GENOA TOWNSHIP
BOARD OF ZONING APPEALS
NOVEMBER 27, 2012

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

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

RE: BZA 2012-11 (6155 Jaycox Rd.)
    BZA 2012-12 (7740 Park Bend Dr.)

Mr. Goussetis called the meeting to order at 7:02 p.m.

OLD BUSINESS

Minutes – 10/23/12

Mr. Harmon moved to approve the Minutes from October 23, 2012, as written. Motion was seconded by Ms. Smith. Roll call: Mr. Williams, abstain; Mr. Goussetis, aye; Ms. Smith, abstain; Mr. Harmon, aye; Mr. Dunn, aye. Motion carried.

NEW BUSINESS

BZA 2012-11

This hearing began at 7:03 p.m.

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

PATRICK D. PAYKOFF, LTD., REQUESTING A VARIANCE TO §606.01 OF THE GENOA TOWNSHIP ZONING RESOLUTION REGARDING A LOT SPLIT OF PARCEL NUMBER 31722001042000, TO ALLOW FOR THREE SEPARATE PARCELS OF LESS THAN THE MINIMUM TWO (2) ACRE REQUIREMENT ON PROPERTY LOCATED AT 6155 JAYCOX 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 11/27/12
Exhibit “E” – Aerial of Property

Mr. Paykoff appeared and presented the facts of the case to the Board. Mr. Paykoff stated that he purchased the property in January, 2010. He would like to split the property into three separate parcels prior to development of the property. The purpose of the variance would allow Mr. Paykoff to split this parcel into three lots which would be less than the two acre minimum requirement of the Zoning Resolution for lots in a Rural Residential (RR) Zoning District. The proposed lots would be served by Delaware County sanitary sewer. Mr. Paykoff also stated that all engineering has been done for the proposed lots, including sight distance for the driveways.

Mr. Clase gave the history of the property along with a summarization of the staff report submitted to the Board with respect to this matter. He stated that the property is surrounded by Sheffield Park subdivision on the north, east and west side, with larger lots to the south on Jaycox Road. Mr. Clase stated that the property can be utilized as a 3.8 acre site as it currently exists; however, with current zoning there is not an opportunity to split the property without the need for a variance. The proposed size of the lots would be consistent with the majority of the area. The Zoning Office did not receive any negative comments with respect to this requested variance.

Public Comment:

John Streit (6090 Jaycox Rd.)

Mr. Streit asked what the applicant was planning on building on those lots if the variance is approved. Mr. Paykoff stated that houses similar to those in Sheffield Park would be built on those sites.

Board Comment:

At this time, the Board reviewed the criteria in Duncan v. Middlefield, as follows:

(a) Whether the property in question would 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 forty percent (40%) less 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 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 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 a method other than the 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 “E” into evidence, to approve a variance for BZA 2012-11, dated November 8, 2012, regarding a lot split of parcel number 31722001042000, to allow for three separate parcels of less than the minimum two (2) acre requirement on property located at 6155 Jaycox 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 forty percent (40%) less 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 Ms. Smith. Roll call: Mr. Gousettis, aye; Mr. Harmon, aye; Ms. Smith, aye; Mr. Dunn, aye; Mr. Williams, aye. Motion carried.

This hearing ended at 7:22 p.m.

BZA 2012-12 (7740 Park Bend Dr.)

This hearing began at 7:23 p.m.

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

ELAINE T. WEBB, TRUSTEE, REQUESTING A VARIANCE TO §909.01(A) OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW A REDUCTION OF THE MINIMUM SIDE SETBACK ON LOT NO. 5554 IN SECTION 6, PHASE 1, OF THE HARVEST WIND SUBDIVISION, 7740 PARK BEND DRIVE, A PLANNED RESIDENTIAL (PRD) ZONING DISTRICT.

Mr. Gousettis 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, 11/27/12

David Denniston, CT Consultants, appeared on behalf of the applicant and presented the facts of the case to the Board. Mr. Denniston stated that Lot 5554 of the Harvest Wind subdivision is a smaller lot and the developer is unable to build a house comparable to the size of the other houses within the subdivision. Therefore, they are requesting a reduction of the side setback in order to increase the building envelope on that lot. He testified that the Delaware County Engineer’s Office has also agreed to vacate five feet of an existing twenty-foot drainage easement on the other side of the lot. Mr. Denniston also testified that there is an approximate 32-foot wide open space coupled with a common access drive adjacent to the lot where the setback will be reduced.

Mr. Clase gave a the history of the property along with a summarization of the staff report submitted to the Board. Mr. Clase stated that this property was platted in 2001, and has remained undeveloped likely because of the size of the lot. The Zoning Office did receive correspondence from a resident with request to this proposal voicing some concerns; however, those concerns were addressed by the applicant prior to this hearing.
Public Comment:

Richard Gray (7576 Park Bend Dr.)

Mr. Gray believes that if development was allowed on the lot, it would increase the drainage issue that he now has in his rear yard and in the existing detention pond. The developer should not be permitted to squeeze a large home on that lot which could potentially decrease the value of the surrounding homes.

Ed Kent (7760 Park Bend Dr.)

Mr. Kent, who is also a trustee of their Homeowners’ Association, believes the variance should be approved to prevent someone from building a smaller home, which is not comparable to those in the subdivision. A smaller home would definitely decrease the value of the surrounding homes.

Board Comment:

The Board reviewed the criteria in *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 fifty percent (50%) less 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 delivery of governmental services would not be adversely affected.

(e) Whether the property owner purchased the property with knowledge of the zoning restriction. The Board deemed that the property owner did have knowledge of the zoning restriction when he purchased 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 property owner’s predicament can feasibly be obviated through some method other than the requested 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 2012-12, dated November 8, 2012, to allow a reduction of the minimum side setback on Lot No. 5554 in Section 6, Phase 1 of the Harvest Wind Subdivision, 7740 Park Bend Drive, a Planned Residential (PRD) 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%) less 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. Williams. Roll call: Mr. Goussetis, aye; Mr. Harmon, aye; Ms. Smith, aye; Mr. Dunn, aye; Mr. Williams, aye. Motion carried.

This hearing ended at 7:48 p.m.

OTHER BUSINESS

Mr. Dunn moved to approve the 2013 Zoning Calendar, as presented. Motion was seconded by Mr. Harmon. Roll call: all ayes. Motion carried.

Mr. Dunn moved to adjourn at 7:50 p.m. Motion was seconded by Mr. Harmon. Vote: all ayes. Motion carried.

Respectfully submitted,

Vicki L. Stainer
Zoning Secretary
Date Approved: 10-18-18

Harry Goussetis, Chair