

**CHARTER TOWNSHIP OF GARFIELD  
ZONING BOARD OF APPEALS  
MEETING MINUTES  
March 17, 2022**

**Call to Order:** Vice Chair Swan called the meeting to order at 6:00pm.

**Pledge of Allegiance:** Recited by everyone in attendance.

**Roll Call of Board Members:**

Members Present: Fudge, Duell, Swan and Fricke

Members Absent: Rozycki and Smith

Also in Attendance: Zoning Administrator Mike Green

**1. Review and Approval of the Agenda – Conflicts of Interest (6:02)**

*Fricke moved and Fudge seconded to approve the agenda as presented.*

*Yeas: Fricke, Fudge, Duell and Swan*

*Nays: None*

**2. Review and Approval of Meeting Minutes – January 13, 2022 (6:03)**

*Fudge moved and Swan seconded to approve the minutes of January 13, 2022.*

*Yeas: Fudge, Swan, Duell, Fricke*

*Nays: None*

**3. Public Hearings**

A request made by Tom and Luann Nemitz for a variance from the side yard setback requirement in Section 313.E of the Garfield Township Zoning Ordinance. The applicant is requesting a 0.6 foot variance from the ten (10) foot side yard setback, resulting in a 9.4 foot setback for the proposed addition to the existing dwelling. The property is zoned R-1 One Family Residential and is located at 1439 Lake Drive with a property number of 05-295-013-00.

The parcel is located within the Silver Pines Resort subdivision which was platted in 1947. Adjacent properties within the Silver Pines Resort subdivision are also zoned R-1 One Family Residential. According to Township records and information supplied by the application, the property contains a dwelling with a detached garage located partially in the front yard adjacent to Lake Drive. The purpose of this request is to construct an addition to the existing dwelling.

Tom Nemitz spoke about the variance and is asking for a second story. He presented a powerpoint with pictures of his proposal as well as the plat map. He stated that there are many non-conforming properties in the area. Nemitz explained that they could not build to the east or south. They can only add on to the north side of the existing structure and want to protect the line of arbor vitae on the north side property line. He mentioned that his neighbors were supportive of the building plan.

Board members discussed the project and stated that although the property owner seemed to have a logical plan, it still needed to fit into the zoning ordinance.

Neighbor Ron Bowman said the proposed plan has no bearing on his home and he is in support of the proposed addition to the home.

Marsha Bowman a neighbor is in support of the proposed addition and it would not negatively impact their property or the safety of either of the properties.

ZBA members then weighed and discussed the following the criteria that the application needs to meet:

#### 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);

Green said that a platted lot could be split again and sold and property could be re-divided.

Board members decided unanimously that this condition was **Not Met**.

- 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 decided unanimously that this condition was **Not 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 discussed whether an ordinance text amendment could possibly help with situations like this.

Board members Swan, Duell and Fricke determined that the condition was **met** while Fudge determined that it was not met.

- 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 decided unanimously that this condition was **Not Met**.

- 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.

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

#### 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;  
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 **Not Met**.
- 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**.
- 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 Duell, Fudge, and Fricke determined that this condition was **not met**, while Swan determined that it was met.

#### Special Conditions or Circumstances

Board members did not need to go through the special circumstances.

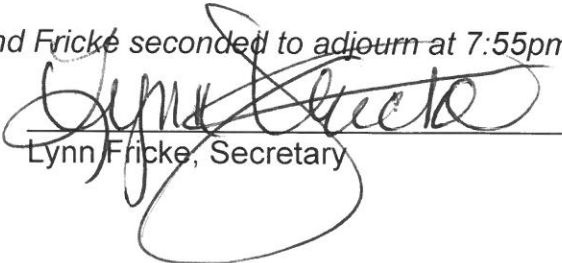
Board members commented that the requested 6" setback was not correct given the overhang of the roof and that there would be new construction in the setback of a non-conforming structure. They mentioned the possibility of text amendment at the planning level.

*Duell moved and Fudge seconded to DENY the request for variance from Sections 313.E of the Garfield Township Zoning Ordinance to allow an eight (8) inch side yard variance based on findings for each Practical Difficulty standard and General Criteria for granting such request NOT being met.*

*Yeas: Duell, Fudge, Swan, Fricke*

*Nays: None*

4. **Other Business:** None
5. **Items for Next Agenda:** None at this time
6. **Public Comment**  
None
7. **Adjournment:** *Fudge moved and Fricke seconded to adjourn at 7:55pm.*

  
Lynn Fricke, Secretary