DATE: July 22, 2014
TIME: 7:00 PM
LOCATION: Genoa Township Hall, 5111 S. Old 3c Hwy., Westerville, Ohio 43082
AGENDA ITEMS: BZA 2014-07 Clark, 5401 Ainsley Drive, variance – rear yard setback

CALL TO ORDER
Harry Goussetis called the meeting to order at 7:01 p.m.

ROLL CALL
MEMBERS PRESENT
Harry Goussetis, Chair
Sara Walsh
Mark Harmon

MEMBERS ABSENT
Mark Antonetz, Alt
David Dunn
Cybele Smith
Teresa Yu, Alt.

PUBLIC HEARING
Harry Goussetis called the following hearing to order at 7:01 p.m., read the legal notice and asked everyone who wished to speak to this matter to sign-in and to stand. Those standing were sworn-in.

BZA 2014-07 – WILLIAM S. CLARK REQUESTING A VARIANCE FROM THE MINIMUM REQUIRED 30 FOOT REAR YARD SETBACK SPECIFIED IN THE FINAL DEVELOPMENT PLAN FOR HIGHLAND LAKES EAST (ZC 91-04) APPROVED BY THE BOARD OF TRUSTEES ON FEBRUARY 5, 1992 IN ACCORDANCE WITH SECTION 919 OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW ENCROACHMENT OF AN ADDITION TO AN EXISTING RESIDENCE, LOCATED ON 5401 AINSLEY DRIVE, WESTERVILLE, ZONED PLANNED RESIDENTIAL (PRD) ZONING DISTRICT.

Mr. Goussetis informed the applicant that there were only 3 BZA members present and that any vote to approve would require and affirmative vote from all three. The applicant waived his right to table the hearing.

The following were marked as exhibits “A” – “D”.
- Exhibit “A” – Legal Notice
- Exhibit “B” – Sign-in Sheet
- Exhibit “C” – Application
- Exhibit “D” – Staff Report, dated 7/22/2014

APPLICANTS’ PRESENTATION: Tom Mitchell, Elite Home Remodeling, noted that the applicant wishes to construct a 3-season room on the rear of his home. There is an existing deck that extends 16 feet from the home; the proposed structure would be in place of the deck and would extend 14 feet from the home, thus less than the current encroachment of the deck. The applicant believes the home was constructed toward the rear of the lot to allow for drainage through the front yard.

STAFF REPORT: Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, reviewed the staff report. She reviewed the specifics of the property and indicated the Zoning Office was unable to find a permit for the existing deck; however, it appears to have been there when the current owner purchased the property. The rear setback is designated at 30 feet from the rear of the lot and so the Zoning Office referred the applicant to the BZA due to the...
encroachment. The Homeowner’s Association has submitted a letter noting their approval of this addition. There have been no concerns expressed by neighbors. Mrs. Dorsch noted that these particular lots in Highland Lakes are somewhat unusual given their deeper setbacks in the front and the drainage easement that runs through the middle of the front yard. The house could have been built slightly more to the front, but now we are dealing with what exists today.

PUBLIC COMMENTS: Harry Goussetis asked any individuals who were properly sworn-in to share their comments.

- Jill Nacke, 5380 Ainsley, Westerville, OH 43082, lives across the street from this home. She indicated she lived here when this home was built and there were no other options for placement of the house footprint. She and other neighbors are supportive of this as they feel it will add value to the applicant’s home as well as those surrounding it.

APPLICANT’S RESPONSE: Mr. Mitchell had no additional comments.

The Board reviewed Duncan v. Middlefield, for the variance from Section 919 as follows:

(a) Whether the property in question would yield a reasonable return or whether there can be beneficial use of the property without the variance. The 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 43% variance increase is substantial.

(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 applicant would not substantially alter the character of the neighborhood and the adjoining properties would not suffer a substantial detriment as a result of the variance as there are dense woods to the rear of the property.

(d) Whether the variance would adversely affect the delivery of governmental services. There was no evidence presented that any governmental services would be adversely affected.

(e) Whether the property owner purchased the property with knowledge of the zoning restriction. It appears the property owner purchased the property without knowledge of the zoning restriction.

(f) Whether the property owner’s predicament feasibly be obviated through a method other than the variance. The property owner cannot encroach into the rear yard setback without obtaining a variance.

(g) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice would be 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.

BOARD DISCUSSION: The Board reiterated the uniqueness of this site and that there were few options for this specific lot. Additionally, there are only two neighbors that are directly affected and there is support from the neighbors. The dense woods in the rear are also unique to this property.

MOTION: Mark Harmon moved, incorporating Exhibits A through D into evidence, to approve a Variance from Section 919 of the Genoa Township Zoning Resolution for BZA 2014-07, application received July 1, 2014, to allow encroachment of an addition to an existing residence, located on 5401 Ainsley Drive, Westerville, zoned 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 43 percent 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 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 Sara Walsh. Roll call: Sara Walsh, yes; Mark Harmon, yes; Harry Goussetis, yes. Motion carried.

Harry Goussetis announced the hearing closed at 7:20 p.m.

ADJOURNMENT
Sara Walsh moved to adjourn the meeting at 7:20 p.m. Motion was seconded by Mark Harmon. All voted yes. Motion carried.

Meeting was adjourned at 7:21 p.m.

PUBLICATION OF LEGAL NOTICE:
The legal notice for this meeting was printed and published on July 09, 2014 in the Delaware Gazette and posted at the Genoa Township Hall on July 03, 2014. Notice of this meeting was also mailed to the adjacent property owners and a notification sign was placed on the subject property.

PREPARED BY: 
Connie Goodman

Date Prepared: November 2, 2014

ZONING COMMISSION APPROVED:

Date Approved by the Board of Zoning Appeals: 11/18/14

OTHERS PRESENT AT MEETING | ADDRESS
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Susan Dorsch | Genoa Township Zoning and Development Office
Tom Mitchell | Elite Home Remodeling, 1328 Acton Road, Columbus OH
Scott Clark | 5401 Ainsley Drive, Westerville OH 43082
Jill Nacke | 5380 Ainsley Drive, Westerville OH 43082

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