

**CHARTER TOWNSHIP OF GARFIELD
ZONING BOARD OF APPEALS
MEETING MINUTES
February 15, 2024**

Call to Order: Vice Chair Fudge 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, Duell, Swan and Fricke

Also in Attendance: Zoning Administrator Mike Green

1. Review and Approval of the Agenda – Conflicts of Interest (6:01)

Fudge noted that Item 3 should be item 4, Unfinished Business.

Swan moved and Duell seconded to approve the amended agenda.

Yeas: Swan, Duell, Rozycki, Fudge, Fricke

Nays: None

2. Review and Approval of Meeting Minutes – January 18, 2024 (6:02)

Rozycki moved and Swan seconded to approve the minutes of January 18, 2024 as presented.

Yeas: Rozycki, Swan, Fricke, Duell, Fudge

Nays: None

3. Public Hearings

None

4. Unfinished Business (6:02)

- a. A request made by Craig and Jayne Gilmer for a variance from the nonconforming structure limitations in Article 8, Section 813. 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 612 N. West Silver Lake Road with the property number of 05-031-052-00. The parcel is generally located along the west side of West Silver Lake Road between Boone and Secor Roads with frontage on Silver Lake. The application includes correspondence regarding a boundary adjustment involving several parcels including the subject property that effectively “shifted” their lot lines by several feet and created the current nonconformity. This mass boundary adjustment, completed sometime in 1975, appears to have been borne out of a legal agreement meant to settle a potential adverse

possession lawsuit. The request was tabled from last month to give the applicant an opportunity to attend. Building plans have been supplied as well as a proposed layout and elevations. Board members briefly discussed the proposed variance.

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** because the settlement to resolve lot line discrepancies in 1975 is a unique situation not common to other areas of the Township.

- 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 this condition was **met** because the subject property was the subject of a legal settlement around 1975 resulting in the shifting of the south lot line placing the dwelling much closer than prior to the settlement. The owner at the time appeared to enter a settlement agreement to avoid an adverse possession lawsuit

- 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 decided that this condition was **met** because the strict application of the setback requirements of this Ordinance would require the applicant to remove a nonconforming dwelling in its entirety or would require removal of any nonconforming portions thereof that appear to have been conforming prior to the 1975 settlement.

- 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** because the variance only relates to property under control of the applicant.

- 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 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 would have to demolish the existing in its entirety or a portion thereof that is nonconforming to make the requested improvements.

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:

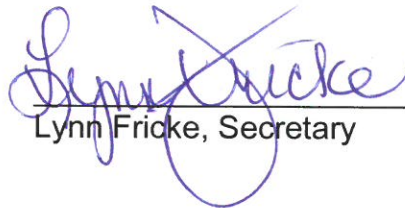
- (a) **Physical Conditions:** The proposed project site contains physical conditions such as narrowness, shallowness, shape, or topography of the property involved that do not generally apply to other property or uses in the same zoning district.
The Board finds that this condition has been **met** since there are no known physical conditions that are unique to the subject property.
- (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 a legal nonconforming lot based on the lot width. The 1975 settlement may have effectively increased the lot width nonconformity.
- (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 this standard does not apply.

Swan moved and Fricke seconded to GRANT the request for variance from Section 813 of the Garfield Township Zoning Ordinance AS PRESENTED to allow for an addition to the existing dwelling based on findings for each Practical Difficulty standard and General Criteria for granting such request being met.

Yeas: Swan, Fricke, Duell, Fudge

Nays: None
Abstain: Rozycki

5. **Other Business (6:09)**
None
6. **Items for Next Agenda (6:09)**
None currently
7. **Public Comment (6:09)**
None
8. **Adjournment:** *Duell moved and Swan seconded to adjourn the meeting at 6:10pm.*



Lynn Fricke, Secretary