GENOA TOWNSHIP
BOARD OF ZONING APPEALS
OCTOBER 22, 2013

Present: Harry Goussetis, Chair
Mark Harmon
Cybele Smith
Mark Antonetz, Alternate
Theresa Yu, Alternate

Also Present: Susan Dorsch, Permit & Compliance Inspector

RE: BZA 2013-08, 7684 Milford Ave. (Burns)

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

OLD BUSINESS

Minutes – 9/24/13

Mr. Harmon moved to approve the Minutes from September 24, 2013, as written. Motion was seconded by Mr. Antonetz. Roll call: Mr. Goussetis, aye; Mr. Harmon, aye; Ms. Smith, aye; Mr. Antonetz, aye; Ms. Yu, aye. Motion carried.

NEW BUSINESS

BZA 2013-08 (7684 Milford Ave.) (Burns)

This hearing began at 7:01 p.m.

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

MIKE AND DANIELLE BURNS, REQUESTING A VARIANCE TO §1609.02 OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW A PATIO AND ACCESSORY STRUCTURE TO ENCROACH INTO THE REAR SETBACK ON LOT 5712 OF THE HARVEST WIND SUBDIVISION, 7684 MILFORD AVENUE, A PLANNED RESIDENTIAL DEVELOPMENT (PRD) 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 10/22/13
Exhibit “E” – Pictures submitted by applicant, dated 10/22/13

Mr. Burns attended and presented the application information to the Board. He stated that he would like to expand his existing patio. Mr. Burns testified that his rear yard slopes significantly down to a pond and he would like to construct a two-tier patio to basically be able to use what is now unusable space in his yard. He believes the patio extension with the proposed sitting wall, will help keep his children safe from falling into the pond. Due to the size of the lot, he unfortunately cannot build the patio extension without the need for a variance.

Mr. Burns stated that they considered building a fence around the rear yard, but believes a fence would make the rear yard look even smaller thereby decreasing the value of the home. He testified that most of the surrounding residences have similar patios and, aesthetically, his proposal would be more fitting for the neighborhood.

Mr. Goussetis asked what the distance would be from the end of the proposed patio to the pond. Mr. Burns stated that it would be approximately ten feet from the pond and five feet from his property line. Mr. Burns testified that the plans before the Board have been approved by the Harvest Wind Homeowners’ Association.

Ms. Dorsch, Development & Zoning Office, gave a brief history of the property along with a reiteration of the application information. Ms. Dorsch stated that the proposed patio would encroach approximately 15 feet into the rear setback on the property. Mr. Burns contacted the Township with his proposal and staff met with him on site prior to the filing of this application. Ms. Dorsch testified that the Township did not receive any negative comments after public notification of the pending variance application.

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.
Board deemed that the property 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 75% 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 there was no evidence presented that governmental services would 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 purchase the property with the 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 owners' predicament can 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.

Ms. Smith moved, incorporating Exhibits "A" through "E" into evidence, to approve a variance for BZA 2013-08, dated October 4, 2013, to allow a patio and accessory structure to encroach into the rear setback on Lot 5712 of the Harvest Wind subdivision, 7684 Milford Avenue, 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 seventy-five percent (75%) 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; Ms. Smith, aye; Mr. Antonetz, aye; Ms. Yu, aye. Motion carried.

Mr. Harmon moved to adjourn this meeting at 7:35 p.m. Motion was seconded by Mr. Goussetis. Vote: all ayes. Motion carried.

Respectfully submitted,

[Signature]

Vicki L. Stainer
Zoning Secretary

Date Approved: [Handwritten date]

Harry Goussetis, Chair