

RAY TOWNSHIP ZONING BOARD OF APPEALS  
MEETING MINUTES  
TUESDAY, July 28, 2020 AT 7:00 P.M.  
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Location: Ray Township Hall  
64255 Wolcott, Ray, MI 48096

Present: Harold DeMan Jr., Chairman  
Scott Mathews, Vice-Chairman  
Marvin DeBuck, Secretary  
Members: Tom Penzien  
Betty Youngblood

Absent: None

Also Present: Steve Cassin, Planning Consultant & Lisa Hall, Planning & Zoning Clerk  
Attendance record on file.

1. CALL TO ORDER- PLEDGE OF ALLEGIANCE AND ROLL CALL.

Chairman DeMan called the meeting to order at 7:00 p.m. The Pledge of Allegiance was recited.  
All members were present.

2. APPROVAL OF AGENDA

**MOTION by Youngblood supported by DeBuck to approve the agenda as presented.  
MOTION carried.**

3. APPROVAL OF MINUTES: May 12, 2020

**MOTION by Penzien supported by Youngblood to approve the meeting minutes of May 12, 2020 as amended.  
MOTION carried.**

4. Scheduled Public Hearings-

1. Request to vary Section 402, Yard Dimensions, Minimum Front Yard setback for 60300 Kunstman, Parcel 21-05-28-100-012, Frank Giglio, Applicant.

Chairman DeMan explained the public hearing procedure, the planner would explain the variance request so the audience will be informed on the variance request. Then the public hearing would be open for the public to comment remotely, state their name and address and state any comments they may have regarding the variance request.

**MOTION by Penzien supported by Mathews to open the public hearing at 7:02 p.m.  
MOTION carried.**

Mr. Cassin, Planning Consultant presented his findings and recommendation dated July 19,2020 as follows:

### GENERAL INFORMATION

Applicant: Frank L. Giglio  
Location: 60300 Kunstman Road (east side between 27 and 28 Mile Roads)  
Zoning District: R-1, Agricultural Residential  
Property ID: 05-28-100-012 (Case No. PZBA-20-001)  
Size of Parcel: 3.581 acres  
Action Requested: Variance to allow accessory structure in the front yard

Date of Review: July 19, 2020

## PROPERTY CHARACTERISTICS

The property located at 60300 Kunstman Road, between 27 Mile and 28 Mile Roads, is zoned R-1, Agricultural Residential. It is currently being developed with a single-family home, which is set back approximately 212 feet from the centerline of Kunstman Road.



View of Property from Kunstman Road (looking east)

## ANALYSIS OF VARIANCE REQUEST

The applicant is proposing to construct a 24' x 32' (768 square foot) detached accessory structure within the front yard, approximately 130' from the center line of the road.

Section 402 of the Ray Township Zoning Ordinance does not allow accessory structures to be constructed within the front yard. However, the applicant is requesting a variance due to the unique characteristics of the property, being the location of state regulated wetlands on the property. These wetlands severely restrict the ability to construct any building within the rear yard.



Approximate Location of the Existing Features on the Property in Relation to the Proposed Accessory Building

### AUTHORITY OF THE ZONING BOARD OF APPEALS

Section 2706 of the Ray Township Zoning Ordinance specifies that variances may be granted if the Zoning Board of Appeals finds that:

1. The strict enforcement of the Zoning Ordinance would cause practical difficulty and deprive the owner of rights enjoyed by all other property owners owning property zoning district.
2. The conditions and circumstances are unique to the subject property and are not similarly applicable to other properties in the same zoning district.
3. The conditions and circumstances unique to the property were not created by the owner or his/her predecessors in title, within the time following the effective date of the provisions alleged to adversely affect such property.
4. The requested variance will not confer special privileges that are denied other properties similarly situation and in the same zoning district.
5. The requested variance will not be contrary to the spirit and interest of the Township Zoning Ordinance.

### RECOMMENDATION

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The requested variance is based upon conditions which are unique to property, that make construction of an accessory building in the rear yard extremely difficult. In addition, the granting the variance would not be contrary to the spirit and intent of the Zoning Ordinance. **Therefore, I recommend approval of the variance as requested.**

DeMan read correspondence as follows:

7-14-2020 Dennis LeMieux, Building Official, the building department has no issues with the homeowner request. A large area behind the home is wetland area which is unbuildable.

DeMan asked if the applicant had any comments,

Mr. Giglio stated the area behind the home is not just wet, it is designated wetlands.

DeMan asked if there were any other comments.

Jim Murphy, 60360 Kunstman, lives on the adjacent parcel to the North. Stated he has spoken with Mr. Giglio about the elevation of the home. Concerned about drainage, can an engineered swale be put in to control the drainage, does not want to be flooded out, also make sure there is room behind the proposed accessory building for the swale. The elevation of the home is extreme, not sure that this is where or how to address this issue.

DeMan stated it is a good time.

Penzien stated this puts the concern on record.

DeMan stated Bob Beckett in the building department used to address runoff.

Murphy asked what the timing would be to make sure the drainage issue is addressed? Would like it contained before fall.

Mathews stated when putting up a building the gutters deflect the runoff to where the final grade of the land directs it.

Murphy stated he is not concerned about the elevation and where all the water is going to go, not just the runoff from the house.

Mathews asked how close the home is to the North property line?

Giglio stated he has confidence in his builder and is assuming that his builder will handle any water issues, however he cannot speak for the builder.

Penzien asked Murphy if the wetland area runs North onto his property?

Murphy stated controlling the water is his concern.

Mathews stated when you put up a structure you control the water, and where it goes. No one dumps their water where it will be standing and cause issues.

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Murphy stated there won't be any reason to control the water, before it was sitting on the ground at the grade, the concern is the slope.

Penzien asked where the water went before Giglio purchased the property? Did the water flow to Murphy's property prior to the purchase?

Giglio stated he does not know the source of the water in the wetlands.

Murphy stated he feels it should be an engineered swale.

Penzien asked if the property line is wooded?

DeMan stated the swale is the building departments concern, is sure the building department can handle can put comment in minutes.

Penzien stated there is a concern about surface drainage. Property tends to shed water to the South East.

Mathews stated when the final surface is graded, water can be split and can put where you want it to go.

Penzien asked Murphy if he is the adjacent parcel to the North?

DeMan stated building department will have to look at swale.

Murphy stated his in laws live at 28 Mile and Kunstman, they had an issue with water, a berm was created to direct the water flow, has never worked correctly. He stated he knows where the water flows from.

**MOTION by Penzien supported by Youngblood to close the public hearing at 7:16 p.m.**

**MOTION carried.**

**Board discussion:**

Penzien stated he is not sure if this is the correct time to bring the matter up, but why do we have the ordinance that does not allow accessory buildings in the front yard. Is it mostly aesthetics?

Cassin stated it is mostly aesthetics.

Penzien stated that Giglio mentions in his letter that the wetlands came to his attention after purchasing the property, should the previous owner have to disclose this?

DeMan stated it would be shown on a plot plan.

DeBuck stated should this be an inquiry by the purchaser.

Penzien stated these are beautiful lots, the wetlands are shown in Cassin's recommendation, the wetland takes up more than 1/3 of the parcel, still allows for house to be set where you like. Who is responsible to know where the wetlands are located?

DeBuck stated seems like the real estate agent should have shared the information.

Penzien stated realtor should know.

**MOTION by Penzien supported by DeBuck to approve the request to vary Section 402, Yard Dimensions, Minimum Front Yard setback for 60300 Kunstman, Parcel 21-05-28-100-012, Frank Giglio, Applicant and recommend building department address surface drainage on parcel.**

**FOR THIS MOTION: YES: Penzien, DeBuck, Youngblood, Mathews, DeMan  
NO: None**

**MOTION carried.**

5. Report from the Planning Commission Representative:

6. Public Comments.

Penzien reported the planning commission reviewed and approved two site plans at this month meeting. Sunrise gas station needed an addition for storage and Unique Clips is putting on an addition.

Cassin has been working on amending some of the zoning ordinances, a public hearing will be set to approve the amendments and send to the board to adopt.

Cassin has also been working on the parks and recreation master plan, a public hearing will be set for this too.

DeMan asked when the master plan will be reviewed again?

Cassin stated in 2021.

Penzien asked who is responsible for determining where the wetlands are, and who's responsibility it is to know about them and inform purchasers?

DeMan stated there should be more investigation on the buyers' part.

Cassin stated the responsibility to know usually falls on the purchaser.

Penzien asked what is the difference between floodplain and designated wetland.

Cassin stated the floodplain is the low-lying areas where water flows to and stands during significant rain events and floods, wetlands are designated areas that support wildlife and provide habitat for certain species.

DeMan stated you can also

7. Adjournment

**MOTION by Mathews supported by DeBuck to adjourn the meeting at 7:30p.m.**

**MOTION carried.**

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Harold DeMan, Chairman

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Marvin DeBuck, Secretary

\_\_\_\_\_  
Date

Respectfully submitted,  
Lisa Hall, Recording Secretary