GENOA TOWNSHIP
BOARD OF ZONING APPEALS
JULY 23, 2013

Present: Harry Goussetis, Chair
Mark Harmon
Cybele Smith
David Dunn
Mark Antonetz, Alternate

Also Present: Susan Dorsch, Permit & Compliance Inspector

RE: BZA 2013-04, 3371 South Old 3C Hwy. (Lubinsky)

Mr. Goussetis called the meeting to order at 7:03 p.m.

OLD BUSINESS

Minutes – 6/25/13

Ms. Smith moved to approve the Minutes from June 25, 2013, as written. Motion was seconded by Mr. Harmon. Roll call: Mr. Goussetis, aye; Mr. Harmon, aye; Mr. Dunn, aye; Ms. Smith, aye; Mr. Antonetz, aye. Motion carried.

NEW BUSINESS

BZA 2013-04 (3371 South Old 3C Hwy.) (Lubinsky)

This hearing began at 7:04 p.m.

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

JIM AND PAT LUBINSKY, REQUESTING A VARIANCE TO §606.07 OF THE GENOA TOWNSHIP ZONING RESOLUTION, TO ALLOW FOR CONSTRUCTION OF AN ADDITION TO ENCROACH INTO THE REQUIRED SIDE SETBACK ON PROPERTY LOCATED AT 3371 SOUTH OLD 3C HIGHWAY, 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 7/23/13

Mr. Lubinsky appeared and presented the facts of his application to the Board. He stated that they are asking for a variance for an encroachment into the side setback for construction of an addition. The proposal is to finish the existing garage into a master suite and construct a new garage. Mr. Lubinsky stated that they have looked at several different options for locating the proposed addition, but believe that the proposal submitted is the most logical and aesthetically pleasing location. Mr. Lubinsky stated that the proposed garage would be located approximately 70 feet from the adjacent neighbor’s garage and approximately 100 feet from their back porch. Mr. Lubinsky also stated that the existing structure is approximately 14 feet from the side property line, which is legally non-conforming since the required setback is now 25 feet.

Ms. Dorsch gave a brief history of the property along with a summarization of the staff report with respect to this requested variance. Ms. Dorsch stated that there are no outstanding violations for this property, and staff did not receive any public comment with the posting of this variance hearing.

Public Comment:

Ken Stone (3387 S. Old 3C Hwy.)

Mr. Stone stated that he is the adjacent neighbor who would be the most impacted by the requested variance. He stated that he is in full support of Mr. Lubinsky’s request.

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 can be beneficial use of the property without the variance.

(b) Whether the variance is substantial. The Board deemed that the variance is not substantial since it is approximately 20% less than the Zoning Resolution requires and since the current property extends further into the setback.
(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 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 “D” into evidence, to approve a variance for BZA 2013-04, dated July 5, 2013, to allow for construction of an addition to encroach into the required side setback on property located at 3371 South Old 3C Highway, 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 not substantial since it is approximately twenty percent (20%) more than the Zoning Resolution allows and since the current property extends further into the setback.

(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; Ms. Smith, aye; Mr. Dunn, aye; Mr. Antonetz, aye. Motion carried.

This hearing ended at 7:21 p.m.

ADDITIONAL BUSINESS

None.

Ms. Smith moved to adjourn this meeting at 7:21 p.m. Motion was seconded by Mr. Harmon. Vote: All ayes. Motion carried.

Respectfully submitted,

Vicki L. Stainer
Zoning Secretary

Date Approved: 9/24/12

Harry Goussetis, Chair