

**GENOA CHARTER TOWNSHIP  
ZONING BOARD OF APPEALS  
August 21, 2018 - 6:30 PM**

**MINUTES**

**Call to Order:** Vice-Chairperson McCreary called the regular meeting of the Zoning Board of Appeals to order at 6:30 pm at the Genoa Charter Township Hall. The members and staff of the Zoning Board of Appeals were present as follows: Dean Tengal, Jean Ledford, Maryanne McCreary, Bill Rockwell, Greg Rassel, and Amy Ruthig, Zoning Official.

**Pledge of Allegiance:** The Pledge of Allegiance was recited.

**Election of Officer:**

**Moved** by Board Member Ledford, Seconded by Board Member Rassel, to elect Board Member Dean Tengal as Chairman. **The motion carried unanimously.**

**Introduction:** The members of the Board introduced themselves.

**Approval of the Agenda:**

**Moved** by Board Member Rassel, seconded by Board Member McCreary, to approve the agenda as presented. **The motion carried unanimously.**

**Call to the Public:**

The call to the public was made at 6:33 pm with no response.

1. 18-19... A request by Marcel Normand, 4137 Clifford Drive, for a variance to create a lot with a detached accessory structure without a principal structure to be able to split the property. (Tabled from previous meeting)

Mr. Wayne Perry from Desine, Inc. was present to represent the applicant. He stated this variance will be temporary. The applicant is in the process of applying to have the property split. The property currently contains the Normand's residence as well as a large pole barn. If the property is split, the residence will be on a separate piece of property from the structure. There is someone interested in purchasing the property; however, they are waiting for the Zoning Board of Appeals decision. After the property

is sold, there will be a primary residence built on the property where the pole barn will located. When the home is built, the variance will no longer be needed.

There was a discussion regarding the time limit that should be placed on the completion of a home being built on the property. If the time limits are not met, then the accessory structure will need to be removed. The discussion continued to include the ZBA requiring that the buyer is aware of the conditions placed on the variance and how that would be communicated to them. There should be a buyer's disclosure prepared and presented to the Township as well as notes being placed in the Township's assessing records.

Ms. Ruthig noted that one of the conditions of approval should be that the existing structure cannot be expanded to cause it to become more non-conforming.

The call to the public was made at 6:45 pm with no response.

**Moved** by McCreary, seconded by Ledford, to approve Case #18-19 for Marcel Normand of 4137 Clifford Drive, Brighton for an applicant to split a property that will create a parcel consisting of an existing detached accessory with a principal structure, based on the following findings of fact:

- The current parcel was approved with the current out building on it. The structure was approved for a permit in 1993 and built in 1994 and at that time was permitted for its current zoning and in compliance.
- The availability of the property to be divided is unique with this parcel and granting this variance will give substantial justice to the current owner or potential new owner with the compliance figures we are placing regarding the variance and the strict compliances for allowing the outbuilding on the property or denying it after a time as such as a permit would have been expired.
- The property as it sits originaly is nonconforming and the need for the variance is not self created.
- The granting of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, comfort, morals or welfare of the inhabitants of the Township of Genoa.
- The proposed variance would have little or no impact on the appropriate development, continued use, or value of adjacent properties.

The granting of this variance is conditioned upon the following::

1. The seller will provide to the realtor and to the Township and his engineer the vacant land disclosure that will disclosure the terms of how the variance will be complied with.

2. That document will be provided to all parties upon the listing and the sale of the purchase of this property.
3. The applicant shall be required to completely remove the detached accessory structure under the following conditions:
  - a. If a permit to construct a new principal residence is not issued within 6 months of the split being approved by Township Assessor; and/or
  - b. If the applicant fails to obtain final occupancy certification from the Livingston County Building Department within 1 year of Land Use permit issuance.
  - c. Township staff shall have discretion to approve extensions to the above deadlines under proven special or extenuating circumstances but in no case shall that extension exceed 6 months for Item (a) or 12 months for Item (b).
4. The seller will be willing to sign an affidavit and the deed shall be recorded noting the variance and the terms of the variance for the split.
5. If improvements are requested for the expansion of the current accessory building, they shall comply with with Section 24.04.06 of the zoning ordinance.
6. The affidavit shall required township attorney approval and shall be recorded immediately after the split.
7. The accessory structure cannot be expanded.

**The motion carried (Rassel - no; Ledford - yes; Tengel - yes; McCreary - yes; Rockwell - yes) .**

2. 18-24 ... A request by Rachele Evers, 3120 E. Coon Lake Road, for a variance to construct a detached accessory structure in the front yard.

Ms. Rachel Evers was present. She stated that she is not able to place the structure in the rear of her property because the elevation is much higher and heavily wooded. There is also a drain field between the house and the rear of the property. If she was to place the building on the side of the home, it would require a setback variance. Additionally, the front door of her home faces the easement / driveway on the east side of her property and the home is ½ mile from Coon Lake Road.

Board Member McCreary disclosed that she knows the applicant; however, she does not feel she needs to excuse herself from this request as she can be fair when discussion and voting.

The call to the public was made at 7:28 pm with no response.

Chairman Tengal noted a letter of support was received from Amy McGuire of 3130 E. Coon Lake Road

**Moved** by Board Member Ledford, seconded by Board Member Rassel, to approve Case #18-24 for 3120 E Coon Lake Road Howell for Rachel Evers to allow the construction of a 40 x 30 detached accessory structure in the front yard, based on the following findings of fact:

- Variance is being requested from Genoa Township Zoning Ordinance Section 11.04.01(c) (1) and (2). There is a private easement servicing four parcels considered as a shared drive and not a private road.
- Township Staff determine the north line as the front lot line based on the shape of the parcel and the placement of the existing house with designates the east lot line as the front yard.
- Compliance with the strict letter of the ordinance would prevent the applicant from constructing a detached accessory structure, which are typical in this rural area of the Township and granting the variance would provide substantial justice to the applicant.
- The exceptional or extraordinary condition of the property is the location of the existing single family home, shape and topography of the lot and the location of the active and reserve septic system on the lot. The need for the variance is not self-created.
- The granting of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, comfort, morals or welfare of the inhabitants of the Township of Genoa.
- The proposed variance would have a limited impact on the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.

Approval of this variance is conditioned upon the following:

1. The detached accessory structure will be guttered with downspouts
2. The existing non-conforming structures will be removed prior to Certificate of Occupancy.

**The motion carried unanimously.**

3. 18-25 ... A request by John Kauffman and Jane Fayland, 1062 Sunrise Park, for a rear yard variance to construct a detached accessory structure.

John and Jane Kauffman were present. They have combined two properties and would like to build a detached accessory structure on the portion of the new property. It would

be placed at the rear property line, for a zero foot setback. This will allow the structure to be as far away from the alley as possible.

The call to the public was made at 7:45 pm with no response.

**Moved** by Board Member Rockwell, seconded by Board Member Rassel, to approve Case #18-25 for 1062 Sunrise Park for Lake Chemung LLC for a rear yard setback variance of 10 feet to construct a detached accessory structure, based on the following findings of fact:

1. Strict compliance with the rear yard setback would prevent the applicant from constructing the proposed detached accessory structure. There are existing detached accessory structures in the vicinity; therefore, construction of the garage would give the applicant substantial justice.
2. The exceptional or extraordinary condition of the property is the unique layout of the lot with the alley dissecting the parcel due to acquisition of additional land from the parcel to the west and the non-conforming location of the existing home not allowing for space to construct a detached accessory structure on the other side of the alley. The need for variance is not self-created.
3. The granting of this variance will not impair an adequate supply of light or air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, comfort, morals or welfare of the inhabitants of the Township of Genoa.
4. The proposed variances would have little or no impact on the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.

The approval is based on the following conditions:

- Lot combination must be finalized. Land Use Permit cannot be issued if it is not fully combined.
- Proof of acquisition of the additional 23 feet from parcel 11-09-201-197 must be by recorded deed in a form found acceptable by the Township Assessor.
- Drainage from the proposed structure must be maintained on the lot.
- The structure must be guttered with downspouts.
- Applicant must obtain and provide proof of permission from DTE to allow for the construction of the garage on the property line prior to issuance of a land use permit.
- In order for the lot combination to be finalized, staff must verify that summer taxes are paid.
- At no time can the owner prohibit use of the public alley

**The motion carried unanimously.**

4. 18-26 ... A request by Ron and Sue Measel, 824 Pathway, for a variance to construct a wall in the required waterfront yard for an outdoor kitchen.

Tim Chouinard and Mr. Measel were present. Mr. Chouinard stated they need a variance because the countertop for the outside kitchen is considered to be a wall. The practical difficulty would be that the barbeque cannot be next to the home for safety reasons.

Board Member McCreary noted that a waterfront setback variance was previously granted for this home. She is concerned it will block the view for the neighbors. Mr. Chouinard stated they are proposing to place landscape screening so it would not be visible to the neighbors. Mr. Measel stated they wanted to build the countertop so that the neighbors would see that instead of two barbeques and a pizza oven.

Chairman Tengal does not see a practical difficulty with the property. Board Member McCreary agrees. She does not see a hardship. Board Member Ledford agrees. They all agree that the proposed project would be an improvement to the property.

The call the public was made at 8:00 pm with no response.

Chairman Tengal stated that a letter of support from James and Cheryl Rider of 846 Pathway.

**Moved** by Rassel, seconded by Ledford, to deny Case #18-26 from Ron and Sue Measel, 824 Pathway, for a variance to construct a wall in the required waterfront yard for an outdoor kitchen, based on the following findings of fact:

- Strict compliance with the ordinance would prevent the applicant from installing the wall for the outdoor kitchen; however, it does not unreasonably prevent the use of the property. The granting of the requested variance would not provide substantial justice.
- The exceptional or extraordinary condition of the property is the location of the existing home. The need for the variance is self-created by the applicant. Variance would not make the property consistent with other properties in the vicinity.
- The granting of this variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, comfort, morals or welfare of the inhabitants of the Township of Genoa.

- The proposed variance would have little or no impact on the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.

**The motion carried (Rockwell - no; Ledford - yes; Tengel - yes; Rassel - yes; McCreary - yes)**

**Administrative Business:**

1. Approval of the minutes for the July 17, 2018 Zoning Board of Appeals Meeting.

There were some typographical changes that needed to be made.

**Moved** by Board Member Ledford, seconded by Board Member Rassel, to approve the July 17, 2018 Zoning Board of Appeals Meeting minutes with the changes noted. **The motion carried unanimously.**

2. Correspondence – There were no correspondence this evening.
3. Township Board Representative Report - Board Member Ledford provided a review of the Township Board meetings held on August 6 and August 20, 2018.
4. Planning Commission Representative Report – Board Member McCreary stated there was no Planning Commission meeting in August.
5. Zoning Official Report – Ms. Ruthig had nothing to report.
6. Member Discussion - There were no items discussed this evening.
7. Adjournment

**Moved** by Board Member Ledford, seconded by Board Member McCreary, to adjourn the meeting at 8:34 pm. **The motion carried unanimously.**

Respectfully submitted:

Patty Thomas, Recording Secretary