

**GENOA CHARTER TOWNSHIP
ZONING BOARD OF APPEALS**

JUNE 16, 2015

6:30 P.M.

MINUTES

Vice Chairperson McCreary called the regular meeting of the Zoning Board of Appeals to order at 6:30 p.m. at the Genoa Charter Township Hall. The members and staff of the Zoning Board of Appeals were as follows: Jean Ledford, Jerry Poissant and Marianne McCreary. Absent were Figurski and Dhaenens. Also present was Township staff member Ron Akers and Recording Secretary Amy Ruthig. There were 16 people in the audience.

Pledge of Allegiance: The Pledge of Allegiance was recited.

Introduction: The members of the Board introduced themselves.

Approval of Agenda: Moved by Ledford, seconded by Poissant to approve the agenda as submitted. **Motion carried unanimously.**

Call to the Public: was made with no response. (*Please Note: The Board will not begin any new business after 10:00 p.m.*)

15-08 ... A request by Sonia Wallace, 3040 Brighton Road, for a variance to construct a detached accessory building in the front yard.

Sonia Wallace was present for the petitioner. Ms. Wallace stated that she has staked the easements, utilities and well and septic. They spoke with their neighbors and their neighbors were fine with the variance. If approved they are still going to try and shield the barn with trees.

McCreary questioned why the petitioner did not want to move the structure closer to the house. Petitioner stated that they need to stay 30 feet from the pipeline that crosses their property so they cannot build towards the house.

A call to the public was made with no response.

Moved by Ledford, supported Poissant to approve case# 15-08, 3040 Brighton Road for Sonia Wallace for the construction of a 32 X 48 detached accessory structure in the front yard up to 16 feet high.

The practical difficulty and extraordinary circumstances is the difference of the topography of the property and the location of the septic system behind the house, the existing location of the house and the location of the gas pipeline easement which runs across the front yard of the property requiring the proposed location of the accessory

building to be constructed closer to the road. The building in the front yard will have no adverse risk which could impact public safety and welfare and will not interfere with or discourage the appropriate development, continue use or value of adjacent properties and surrounding neighborhood. The building would be visible from Brighton Road during the winter months and be closer than other structures in the immediate vicinity. Approval of this variance is conditioned upon petitioner planting one (1) 2.5” caliper evergreen tree shall be planted for each 15 feet of building along Brighton Road and the color of the building being compatible with the surrounding area. **Motion carried unanimously.**

15-09 ... A request by Carol and Jack Gatewood, 1022 S. Hughes Road, for a variance from the maximum allowable building height in order to demolish an existing home and construct a new single family home.

Todd Smith with Laurex Real Estate was present for the petitioner. Mr. Smith stated they are asking for a variance from the height of the building. Mr. Smith gave a brief history on the flood zone enforced by FEMA which put the entire Lake Chemung area in a flood zone. Mr. Smith stated that the due to the water table being high they cannot construct the home on a slab or piers.

McCreary questioned if the house would be demolished. The petitioner stated that it would be along with the existing garage.

A call to the public was made with no response.

Moved by Poissant, supported by Ledford, to approve case 15-09 for Carol and Jack Gatewood located at 1022 S. Hughes Road for a height variance of 3.5 feet above the 25 feet that is allowed per the ordinance.

Based on the finding of fact and extraordinary circumstances a crawl space cannot be constructed due to the water table being too high. The finish floor elevation will be 4.2 feet above the allowed 25 feet so that it is above the water table. The requirement to construct a crawlspace above grade does not allow enough room for the height to remain within the 25 feet. The unusually high water table would cause the applicant to require a variance. Granting of the variance would not diminish the light supply and air or would unreasonably increase the congestion on public streets or increase the danger of fire or endanger public safety and welfare for the inhabitants of the Township. Granting the variance would not interfere with the value of the properties in the surrounding neighborhood. Conditioned upon the home being guttered. **Motion carried unanimously.**

15-10 ... A request by Joseph Andrews, 1115 Norfolk, for a front yard setback variance, a rear yard setback variance and a side yard setback variance to remove the existing structure and construct a new single family home.

Joseph Andrews was present for the petitioner. Mr. Andrews stated that the rear variance that they are requesting is due to after doing some repairs they realized that it would be easier to tear it down.

Call to the public was made with the following response: Ty Cole, 1120 Chemung Drive, stated that if the owner wanted to build something new that would be great. Maybe have it torn down and set a time for when the project would need to be completed by. The structure is unsafe.

Mr. Akers read the following letter into the record from Debra Buchte, 1131 Chemung Drive,: "I am corresponding in regards to case #15-10 variance for property 1115 Norfolk, Howell, MI. I am against granting this variance. My property 1131 Chemung Drive is roughly 8 feet from the property line now. Why would this be needed as there is plenty of room on property to move home closer to Chemung Drive. The rear variance and front setback would necessarily move home closer to my garage which sits behind this home. A modular home could be set on existing home site without all these variances needed. Also with a modular home there would not be the problems that home been incurred with the rebuilding of current home. This home has sat in unsafe and dilapidated condition since purchased. I fear if a build is going to happen it will be conducted the way it has been for the last year. I also think for a build to happen correctly, the structure would have to be demolished and completely rebuilt"

Poissant asked if the house is already condemned. Mr. Akers responded that the building permits have either expired or been revoked. Mr. Akers gave an overview of the Abandoned and Dangerous Structure ordinance.

Moved by Ledford, supported by Poissant, to approve case#15-10, 1115 Norfolk, for a 24 foot front yard setback which is a variance of 11 feet and a rear yard setback of 5 feet with a variance of 35 feet to demolish the existing structure and construct a new single family home on the same footprint.

The need for this variance is due to the small narrow lot size and it is not self-created by the petitioner. Granting this variance would replace an unsafe dilapidated structure with a new dwelling of consistent size and in line with adjacent houses resulting in a positive impact on values of adjacent properties. Granting of the variance would do substantial justice to the applicant and other property owners in the area for the preservation and enjoyment of their property rights. The approval of this variance is conditioned upon the removal of the existing unsafe dilapidated structure by August 31, 2015. If not removed the Township will initiate the removal process as outlined in the Abandoned and Dangerous Buildings Ordinance and petitioner will be required to reimburse the Township for all costs incurred. **Motion carried unanimously.**

15-11 ... A request by Christopher J. Chalka, 4405 Filbert Road, for a shoreline setback variance in order to construct a detached accessory building.

Mr. Chis Chalka was present for the petitioner. He stated that he is asking for a variance due to the irregularity of the lot. He is trying to locate within the shed in line with other sheds in the area. He is looking at locating the shed 5 feet from the property line.

A call to the public was made with the following response: : Jeff Gontarski, 4401 Filbert stated that he is the owner west of the petitioner's property and he supports what the petitioner is doing and the location of the shed is the best location. The shed that is on his property has been there a long time. The difficulties that the petitioner has is the steep topography of the lot and that it is a non-conforming lot.

Mr. Akers read into the record a letter received from Jeffrey T. Smith, 4389 Filbert Drive, "I am writing in response to the notice for Case15-11-variance for a shoreline setback to construct a detached accessory building at 4405 Filbert Drive. I reside at 4389 Filbert Drive, which is two doors west of the subject residence. I'm very familiar with their property and support the variance for the reason that they are faced with a hardship due to topography. All of the lots along this corner of the lake have very steep slopes in the mid yard areas. The only flat grades on these lots are along the lake shore. It is not feasible to build a shed in the middle of the lot where the setback currently dictates. The location where the resident is proposing their shed will be consistent with five neighboring lots that all have sheds in similar locations. I would go a step further with their variance and request that they construct their shed immediately adjacent to or within 5 feet of the east neighbors shed that currently encroaches on their side lot line so their new shed does not occupy the center of their yard. The properties look best when the lake side sheds are placed closest to the side lot lines and don't monopolize the open views of the lake."

McCreary questioned if petitioner is going to use a mortgage survey or if he has located the survey irons to determine setbacks. A survey was included in the packet.

Moved by Poissant, supported by Ledford, to approve case #15-11 for Mr. Christopher Chalka at 4405 Filbert Drive for construction of a detached accessory structure with a shoreline setback of 25 feet with a 122 foot shoreline variance to meet the shoreline setback requirement of 147 feet.

Finding of fact and extraordinary circumstances are due to the change in topography of the lot and there are several properties in the area that have small accessory buildings. Granting of the requested variance will not impair adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase danger of fire or endanger the public safety, comfort, morals or welfare of the inhabitants of the Township. Granting of requested variance will not interfere with or discourage the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood. Conditioned upon the structure being at least 5 feet from the existing structure that encroaches on the petitioner's property. **Motion carried unanimously.**

15-12 ... A request by James and Connie DeBrincat, 2608 Spring Grove, for a side yard setback variance in order to construct a detached accessory building.

Mr. DeBrincat was present for the petitioner. He would like to construct a 24 x28 garage on the south side of the property due to the terrain and the location of the septic field.

A call the public was made with no response.

McCreary questioned how the petitioner was going to access his garage and where the location of the reserve septic field is in case the existing one fails. The petitioner was not sure where the reserve field was located. The board members advised the petitioner to go to the Livingston County Health Department to locate the well and the reserve field. The petitioner should also demonstrate where the driveway would be located to access the garage.

Moved by Ledford, supported by Poissant to postpone case #15-12 to allow the petitioner time to locate a reserve septic field and a drawing showing access to the garage and to submit that information at the next scheduled meeting on July 21, 2015. **Motion carried unanimously.**

15-13 ... A request by Jess Peak, 3828 Highcrest, for a variance in order to construct a detached accessory building in the front yard.

Mr. Jess Peak was present for the petitioner. Mr. Peak stated due to the topography of the backyard and on the south side and the west side is a walkout basement that splits the hill into two sides it is difficult to meet the setbacks.

A call the public was made with no response.

Poissant stated that he would like to see it located where the current parking pad is now. McCreary questioned if the petitioner is keeping the existing parking pad and asphalt that is there now. The petitioner responded that he is.

Akers stated that the sewer line that runs from the main to the grinder pump is in the area where the petitioner would like to construct his structure. There are setbacks that have to be met from the line. The location of the line would need to be located which the Utility Department could help with. This could be handled at the permitting process.

Moved by Poissant, supported by Ledford to table case# 15-13, Jess Peak located at 3828 Highcrest, for a front yard variance until the July 21, 2015 Zoning Board of Appeals meeting to allow the petitioner time to locate utility lines. **Motion carried unanimously.**

15-14 ... A request by Tim Chouinard, 1185 Sunrise Park, for a side yard setback variance and a front yard setback variance to construct an attached garage and second story addition on an existing home.

Tim Chouinard of Chouinard Building, 932 Sunrise Park, was present for the petitioner. The owner purchased this property as a cottage and would like to make it a year round home. Mr. Chouinard stated that they have looked at this project every way to try to construct the new home without variances.

A call to the public was made with the following response: Mr. Akers read a letter into the record from Mr. John Dixon, 1195 Sunrise Park, "My name is John Dickson one of four listed on title and the neighbor living at 1195 Sunrise Park next to the project being proposed. The other three owners are my wife, daughter, and son in law. We have all viewed the proposed project and are strongly opposed to the 7 foot variance for the garage and upper story living quarters. The homes have only 20 feet separating them and this construction project would have the effect of placing a large wall that would block out our view and light in the back of our home. I would immediately take legal action to stop it if the variance is approved. I am more than certain that if the situation was reversed the applicants would do the same. I don't know what else to say other than we are shocked that such a large scale, view and lighting blocking project would be considered in such a tight and small area. It would decrease the value of our home and the enjoyment of living there. We sincerely hope the Board realizes this and have taken the steps of viewing that area to understand it."

Poissant feels that the neighbors do have an argument. Poissant stated that he could envision the other neighbors coming before the board and requesting the same thing.

McCreary questioned where the parking is for the homes in that area. Mr. Chouinard stated that there is a parking problem and would like to define where the parking is located on that lot.

McCreary stated that the area is open and would not be blocking their waterfront view. The petitioner stated that they are going to have to move the well. The owner stated that the shed and chimney is going to be removed.

Moved by Ledford, supported by Poissant, to table case #15-14, Tim Chouinard, located at 1185 Sunrise Park until the next July 21st, 2015 Zoning Board of Appeals meeting per petitioner's request. **Motion carried unanimously.**

Administrative Business:

1. **Approval of minutes:** **Moved** by Ledford, supported by Poissant to approve the May 19, 2015 Zoning Board of Appeals meeting minutes with corrections. **Motion carried unanimously.**
2. **Review of Rules of Procedure:** Akers drafted a proposed amendment to the ZBA procedures located in section 11 in regards to how many times a petitioner can request to be tabled. McCreary stated that if a new fee is required then it should be added into the amendment. Akers stated that part of the reason for the amendment is to be fair to the residents that come out for the hearing. Due to the

other members missing this month the board decided to wait until the next Zoning Board of Appeal meeting to decide on the amendment.

3. **Correspondence:** Akers included emails from Mr. Schinlinger in regards to land use, Right to Farm Act and summary of court cases and also a summary of bills regarding land use, the approval of keeping of pigeons and proposed legislature to make schools and charter schools work with local governments. McCreary asked Akers his opinion on public and charter schools not answering to the local governments. Akers stated that he feels that the schools are integral to community development and that having the ability for the local government to look at where a new school location is proposed and to for the local government to have input would be great for the communities. There are many cities that make it a point to have schools part of a neighborhood and the reason why is for children to be able to walk to school not on main corridors.
4. **Township Board Representative Report:** Ledford stated at the June 15, 2015 Township Board meeting they approved firework display permits and approved the Howell Area Parks and Recreation budget and approved the purchases of laptops and tablets to replace the older ones which the purchases will be staggered.
5. **Planning Commission Representative Report:** Figurski was not present.
6. **Zoning Official Report:** Akers stated that the office has been busy with permits and complaints. Also they have been working on the Capital Improvement Plan and code enforcement.
7. **Member Discussion:** Ledford stated that at a previous meeting she inquired about the recording secretary to sign the minutes when completed.
8. **Adjournment: Moved** by Poissant, supported by Ledford, to adjourn the meeting at 8:32 p.m. **Motion carried unanimously.**

Amy Ruthig
Recording Secretary