site contains physical conditions such as narrowness, shallowness, shape, or topography of the property involved that do not generally apply to other property or uses in the same zoning district.

The Board finds that this condition has been **met** because the applicant has demonstrated the limited buildable area of the lot would preclude the development of a dwelling meeting the required twenty-four (24) foot building width.

- (b) **Significant Vegetation or Natural Features:** The proposed project site contains significant vegetation or other natural features identified as Stream environment/Wetland by the Garfield Township Master Plan.

The Board finds that this condition has been **met** because there are no known natural features listed above within the buildable area of the property.

- (c) **Substandard Lots(s)** The proposed project involved the utilization of an existing legal nonconforming lot(s).

The Board finds that this condition is **met** because the subject property is not considered a legal nonconforming lot but lacks the buildable area needed to build a dwelling meeting the twenty-four (24) foot cross-section requirement.

- (d) **Historic Resources** The proposed project site contains historical significance. The Board finds that this condition has been **met** because there are no known historic designations for the subject property.

- (e) **Neighborhood Character:** The proposed project promotes the established historical or traditional development pattern of a blockface, including setbacks, building height, and other dimensional requirements. The Board finds that this condition has been **met** because there are other structures in the vicinity along Silver Lake of similar character.

Swan moved and Roczyki seconded to GRANT the request for variance from Section 313.E and Section 535.A(2) of the Garfield Township Zoning Ordinance AS AMENDED to allow for a second story addition to the existing dwelling and to replace the existing deck attached to the dwelling based on findings for each Practical Difficulty standard and General Criteria for granting such request being met, subject to the following condition(s):

1. This approval is limited to construction using the existing foundation and walls of the dwelling and does not grant the right to replace the dwelling in its current configuration upon it's demolition.
2. East side stairwell (see variance #1) will be moved to the west side of the building.

Yeas: Swan, Rozcyki, Fricke, Fudge, Smith

Nays: None

5. Other Business

None

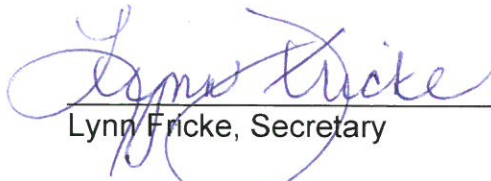
6. Items for Next Agenda

None at this time

7. Public Comment

None

8. Adjournment: Swan moved and Fudge seconded to adjourn the meeting at 6:35pm.



Lynn Fricke, Secretary