GENOA TOWNSHIP BOARD OF ZONING APPEALS MEETING MINUTES

DATE: January 27, 2015
TIME: 7:00 PM
LOCATION: Genoa Township Hall, 5111 S. Old 3C Hwy., Westerville, Ohio 43082
AGENDA ITEMS: BZA 2015-0101  John A. Van Paepeghem Jr. – front yard setback variance

CALL TO ORDER
David Dunn called the meeting to order at 7:00 p.m.

ROLL CALL
MEMBERS PRESENT
David Dunn, Vice-Chair
Cybele Smith
Sara Walsh
Mark Antonetz, Alt
Teresa Yu, Alt.

MEMBERS ABSENT
Harry Goussetis, Chair
Mark Harmon

MINUTES
The board reviewed meeting minutes presented by the Genoa Township Development and Zoning Department for hearing held on November 18, 2014.

Sara Walsh moved to approve the hearing minutes from November 18, 2014 as written. Motion was seconded by Cybele Smith. Roll call: Cybele Smith, yes; Sara Walsh, yes; Teresa Yu, yes; Mark Antonetz, yes; David Dunn, abstain. Motion carried.

PUBLIC HEARING
David Dunn 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.

JOHN A. VAN PAEPEGHEM JR. REQUESTING A VARIANCE FROM SECTION 806.05 OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW FOR CONSTRUCTION OF A NEW SINGLE FAMILY RESIDENCE TO ENCROACH INTO THE REQUIRED FIFTY (50) FOOT FRONT YARD SETBACK ON PROPERTY KNOWN AS LOT 1088 IN THE PLEASANT CORNERS SUBDIVISION, 6471 FOGLE COURT, WESTERVILLE, ZONED SUBURBAN RESIDENTIAL (SR) ZONING DISTRICT (BZA 2015-01).

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 1/27/2015

APPLICANTS’ PRESENTATION: John A. Van Paepeghem Jr. stated his request was based on the desire to save trees, some mature, that are currently located in the build area of the property. Additionally, approval of this variance would somewhat center the house on the lot, thus providing more privacy for the occupants and the adjacent neighbors.

STAFF REPORT: Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, reviewed the staff report. She indicated the lot is located in a Suburban Residential subdivision, a platted subdivision, Pleasant Corners, Section 2. It was platted in 1971 with the
majority of the homes being built in the mid 1980's and early 1990's. There were a couple remaining lots that were not built upon; this is one of them. When the subdivision was platted, there was a seventy-five (75) foot setback from the middle of the road; today's Zoning Resolution requires a fifty (50) foot setback from the right of way. The proposed home would still be buildable on the subject lot if this variance request is not approved; just closer to the eastern property line.

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

1. Mark Crabtree (6020 Perkins Lane) asked for clarification of where the applicant is requesting placement of the home. Ms. Dorsch explained the Zoning Resolution requires fifty (50) feet from the edge of the right of way. Mr. Crabtree stated that the proposed site plan shows the setback off Fogle Court at forty-six (46) feet from the edge of the right of way; four (4) feet closer to the right of way than the Code allows. The applicant indicated he is willing to move the house back four (4) feet to meet the requirement. The variance is to reduce the required setback from Perkins Lane by fourteen (14) feet. Mr. Crabtree also inquired as to the location of the leach bed. The applicant indicated the leach bed would be located on the north section of the property.

2. Nick Di Battista (6470 Fogle Court) asked how this house would be placed in relation to homes built under the prior code requirement. He was concerned this would be much closer to the street than prior builds. The Board clarified that if the variance is approved, the house would be fourteen (14) feet closer to the road than required. When asked, the applicant confirmed the driveway will access off Fogle Court and the house front will face Perkins. Mr. Di Battista asked whether there was sufficient access to the large trees should any of them need pruning, specifically for utility lines. The applicant stated that there was plenty of room and that he and his contractor had walked the property to evaluate the trees. Mr. Di Battista also asked how far away from the stop sign on Fogle Court the driveway would be located to which the applicant responded it would be about thirty-three (33) feet from the stop sign (estimating the stop sign is three (3) feet from the corner.

3. William Carillion (5950 Perkins Lane) asked if there is a minimum square footage as he felt 1600 square feet seemed small. Ms. Dorsch indicated she could not speak to deed restrictions; however, the minimum square footage required by the Zoning Resolution for a one story residence is 1100 square feet. This square footage does not include the square footage of the garage. Mr. Carillion indicated he believed there was a minimum square footage requirement for the Pleasant Corners subdivision. The board and staff indicated that the township does not have the authority to enforce deed restrictions. They suggest that Mr. Carillion review the subdivision deed restrictions regarding this concern. The applicant stated that his realtor had indicated that the deed restrictions had expired twenty (20) years after the subdivision was created. The applicant said that his goal is to build a house that fits the neighborhood; he felt that the proposed house at approximately 1600 square feet was similar.

APPLICANT'S RESPONSE: Mr. Van Paepeghem had no additional comments.

The Board reviewed Duncan v. Middlefield, for the variance from Section 806.05 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. The house could be locate closer to the eastern property line but additional trees would need to be removed.
(b) Whether the variance is substantial. The Board deemed that the 28% encroachment into the front yard setback 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 this 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. The proposed residence would be of similar character and in keeping with the neighborhood.

(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. The zoning restriction was in place when the contract was signed.

(f) Whether the property owner's predicament feasibly be obviated through a method other than the variance. Yes, the house could be located closer to the eastern property line, but this would not save the tree(s).

(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 had no additional discussion.

MOTION: Cybele Smith moved, incorporating Exhibits A through D into evidence, to approve a variance from Section 806.05 of the Genoa Township Zoning Resolution for BZA 2015-01, application received January 9, 2015, to allow for construction of a new single family residence to encroach into the required fifty (50) foot front yard setback, on lot 1088 in the Pleasant Corners subdivision, Section 2, 6471 Fogle Court, Westerville, zoned Suburban Residential Zoning District (SR) 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 a 28% 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 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 Teresa Yu.

Discussion on Motion: The Board had no additional discussion.

Roll call: Cybele Smith, yes; Sara Walsh, yes; Teresa Yu, yes; Mark Antonetz, yes; David Dunn, yes. Motion carried.

David Dunn announced the hearing closed at 7:30 p.m.
OTHER BUSINESS:
Mr. Dunn presented the 2015 Board of Zoning Appeals meeting schedule and asked for comments; there were no comments.

MOTION: Sara Walsh moved to adopt the 2015 Board of Zoning Appeals meeting schedule as presented. Cybele Smith seconded.

Roll call: Cybele Smith, yes; Sara Walsh, yes; Teresa Yu, yes; Mark Antonetz, yes; Teresa Yu, yes; David Dunn, yes. Motion carried.

ADJOURNMENT
Sara Walsh moved to adjourn the meeting at 7:32 p.m. Motion was seconded by Cybele Smith. All voted yes. Motion carried.

Meeting was adjourned at 7:32 p.m.

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BOARD OF ZONING APPEALS APPROVED:

Harry Goussetis, Chair

January 31, 2015
Date Prepared

Date Approved by the Board of Zoning Appeals

<table>
<thead>
<tr>
<th>OTHERS PRESENT AT MEETING</th>
<th>ADDRESS</th>
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<tbody>
<tr>
<td>Susan Dorsch</td>
<td>Genoa Township Zoning and Development Office</td>
</tr>
<tr>
<td>Jay Mayle</td>
<td>6491 Fogle Court, Westerville OH 43082</td>
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<tr>
<td>Debra Mayle</td>
<td>6491 Fogle Court, Westerville OH 43082</td>
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<tr>
<td>John Van Paepeghem</td>
<td>Westerville OH 43081</td>
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<tr>
<td>Bridget Quinn</td>
<td>6471 Fogle Court, Westerville OH 43082</td>
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<tr>
<td>Ronald Carpenterere</td>
<td>6040 Perkins Lane, Westerville OH 43082</td>
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<tr>
<td>Sandra Noel Carpenter</td>
<td>6040 Perkins Lane, Westerville OH 43082</td>
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<tr>
<td>Ronald Hicks</td>
<td>5930 Perkins Lane, Westerville OH 43082</td>
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<tr>
<td>Gary &amp; Kathy Will</td>
<td>6541 Wilder Lane, Westerville OH 43082</td>
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<tr>
<td>Nick &amp; Mary Ann Di Battista</td>
<td>6470 Fogle Court, Westerville OH 43082</td>
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<td>William Carillon</td>
<td>5950 Perkins Lane, Westerville OH 43082</td>
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<tr>
<td>Mark &amp; Debi Crabtree</td>
<td>6020 Perkins Lane, Westerville OH 43082</td>
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