GENOA TOWNSHIP
BOARD OF ZONING APPEALS
JUNE 26, 2012

Present: Harry Goussetis, Chair
Curtis Williams
David Dunn
Mark Harmon
Mark Antonetz, Alternate

Also Present: Joe Clase, Director of Development & Zoning

RE: BZA 2012-05 (6510 Walnut Valley Dr.)
BZA 2012-07 (7960 Lewis Center Rd.)
BZA 2012-08 (6019 Sunbury Rd.)

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

OLD BUSINESS

Minutes – 5/22/12

Mr. Williams moved to approve the Minutes from May 22, 2012, as corrected. Motion was seconded by Mr. Harmon. Roll call: Mr. Antonetz, abstain; Mr. Harmon, aye; Mr. Williams, aye; Mr. Dunn, aye; Mr. Goussetis, aye. Motion carried.

The corrections to the minutes were as follows:

Page 1, paragraph 2, sentence 2:

Roll call: Ms. Smith, aye; Mr. Harmon, aye; Mr. Williams, aye; Mr. Dunn, aye; Mr. Goussetis, abstain since he was not present for that meeting.

BZA 2012-05 (6510 Walnut Valley Dr.)(Buckeye Boat Club)

This hearing began at 7:02 p.m.

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

BUCKEYE BOAT CLUB, REQUESTING A VARIANCE TO §2102 OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW LIGHTING TO DEVIATE FROM WHAT IS REQUIRED, ON PROPERTY LOCATED AT
6510 WALNUT VALLEY DRIVE, A RURAL RESIDENTIAL (RR) ZONING DISTRICT.

Mr. Goussetis stated that the initial hearing on this matter was held on May 22, 2012. All evidence and testimony presented at that hearing will be incorporated into this hearing. He then asked everyone to sign the sign-in sheet and directed those who wished to speak to stand and be sworn in.

Exhibit “E” – Legal Notice
Exhibit “F” – Sign-in Sheet
Exhibit “G” - Application
Exhibit “H” – Staff Report, dated 6/26/12
Exhibit “I” – Letter from Donald Hall, dated 6/26/12

Jim Horan, Commodore of the Buckeye Boat Club (“BBC”), stated that they made the modifications to the lights discussed at the previous hearing; one open bottom light was removed from the maintenance building, nine open bottom lights were replaced with 100 watt floodlights and four other flood lights were adjusted toward the ground. They also hired an outside independent lighting engineer, Donald Hall, to take readings prior to and after the modifications were made. Mr. Horan stated that Mr. Clase was also in attendance to witness the readings.

Mr. Hall reiterated that he took readings on the lights both before the modifications to the fixtures were made and then again afterward. Mr. Hall testified that after the lighting was changed, they had a difficult time acquiring any readings showing that the amount of projected lighting onto other properties was either greatly reduced or eliminated completely.

Mr. Clase stated that he participated in the two site visits outlined by Mr. Hall. After the second site visit the Township found the BBC to be in compliance with Article 21 of the Genoa Township Zoning Resolution and expects that the improvements made to the lighting will remain compliant through the winter and fall seasons. However, Mr. Clase stated that the fact that the lights do not specifically meet the compliance examples mentioned in the Zoning Resolution, staff recommended that the applicant continue to pursue this variance application. Mr. Clase briefly reviewed the staff report and recommendations with respect to this matter. He believes the applicant attempted to resolve all the concerns brought forward at the previous hearing and staff believes they have successfully oriented the lighting so as not to cast on any neighboring properties today. The existing deviations appear to be minimal and, in keeping with the spirit and intent of the Code, staff has no objections to granting the variance requested.
Public Comment:

Bob Spencer (5833 Red Bank Rd.)

Mr. Spencer reiterated that the primary reason for this hearing is the fact that the BBC did not follow the proper zoning procedure prior to installing the existing lighting, and believes they should be held accountable for their actions. Mr. Spencer does not believe that the modifications made to the lighting make the applicant now compliant, and believes that once the leaves are off the trees, the lighting will still shine onto his property. Mr. Spencer believes that the lights should be turned off when they are not needed, especially during the winter months.

Board Comment:

Mr. Goussetis asked Mr. Horan what the BBC’s position was with respect to turning off the lights during the off-season. Mr. Horan stated that the BBC does not have an off season. The public uses the reservoir all year long, therefore, they believe it is necessary to keep the lights on for the safety and security of their members. In addition, Mr. Horan testified that the lights are in the control of AEP and they are not able to turn them on or off at any given time.

The Board reviewed *Duncan v. Middlefield*, 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 could 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 20% 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 neighborhood would not be substantially altered nor would the adjoining properties suffer a substantial detriment as a result of the variance.**

(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 purchase the property with knowledge of the zoning restriction.**

(f) Whether the property owner’s predicament feasibly can be obviated through some method other than a variance. **The Board deemed that the property**
owner's predicament can feasibly be obviated through a method other than a variance.

(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.

Mr. Harmon was present at the second reading after the lights were modified and he believes the applicant has done everything possible to rectify the lighting problems and believes it is reasonable to say that the lighting does not now reflect on the adjoining properties.

Mr. Dunn believes that the existing lighting, as modified, is reasonable; however, he is still concerned with how the lighting will affect the adjoining property owners once the trees shed their leaves, and does not understand why the some of the lights cannot be turned off during the off season.

Mr. Dunn moved, incorporating Exhibits “A” through “I” into evidence, to approve a variance for BZA 2012-05, dated April 26, 2012, along with all testimony and exhibits submitted at this hearing, to allow Buckeye Boat Club to deviate from §2102 of the Genoa Township Zoning Resolution for required lighting, on property located at 6510 Walnut Valley Drive, a Rural Residential (RR) 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 twenty percent (20%) 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 that substantial justice would be done by granting the variance.

Motion was seconded by Mr. Harmon. Roll call: Mr. Goussetis, aye; Mr. Harmon, aye; Mr. Dunn, nay; Mr. Williams, aye; Mr. Antonetz, aye. Motion carried.

This hearing ended at 7:52 p.m.
NEW BUSINESS

BZA 2012-07 (7960 Lewis Center Rd.)

This hearing began at 7:54 p.m.

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

DANIEL STAHL, REQUESTING A VARIANCE TO §1609.01(E) OF THE GENOA TOWNSHIP ZONING RESOLUTION, FOR CONSTRUCTION OF AN ACCESSORY BUILDING LARGER THAN THE MAXIMUM 1200 SQUARE FEET ALLOWED ON A ONE TO THREE ACRE PARCEL, ON PROPERTY LOCATED AT 7960 LEWIS CENTER 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.

Exhibit “A” – Legal Notice
Exhibit “B” – Sign-in Sheet
Exhibit “C” - Application
Exhibit “D” – Staff Report, dated 6/26/12

Daniel Stahl appeared and presented his application to the Board. Mr. Stahl stated that he is proposing construction of a detached garage which is larger than his existing garage. His property is approximately two acres and testified that the proposed garage would still be smaller than the principal structure on the property. Mr. Stahl stated that his mother owns approximately 17 acres to the south and west of his property. He believes the adjoining properties to the east and north will not be impacted by the proposed structure and those property owners have not objected to the requested variance. He testified that the proposed accessory structure will be used for personal storage only.

Mr. Clase briefly reviewed the staff report along with the history of the property. The scenario was discussed that if the applicant’s mother were to deed additional land to Mr. Stahl that, although the property would be compliant for the proposed accessory structure, the use of the land would not change making this a less desirable outcome than a variance.

Public Comment:

None.

Board Comment:
The Board reviewed *Duncan v. Middlefield*, 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 145% 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.**

(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 purchase the property with knowledge of the zoning restriction.**

(f) Whether the property owner's predicament feasibly can be obviated through some method other than a variance. **The Board deemed that the property owner's predicament can feasibly be obviated through some method other than a variance.**

(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.**

Mr. Dunn moved, incorporating Exhibits “A” through “D” into evidence, to approve a variance for BZA 2012-07, dated June 4, 2012, to allow construction of an accessory building larger than the maximum 1200 square feet allowed on a one to three acre parcel, on property located at 7960 Lewis Center Road, a Rural Residential (RR) 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 one hundred forty-five percent (145%) 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 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 Mr. Harmon. Roll call: Mr. Goussetis, aye; Mr. Harmon, aye; Mr. Dunn, aye; Mr. Williams, aye; Mr. Antonetz, aye. Motion carried.

This hearing ended at 8:07 p.m.

BZA 2012-08 (6019 Sunbury Rd.)

This hearing began at 8:08 p.m.

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

STEVEN AND CHARLESSA ANDERSON, REQUESTING A MODIFICATION OF A VARIANCE (ORIGINALY GRANTED ON 1/24/12) TO §606.07 OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW CONSTRUCTION OF AN ADDITION TO ENCROACH INTO THE REQUIRED SIDE YARD SETBACK AND §1609.01(A) TO ALLOW AN ACCESSORY BUILDING IN THE FRONT YARD, ON LOT 108 OF THE FICHTELMAN SUBDIVISION, 6019 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.

Exhibit “A” – Legal Notice
Exhibit “B” – Sign-in Sheet
Exhibit “C” – Application
Exhibit “D” – Staff Report, dated 6/26/12
Exhibit “E” – Letter from Herb Platt, dated 6/17/12
Exhibit “F” – Letter from Al Gutin, dated 6/12/12

Gary Dunn appeared on behalf of the applicant and presented the application to the Board. Mr. Anderson also appeared and assisted in the presentation. Mr. Dunn stated that as construction proceeded following the initial hearing, it was discovered that the garage was being built on top of a high pressure gas main. OUPS had not previously marked that gas main prior to the initial hearing. As a result, construction was halted and applicant was directed by Columbia Gas to redesign the proposed
garage. Applicant considered several additional options and then met with Columbia Gas. Columbia Gas rejected all options presented to them except the one submitted to the Board with the pending application. The existing partial structure will be completely removed and the land restored to its previous condition.

Mr. Goussetis asked Mr. Dunn to explain the differences from what was originally approved by variance to the structure now being proposed. After doing so, Mr. Goussetis stated that the new proposal was extremely close to the property line. Mr. Dunn stated that there is a substantial tree line between applicant's property and the adjacent property which would substantially screen the proposed structure from the adjoining property owner. Mr. Goussetis asked Mr. Dunn to address any other alternatives that are available to the applicant without the need to request a variance. Mr. Dunn stated that the only alternative was to construct an attached one car garage and then a detached two car garage. That alternative would still require a variance due to the fact that the applicant would not have a two-car attached garage as required by the Zoning Resolution. Applicants believe this is not an option as it is not conducive to their needs.

Mr. Anderson stated that he spoke with his adjacent neighbors and both of them support Mr. Anderson's request. Mr. Anderson supplied letters for the Board from both property owners supporting his request.

Mr. Clase reviewed the staff report along with a brief history of the property. Mr. Clase reiterated that he also reviewed two other options, and noted for the Board that both of those options would also require a variance. He stated that the option before the Board, would be the least invasive variance of any of the other options he reviewed. Mr. Clase noted that this property is already a legally non-conforming property; however, the addition of an attached two car garage would eliminate one of the non-conformities. No negative comments were received by the Township upon notification signage being placed on applicant's property.

Mr. Williams asked what the distance would be from the proposed garage to the adjacent house. Mr. Clase stated that the distance was approximately 57 feet at its closest point.

Public Comment:

None.

Board Comment:

The Board reviewed *Duncan v. Middlefield*, 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 69% 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.

(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 purchase the property with knowledge of the zoning restriction.

(f) Whether the property owner’s predicament feasibly can be obviated through some method other than a variance. The Board deemed that the property owner’s predicament cannot feasibly be obviated through some method other than a variance.

(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.

Mr. Dunn moved, incorporating Exhibits “A” through “F” into evidence, to approve a variance for BZA 2012-08, dated June 6, 2012, to allow construction of an addition to encroach into the required side yard setback and to allow an accessory building in the front yard, on Lot 108 of the Fichtelman subdivision, 6019 Sunbury Road, a Rural Residential (RR) 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 sixty-nine percent (69%) 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 purchase the property with knowledge of the zoning restriction.
(f) The property owner's predicament cannot 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 Mr. Harmon. Roll call: Mr. Goussetis, aye; Mr. Harmon, aye; Mr. Dunn, aye; Mr. Williams, aye; Mr. Antonetz, aye. Motion carried.

This hearing ended at 8:42 p.m.

Mr. Dunn moved to adjourn this meeting. Motion was seconded by Mr. Antonetz. Vote: all ayes. Meeting adjourned at 8:44 p.m.

Respectfully submitted,

Vicki L. Stainer
Zoning Secretary

Date Approved: 9-25-19

Harry Goussetis, Chair