GENOA TOWNSHIP
BOARD OF ZONING APPEALS
MARCH 20, 2012

Present:  Harry Goussetis, Chair
          Cybele Smith
          Curtis Williams
          David Dunn
          David Blair

Also Present: Joe Clase, Director of Development & Zoning
              Sara Walsh, Alternate

RE:        BZA 2012-03, 6581 Wilder Ct. (Ficken)
          BZA 2012-04, 5701 Sunbury Rd. (McGuire)

Mr. Goussetis called the meeting to order at 7:00 p.m.

OLD BUSINESS

Minutes – 1/24/12

Mr. Williams moved to approve the Minutes from January 24, 2012, as written. Motion was seconded by Ms. Smith. Roll call: Ms. Walsh, aye; Mr. Williams, aye; Mr. Goussetis, aye; Ms. Smith, aye; Mr. Blair, abstain since he was not present for that meeting. Motion carried.

NEW BUSINESS

BZA 2012-02, 6581 Wilder Ct. (Ficken)

This hearing began at 7:02 p.m.

Mr. Goussetis read the legal notice for the record, as follows:

CHARLES AND ELLEN FICKEN, REQUESTING A VARIANCE TO §806.06 OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW CONSTRUCTION OF A GARAGE TO ENCROACH INTO THE REQUIRED MINIMUM SIDE SETBACK ON LOT 1093 OF THE PLEASANT CORNERS SUBDIVISION, 6581 WILDER COURT, A SUBURBAN RESIDENTIAL (SR) ZONING DISTRICT.

Mr. Goussetis asked everyone to sign the sign-in sheet and directed those who wished to speak to stand and be sworn in.
Mr. Goussetis marked the following as Exhibits:

Exhibit “A” – Legal Notice
Exhibit “B” – Sign-in Sheet
Exhibit “C” - Application
Exhibit “D” – Staff Report, dated 3/20/12
Exhibit “E” – Letter from Jim & Jane Sagraves, dated 2/28/12
Exhibit “F” – Letter from David & Julie Henshaw, dated 3/15/12
Exhibit “G” – Letter from Jeff & Judy Cullins, dated 2/9/12

Shawn McNeil, Just Garages, appeared on behalf of the applicant and presented the application to the Board. Mr. McNeil stated that applicant is requesting to construct an additional bay onto his existing garage, which would encroach into the required side setback. Applicant considered building a detached garage to alleviate the need for a variance, but determined that it was not feasible. He believes applicant is justified in requesting this variance due to the angled shape of the lot. Mr. Goussetis asked what the distance would be to the adjacent building with the proposed encroachment. Mr. McNeil testified that, although he is not sure of the exact distance, the two buildings would be a good distance apart.

Mr. McNeil stated that applicant has contacted all of his surrounding neighbors with respect to the proposed garage, and none of them seem to have any concerns. He submitted three letters to the Board provided by some of those property owners who are in favor of the requested variance. Mr. Goussetis accepted those letters into evidence as noted above.

Mr. Clase briefly reviewed the Staff report, stating that when the house was originally built, it was constructed closer to the road than designated on the plot plan. As a result, applicant is now faced with requesting the variance at issue. He stated that were this variance approved, the new construction would still be located approximately 18 feet from the adjacent building.

Public Comment:

None.

Board Comment:

At this time, Duncan v. Middlefield, was reviewed by Ms. Smith, as follows:

(a) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance. The Board deemed that the property in question would yield a reasonable return and there can be beneficial use of the property without the variance.
(b) Whether the variance is substantial. The Board deemed that the variance is substantial since it is approximately fifty percent (50%) more than the Zoning Resolution allows.

(c) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance. The Board deemed that the essential character of the neighborhood would not be substantially altered nor would adjoining properties suffer a substantial detriment as a result of the variance, as evidenced by Exhibits “E” through “G”.

(d) Whether the variance would adversely affect the delivery of governmental services, (i.e., water, sewage, garbage). The Board deemed that the variance would not adversely affect the delivery of governmental services.

(e) Whether the property owner purchased the property with knowledge of the zoning restriction. The Board deemed that the property owner did not have knowledge of the zoning restriction at the time of the purchase of the property.

(f) Whether the property owner's predicament feasibly can be obviated through some method other than a variance. The Board deemed that the owner's predicament can feasibly be obviated through a method other than the requested variance by construction of a detached garage.

(g) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. The Board deemed that the spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance.

Ms. Smith moved, incorporating Exhibits “A” through “G” into evidence, to approve a variance for BZA 2012-03, dated February 10, 2012, to allow Charles and Ellen Ficken, to construct a garage which would encroach fifty percent (50%) into the required side yard setback pursuant to §806.06 of the Genoa Township Zoning Resolution, on Lot 1093 of the Pleasant Corners subdivision, located at 6581 Wilder Court, a Suburban Residential (SR) Zoning District, based on the following findings of fact:

(a) The property in question would yield a reasonable return and there can be beneficial use of the property without the variance.

(b) The variance is substantial since it is approximately fifty percent (50%) more than the Zoning Resolution allows.

(c) The essential character of the neighborhood would not be substantially altered and the adjoining properties would not suffer a substantial detriment as a result of the variance.

(d) The variance would not adversely affect the delivery of governmental services.

(e) The property owner did not purchase the property with knowledge of the zoning restriction.
(f) The property owner's predicament can feasibly be obviated through a method other than the variance.

(g) The spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance.

Motion was seconded by Ms. Walsh. Roll call: Mr. Goussetis, aye; Mr. Blair, aye; Ms. Smith, aye; Mr. Williams, aye; Ms. Walsh, aye. Motion carried.

This hearing ended at 7:20 p.m.

BZA 2012-04, 5701 Sunbury Rd. (McGuire)

This hearing began at 7:21 p.m.

Mr. Goussetis read the legal notice for the record, as follows:

JAMES AND SHAYLA MCGUIRE, REQUESTING A VARIANCE TO §2002.03 OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW CONSTRUCTION OF A FENCE IN EXCESS OF THE MAXIMUM HEIGHT OF THIRTY INCHES BETWEEN THE STREET RIGHT-OF-WAY AND THE BUILDING SETBACK LINE, ON LOT 1337 OF THE PLEASANT HILLS SUBDIVISION, 5701 SUNBURY ROAD, A RURAL RESIDENTIAL (RR) ZONING DISTRICT.

Mr. Goussetis asked everyone to sign the sign-in sheet and directed those who wished to speak to stand and be sworn in.

Mr. Goussetis marked the following as Exhibits:

Exhibit “A” -- Legal Notice
Exhibit “B” – Sign-in Sheet
Exhibit “C” - Application
Exhibit “D” – Staff Report, dated 3/20/12

Phil Hartmann, attorney, appeared on behalf of the applicants and presented the application to the Board. Mr. Hartmann stated that applicant is requesting a variance from the maximum height of a fence located between the street right-of-way and the building setback line as designated by the Genoa Township Zoning Resolution. Applicant is proposing to construct an entrance feature and fence along the front of their property. They have agreed to all the stipulations set forth by the Genoa Township Fire Department with respect to that structure.

Mr. Goussetis stated that two issues were not addressed in the application: (1) why does applicant want such a massive fence; and (2) what is the uniqueness of the lot to warrant the requested variance. The Board believes that the proposed fence is not consistent with the rural character of the community. Mr. Hartmann stated that the
uniqueness of this property is the location of the right-of-way on this particular property which is different from other properties in the same vicinity, citing other lots with fences and gates which are located closer to the road. The Board suggested applicant consider amending their proposal.

Mr. Clase briefly reviewed the Staff report and the property at issue along with surrounding zoning districts. He also reviewed the placement of the right-of-way line in that area.

At this time, Mr. Hartmann requested time to consult with his clients to discuss possibly amending their variance request. The Board agreed.

Ms. Walsh moved to continue Application ZC 2012-04, until April 24, 2012 at 7:00 p.m. All additional materials are required to be submitted to the Development and Zoning Office no later than 12:00 noon on April 6, 2012. Motion was seconded by Ms. Smith. Vote: all ayes. Motion carried.

This hearing ended at 7:53 p.m.

Mr. Goussetis moved to adjourn. Motion was seconded by Mr. Williams. Vote: all ayes. Meeting adjourned at 7:54 p.m.

Respectfully submitted,

Vicki L. Stainer
Zoning Secretary

Date Approved: [Signature]
Harry Goussetis, Chair