

**CHARTER TOWNSHIP OF GARFIELD
ZONING BOARD OF APPEALS
MEETING MINUTES
September 19, 2024**

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: Robert Fudge, Lynn Fricke, Scott Swan, Steve Duell, and Rick Smith

Also in Attendance: Zoning Administrator Mike Green

1. **Review and Approval of the Agenda – Conflicts of Interest (6:01)**
Fudge moved and Swan seconded to approve the agenda as presented.

*Yeas: Fudge, Swan, Fricke, Duell, Smith
Nays: None*

2. **Review and Approval of Meeting Minutes – July 18, 2024 (6:02)**
Fudge moved and Fricke seconded to approve the minutes of July 18, 2024 as presented.

*Yeas: Fudge, Fricke, Duell, Swan, Smith
Nays: None*

3. **Public Hearings (6:02)**

- a. **A request made by Kathy Boyd, a resident at 1669 Lake Drive, to appeal the issuance of a Land Use Permit for grading and drainage activities on an adjacent parcel. The subject property is located at 1661 Lake Drive with the property number of 05-295-035-00.**

The basis of this appeal, as stated in the application, is twofold. The first basis of the appeal is what is believed to be an unresolved violation of Section 511.A due to a portion of the concrete driveway located in the ten (10) foot side yard setback area, of which the ZBA ruled on a prior appeal was not a legal nonconforming use. This violation has since been remedied. A faulty stormwater system causing concentrated flows onto the appellants property is also at issue. The second basis of the appeal is what the applicant believes is an improper approval of walls and fences in the riparian and side yard setback areas along with construction taking place outside of the permit specifications. Kathy Boyd spoke and alleges that the owner at 1661 Lake Drive has continued construction and disregarded permit orders and stop work orders. She asks that the zoning ordinance be enforced. She also states that the engineers falsely certified

the work for the 1661 Lake Drive property. She states that Green has not enforced the Zoning Ordinance but knows of the violations. Green addressed the wall and read verbatim the part of the zoning ordinance which allows for fencing and retaining walls. Boyd claims that wall is in riparian setback. Boyd then shared her presentation of evidence of the violations with board members.

Attorney, Craig Elhart, representing the owner of 1661 Lake Drive, Bill Waggener, spoke and said that Mr. Waggener is not present at the meeting tonight because the applicant has a personal protection order against him. Elhart claims that Waggener was working under the permits but the permits keep getting appealed. He states that his client is trying to do the right thing and is trying to finish his project. There may be some erosion until the project is fully completed. Board members stated that at times, Waggener has gone above and beyond what the permit allowed. Green stated that fences can be in a riparian buffer zone if it helps with soil erosion and that an engineer could decide whether it was needed or not. Boyd claims that the wall impacts her property and does not help with erosion and wants the wall to comply with the required ten-foot setback and wants water runoff to be directed towards Waggener's own property. She also stated that the wall plus the safety railing should be no more than seven feet high to comply with zoning. The Board pointed out that a homeowner can build a home but needs to do so according to the sealed engineered drawings and any liability for issues pertaining to the construction would fall back on the engineer. Waggener should also get a new set of drawings as built at this point and then he would need to adhere to those drawings to complete his project.

Smith opened the public hearing at 7:30pm.

John Rudel of 1645 Lake Drive lives on the south side of Waggener's property and has an interest in seeing the project on Waggener's property completed. He states that the project has been ongoing for two years and that Waggener is trying his best to get the project completed.

Donna Wytaske, co-owner of 1661 Lake Drive commented that what Boyd was doing was an invasion of privacy.

The public hearing was closed at 7:38pm.

Board members asked to go back to the facts of the case and determined that Mr. Waggener needs to go to engineers get updated drawings and complete the project as specified to those engineered drawings to get the water to run onto his own property and the ensure that the fence/retaining wall is in compliance with the Zoning Ordinance.

Green read his comments to the board regarding the history of the violation and said that the Zoning Ordinance does allow the township to issue a permit which addresses violations. He added that the Board can ask Waggener to remove the violations. Kathy Boyd stated that she would

be satisfied if the water runoff was addressed and if the wall was limited to seven feet in height including any railing and complied with the Zoning Ordinance.

Swan moved and Fricke seconded that the permit that was issued on June 12, 2024 and amended on August 1, 2024 be suspended until the following issues are addressed by the property owner:

- 1. Grading and wall construction that has commenced and was not previously reviewed by the Township Engineer, particularly the lower wall near the lake and grading work along the south side of the property be addressed by the proper authorities.*
- 2. That performance and maintenance issues allowing concentrated flows through the retaining wall located along the north property line as evidenced by photos and video supplied by Kathy Boyd as part of her appeal be addressed.*

AND that the following conditions be added to the permit to address past and present performance issues and to account for work being done prior to the issuance of any permits and the resulting questions as to whether the systems were built according to the plans provided and reviewed by the Township Engineer:

- 1. Submittal of a Performance Guarantee per Section 6 of the Stormwater Ordinance to the Township in an amount recommended by the Township Engineer to ensure completion and proper maintenance of the stormwater system will be required.*
- 2. Submittal and review of a stormwater maintenance agreement by the Township Engineer prior to reissuing or reactivating the permit will be required.*
- 3. The applicant will be required to submit to maintenance inspections per the Stormwater Ordinance.*
- 4. As built drawings are to be submitted to the Garfield Township Building Department, EGLE, soil erosion, land use and the township's engineer for approval prior to restart.*

*Yeas: Swan, Fricke, Duell, Fudge, Smith
Nays: None*

4. Unfinished Business
None

5. Other Business (8:02)
None

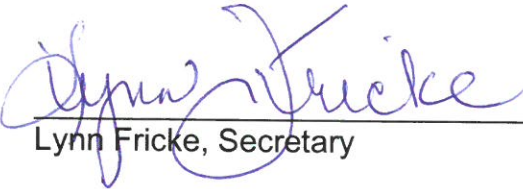
6. Items for Next Agenda

None

7. Public Comment

None

8. Adjournment: *Duell Fudge moved to adjourn the meeting at 8:02pm.*



Lynn Fricke, Secretary