Present: Harry Goussetis, Chair
      Mark Harmon
      Cybele Smith
      David Dunn
      Sara Walsh

Also Present: Theresa Yu, Alternate
      Susan Dorsch, Permit & Compliance Inspector

RE: BZA 2013-03, 4277 Sunbury Rd. (Leslie)

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

OLD BUSINESS

Minutes – 4/23/13

Mr. Harmon moved to approve the Minutes from April 23, 2013, as amended. Motion was seconded by Mr. Dunn. Roll call: Mr. Goussetis, aye; Mr. Harmon, aye; Mr. Dunn, aye; Ms. Walsh, aye; Ms. Smith, abstain. Motion carried.

NEW BUSINESS

BZA 2013-03 (4277 Sunbury Rd. – Leslie)

This hearing began at 7:02 p.m.

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

DREW AND TRISHA LESLIE, REQUESTING A VARIANCE TO §606.01 OF THE GENOA TOWNSHIP ZONING RESOLUTION, TO ALLOW FOR A LOT SPLIT OF LESS THAN THE REQUIRED TWO ACRES, LOCATED AT 4277 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 6/25/13

Mr. Leslie appeared and presented his application information to the Board. Mr. Leslie stated that they are interested in splitting their lot into two separate parcels. Due to the location of the existing house, the land to the rear of the house is largely unused and applicant would like to create an additional lot, which would become the final lot in the Hoover Woods subdivision. Applicant believes that it would be beneficial to the aesthetics of Hoover Woods to create and develop this additional lot. Mr. Leslie stated that with the sale of the new lot, he would stipulate that the driveway be located off of Hoover Woods and not Sunbury Road.

The additional lot created would be a total of approximately 1.6 acres, which is less than the Zoning Resolution allows in the Rural Residential Zoning District. Applicant stated that they are unable to split off the required two acres due to the location of the leach field for the existing house. In the event this variance is approved, applicant already has someone who is interested in purchasing this additional lot. He requested that the Board require the new owner to be a member of the current Hoover Woods Homeowner’s Association.

Mr. Goussetis asked Mr. Leslie if he looked at reconfiguring the lot split so as not to require a variance to do so. Mr. Leslie stated that he researched other ways of splitting the lot, but believes the proposal submitted is the best location for the lot split in that it will be more aesthetically pleasing to the rest of the Hoover Woods subdivision.

Mr. Dunn asked if the new lot would be on a septic system or if it would be tied into the sanitary sewer. Mr. Leslie stated that it would be connected to the sanitary sewer line. Mr. Dunn asked if the existing home could also be connected to the sanitary sewer line so the lot could be split in a compliant manner consistent with the Zoning Resolution. Mr. Leslie stated that it's possible, but that they would incur a large expense in not only the tap fee to the sanitary sewer, but also to remove the existing leach field.

Ms. Dorsch reviewed the staff report and gave a brief background of this property. Ms. Dorsch stated that the existing house was built in 1987 and is located in the center of the property. The requested variance is approximately 20% less than the required two-acre parcel in this zoning district. Ms. Dorsch stated that the required 1.6 acre lot size is consistent with the other lots in the Hoover Woods subdivision. Staff agrees that the potential owner of the new lot should be a member of the Hoover Woods subdivision and should be required to comply with their deed restrictions.
Public Comment:

Terrence Yates (10333 Hoover Woods Rd.)

Mr. Yates stated that he is the President of the Hoover Woods Homeowners' Association. On behalf of Hoover Woods, he stated that the majority of the subdivision supports the requested lot split as long as the new lot and homeowners are to become a part of the Hoover Woods Homeowners' Association, pay the Association fees, and be required to comply with their deed restrictions.

Maria Calderone (4361 Sunbury Rd.)

Ms. Calderone asked if the potential owner of the subdivided lot would be required to meet the current setbacks outlined by the Zoning Resolution for this zoning district. Mr. Goussetis reassured Ms. Calderone that the potential development of this lot would be required to be compliant with the current Zoning Resolution restrictions.

J.D. Niceswanger (4337 Sunbury Rd.)

Mr. Niceswanger asked where the placement would be for the new home on the lot. Mr. Leslie indicated its location on the lot for Mr. Niceswanger.

Tom Tomastik (10194 Galena Pointe Dr.)

Mr. Tomastik stated that he is in negotiations with Mr. and Mrs. Leslie for the purchase of the new lot if this variance is approved. Mr. Tomastik stated that he is well aware of the current zoning requirements as he was a board member of the Zoning Commission for several years. He is currently working with a builder to develop an approximate 2,700 square foot ranch home to be built on this lot. He also stated that they would be more than willing to accept the requirement that they be made a part of the Hoover Woods Homeowners' Association and will abide by their deed restrictions. Mr. Tomastik stated that, at this time, he has no intention of approaching the Board with further variance requests.

Carol Wood (9877 Hoover Woods Rd.)

Ms. Wood asked for clarification what the width of the proposed house would be. Mr. Tomastik stated that it would be approximately 80 feet wide.

Board Comment:

Mr. Goussetis asked Mr. Leslie if this variance is granted, would he be amenable to the condition that his remaining lot could not be again subdivided in the future. Mr. Leslie agreed to that proposed stipulation.

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 would not yield a reasonable return and there can be no beneficial use of the property without the variance.

(b) Whether the variance is substantial. The Board deemed that the variance is substantial in that it is 20% less that the Zoning Resolution requires.

(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 have knowledge of the zoning restriction at the time they 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 feasibly cannot be obviated through some method other than a variance without substantial expense incurred by the property owner.

(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 2013-03, dated June 7, 2013, to allow a lot split of less than the required two (2) acres to be approximately 1.6 acres, located at 4277 Sunbury Road, a Rural Residential (RR) Zoning District, based on the following findings of fact:

(a) The property in question would not yield a reasonable return and there cannot be beneficial use of the property without the variance.

(b) The variance is substantial since it is approximately twenty percent (20%) less than the Zoning Resolution requires.

(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 the 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.

Approval of this variance is subject to the owner's agreement to the following conditions:

1. The new lot owner will be a member of the Hoover Woods Homeowners' Association and will comply with the Hoover Woods Covenants by recording a reference to this effect in their deed for this new 1.6 acre lot.
2. The applicant agrees to limit any future lot splits to this variance only.
3. The new lot owner will not seek variances in the future concerning setbacks and accessory buildings.

Motion was seconded by Ms. Smith. Vote: Ms. Walsh, aye; Mr. Dunn, aye; Ms. Smith, aye; Mr. Harmon, aye; Mr. Goussetis, aye. Motion carried.

This hearing ended at 7:54 p.m.

ADDITIONAL BUSINESS

None.

Mr. Dunn moved to adjourn at 7:54 p.m. Motion was seconded by Mr. Harmon. Vote: all ayes. Motion carried.

Respectfully submitted,

Vicki L. Stainer
Zoning Secretary

Date Approved: 7/2/12

Harry Goussetis, Chair