GENOA TOWNSHIP BOARD OF ZONING APPEALS MEETING MINUTES

DATE: July 28, 2015
TIME: 7:00 PM
LOCATION: Genoa Township Hall, 5111 S. Old 3C Hwy., Westerville, Ohio 43082
AGENDA ITEMS:

BZA 2015-04  Richardson – Accessory building side encroachment variance
BZA 2015-05  Dezse – Conditional Use Permit
BZA 2015-06  Harrington – Driveway setback & water location variance

CALL TO ORDER
David Dunn called the meeting to order at 7:05 p.m.

ROLL CALL
MEMBERS PRESENT
David Dunn, Vice-Chair
Mark Harmon
Teresa Yu

MEMBERS ABSENT
Mark Phillips, Alt.
David Buhn, Alt.

Cybele Smith
Sara Walsh

MINUTES
The board reviewed meeting minutes presented by the Genoa Township Development and Zoning Department for the hearings held on February 24, 2015, and March 24, 2015.

MOTION: Mark Harmon moved to approve the February 24, 2015, meeting minutes, as presented.

Motion was seconded by Teresa Yu. Roll call: Mark Harmon, yes; Teresa Yu, yes; David Buhn, yes; Mark Phillips, abstain; David Dunn, yes. Motion carried.

MOTION: Mark Harmon moved to approve the March 24, 2015, meeting minutes, as presented.

Motion was seconded by Teresa Yu. Roll call: Mark Harmon, yes; Teresa Yu, yes; David Buhn, yes; Mark Phillips, abstain; David Dunn, yes. Motion carried.

PUBLIC HEARING
David Dunn called the following hearing to order at 7:08 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.

GLENN AND CANDICE RICHARDSON, CO TRUSTEES, REQUESTING A VARIANCE FROM SECTION 1609.01 B OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW FOR CONSTRUCTION OF AN ACCESSORY BUILDING TO ENCRYPT INTO THE REQUIRED TWELVE (12) FOOT SIDE YARD SETBACK ON PROPERTY KNOWN AS LOT 1836 IN HIGHLAND LAKES SECTION 4, 6446 LAKE TRAIL DRIVE, WESTERVILLE, ZONED SUBURBAN RESIDENTIAL (SR) ZONING DISTRICT. (BZA 2015-04).

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 7/28/2015
APPLICANTS' PRESENTATION: Chris Richardson, architect, presented the application by reading a letter from Glenn and Candice Richardson. The letter indicated the request was based on the need for additional space as the existing 2-car side load garage was in effect only a 1.5 car garage and noted most of the comparable homes in the area have three or four car garages. In discussion with the architect and contractor, it was determined this was the best solution; however, it does require a variance. The applicant stated the other option of adding a one-car garage on the front of the house does not provide the space needed, is not the most cost effective, and is detrimental to the curb appeal of the property both for the applicant and the neighborhood. The Board clarified the variance and determined it was eight (8) feet into the twelve (12) foot side yard setback, or about sixty (60) percent.

STAFF REPORT: Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, gave an overview of the staff report. She stated the original notice was incorrectly listed as a Planned Residential District (PRD) with a ten (10) foot side yard setback; it is actually a Suburban Residential District with a twelve (12) foot side yard setback. She clarified there is a required fifty (50) foot setback to the front and rear and twelve (12) foot side yard setbacks. There is already a variance to the rear that was previously granted before the house was built; the house sits at thirty-five (35) feet from the rear property line. Also, there is a drainage easement in this area and a small stream runs through the rear. The request is for a four (4) foot set back off the side and twelve (12) feet off the back. The requirements for an accessory building are fifteen (15) feet from the rear and twelve (12) feet from the side. This variance equates to a twenty (20) percent encroachment in the rear setback and sixty-seven (67) percent in the side yard setback. No comments were received from neighboring property owners or Genoa Township safety services.

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

1. Charles Pledger (6450 Lake Trail Drive) indicated they have no problem with this request. He is the neighbor on the side of the variance request and noted there is predominantly green space and trees between their yards.

APPLICANT'S RESPONSE: When asked by the Board why the rear yard variance is needed, the representatives responded there is a need for this to make backing out and the turning radius easier. The applicant felt functionality was driving this request. A side service door on the existing garage would be impacted if the new structure were moved closer to negate the need for the rear variance. The applicant's position is that the structure cannot be relocated and must be in this location.

BOARD DISCUSSION/FINDINGS OF FACT:
The Board asked for clarification of the exterior width of the garage as noted on page three, and if there were one or two overhead garage doors. The applicant responded it was one garage door and that it was originally designed as a two car garage, however, the interior space is limited due to the staircase for egress from the house and a support beam located on the right side of the interior space. The applicant estimated it was about twenty-one (21) feet wide. The Board noted this was a standard size garage found throughout the Township and should reasonably hold two cars, further noting in response to a comment by the applicant that it is very unlikely that both vehicle doors could be opened simultaneously in any standard size garage. The driveway width is about eighteen (18) feet per the applicant's estimate. When asked what the materials for the structure will be, the applicant responded they had not yet made this determination as the variance had not yet been approved. The Board clarified that this is generally part of the application so that it would be consistent with the existing structure as well as the neighborhood. The applicant did not know if any landscaping would need to be removed, but thought some items may need to be removed or may be
lost during construction. When asked, Ms. Dorsch noted there is open space at the rear of their lot and the next house behind them so this would always be there. The applicant was not aware if the HOA had been contacted regarding this application; the Board reminded them this is also necessary.

The Board reviewed Duncan v. Middlefield, in regards to the variance requested from Section 1609.01 (B) to allow for construction of an accessory building to encroach into the required twelve (12) foot side yard setback in a Planned Residential Zoning District 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. Yes.
(b) Whether the variance is substantial. Yes.
(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. No.
(d) Whether the variance would adversely affect the delivery of governmental services. No.
(e) Whether the property owner purchased the property with knowledge of the zoning restriction. Yes.
(f) Whether the property owner’s predicament feasibly be obviated through a method other than the variance. Yes.
(g) Whether the spirit and intent behind the zoning department would be observed and substantial justice would be done by granting the variance. To be discussed.

The Board indicated that there are several homes on Lake Trail Drive with three or four car garages and there were no objections from neighbors or from the Zoning Office. The question of “what makes this property unique” remains. Some of the Board noted an understanding of the side yard variance, but were struggling with the rear yard setback variance request and the applicant's stance on not moving the structure to negate the need for this variance. Others felt the opposite noting that the garage could be narrowed to remove the need for the side yard variance. Overall, the Board stated there are often some things that can be done to minimize the variances requested and thus obviate through another method. Additionally, there was a feeling that the plan was somewhat inconsistent and incomplete. The Board gave the applicant's representatives the opportunity to continue this hearing until next month, thus giving them an opportunity to discuss with the owner.

MOTION: Mark Harmon moved to continue BZA Case 2015-04 to August 25, 2015, at 7 p.m. in the Genoa Township Hall.

Motion was seconded by David Buhn. Roll call: Mark Harmon, yes; Teresa Yu, yes; Mark Phillips, yes; David Buhn, yes; David Dunn, yes. Motion carried.

David Dunn announced the hearing closed at 7:45 p.m.

David Dunn called the following hearing to order at 7:45 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.

DAVID AND CAROL DEZSE, REQUESTING A CONDITIONAL USE PERMIT PER SECTION 1609.01 F TO ALLOW FOR LIVING SPACE IN AN ACCESSORY BUILDING LOCATED ON PROPERTY AT 5725 RED BANK ROAD, GALENA, A RURAL RESIDENTIAL (RR) ZONING DISTRICT. (BZA 2015-05).

The following were marked as exhibits “A” – “D”.

Exhibit “A” – Legal Notice
APPLICANTS' PRESENTATION: Dave Dezse, the applicant is interested in adding this as a space for family to stay when visiting and potentially to be used as a mother-in-law suite noting it is being constructed to be compliant with the needs of an elderly individual. When asked, the applicant indicated he has no issue with a condition being added that this not be used as a rental property and in fact, had added that as part of his application.

STAFF REPORT: Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, gave an overview of the staff report. The property is zoned Rural Residential (RR) and was recently created from a larger ninety (90) acre property. The permit was issued with the condition that the owner would request a conditional use permit. Although the Zoning Office did receive several calls, there were no concerns expressed; there were no comments from police or fire.

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

   1. Steve Krupp (10382 Gorsuch Road, Harlem Township) asked if this pertained to the DiYanni Homes that are being built on Red Bank Road and when that was approved. Ms. Dorsch explained the zoning process for the DiYanni homes and stated these are large lots and thus do not need to be heard by the Zoning Commission.

APPLICANT’S RESPONSE: There were no additional comments.

BOARD DISCUSSION/FINDINGS OF FACT:
The Board asked the size of the home to be constructed to which the applicant replied it would be one and half story with about 3200 square feet, a two-car attached garage, and a three-car detached garage on the outbuilding. The intent is to occupy the accessory building. The lot is a flag lot with about a 1200 foot setback from the road. The Board clarified that all zoning requirements have been met and this is only a request for a conditional use permit. Ms. Dorsch noted a permit has already been granted for the structure(s). The Board asked about neighboring properties; these are five (5) acre properties as shown on the map in the staff report.

The Board reviewed Duncan v. Middlefield, in regards to the variance requested from Section 1609.01 (F) to allow for living space in an accessory building in a Rural Residential Zoning District 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. Yes.
(b) Whether the variance is substantial. No, this is not a variance but rather a Conditional Use Permit.
(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. No.
(d) Whether the variance would adversely affect the delivery of governmental services. No.
(e) Whether the property owner purchased the property with knowledge of the zoning restriction. Yes.
(f) Whether the property owner’s predicament feasibly be obviated through a method other than the variance. Yes.
(g) Whether the spirit and intent behind the zoning department would be observed and substantial justice would be done by granting the variance. Yes.

The Board noted that since this is a Conditional Use Permit, Duncan Middlefield is not applicable. Section 303 is applicable and was subsequently reviewed by the Chair for the record. The Board determined the request to be compliant with Section 303 of the Zoning Resolution.

MOTION: David Dunn moved, incorporating Exhibits A through D into evidence, to approve a Conditional Use in accordance with Section 1609.01 (F) of the Genoa Township Zoning Resolution for BZA 2015-05, application received June 19, 2015, to allow for living space in an accessory building located on property at 5725 Red Bank Road, Galena, zoned Rural Residential Zoning District (RR) based on the standards listed in Section 303 of the Genoa Township Zoning Resolution.

Approval of the Conditional Use is subject to the owner’s agreement to the following conditions:
1. This property will not be used as a rental or as an income-generating property.

Motion was seconded by Teresa Yu.

Discussion on Motion: There was no additional discussion.

Roll call: Mark Harmon, yes; Teresa Yu, yes; Mark Phillips, yes; David Buhn, yes; David Dunn, yes.
Motion carried.

David Dunn announced the hearing closed at 8:09 p.m.

David Dunn called the following hearing to order at 8:09 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.

SEAN AND AMY HARRINGTON, ON BEHALF OF PAUL JOHNSON, REQUESTING A VARIANCE FROM SECTION 607.01 TO ALLOW A DRIVEWAY TO BE CLOSER THAN THE REQUIRED TWO FEET AND A VARIANCE FROM SECTION 1614 TO ALLOW FOR A WATER IMPOUNDMENT TO BE BETWEEN A PRINCIPAL STRUCTURE AND THE EDGE OF THE CONTIGUOUS ROAD RIGHT-OF-WAY ON PROPERTY LOCATED AT 7968 BIG WALNUT ROAD, WESTERVILLE, ZONED RURAL RESIDENTIAL (RR) ZONING DISTRICT. (BZA 2015-06).

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 7/28/2015
Exhibit “E” – Existing Conditions/Topography survey of the property

APPLICANTS’ PRESENTATION: Sean Harrington presented the application as he and his wife are in contract for the property and hope to build on it. There is no way to erect a structure between the road and the pond as it currently exists. He distributed an Existing Conditions/Topography Survey of the property and asked for an amendment to the initial application, noting only a couple places where the driveway would be closer than two (2) feet to the property line. This variance would allow for a safe turning distance at the apron without getting too close to the pond, especially during construction. The driveway cannot be placed on the opposite side of the property due to the guardrail. The request for a variance will not significantly alter the property, but rather allow
building on the lot while keeping it much like it is today. They are requesting this so they can build their residence as indicated and create a driveway that will provide accessibility and safety. The Board asked if any part of the structure will be greater than one hundred fifty (150) feet from Big Walnut Road. The applicant indicated they had not started the plans until they were sure the variance would be approved, but he estimated the structure would likely be greater than this distance. The Genoa Township Fire Department has expressed concern that this may not support the weight of a fire truck and has asked that a condition be placed on the variance indicating the driveway will be compliant. Mr. Johnson, the current owner, indicated the current specifications of the driveway and pond, noting it would withstand fifty (50) tons. The Board explained a statement from a qualified engineer would need to be obtained prior to building and that it would be a condition of approval. Mr. Harrington asked for clarification about how far this would need to extend; the Board offered to continue this hearing if the applicant wished to work with the Fire Department prior to a vote on the application.

The Board took a five (5) minute recess to allow the applicant and the owner sufficient time to discuss their next step(s). Upon return, the applicant noted that he and the owner had agreed to place this as an addendum to the purchase contract. The hearing continued.

STAFF REPORT: Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, gave an overview of the staff report. She noted this is a one (1) acre property and that it is somewhat unique in that it has access to sanitary sewer through Medallion in the rear. This will help with placement of the structure in relation to the pond. A permit had been issued in 2002 for a single family home, however, nothing was built. Since that time, the Zoning Code has changed such that a pond cannot be located between the structure and the road; however, this is the existing situation on this property. The twelve (12) foot driveway width requirement moves the driveway closer than the two (2) foot minimum from the property line, likely close to one (1) foot as estimated by the applicant. The applicant stated that after the first ninety-four (94) to ninety-six (96) feet, the driveway can move inward to respect the required two (2) foot setback. Ms. Dorsch stated a neighbor from across the street had stopped into the office and stated she had no issues.

PUBLIC COMMENTS: David Dunn asked any individuals who were properly sworn-in to share their comments. There were no public comments.

BOARD DISCUSSION/FINDINGS OF FACT:

The Board reviewed Duncan v. Middlefield, in regards to the variance requested from Section 607.01 and Section 1614 to allow for living space in an accessory building in a Rural Residential Zoning District 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. No.
(b) Whether the variance is substantial. Yes.
(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. No.
(d) Whether the variance would adversely affect the delivery of governmental services. Yes, there is a letter on file from the Fire Department of how to mitigate this.
(e) Whether the property owner purchased the property with knowledge of the zoning restriction. Yes.
(f) Whether the property owner's predicament feasibly be obviated through a method other than the variance. No.
(g) Whether the spirit and intent behind the zoning department would be observed and substantial justice would be done by granting the variance. Yes.

MOTION: Mark Harmon moved, incorporating Exhibits A through E into evidence, to approve a Variance from Section 607.01 and Section 1614 of the Genoa Township Zoning Resolution for BZA 2015-06, to allow a driveway to be closer than the required two feet and to allow a water impoundment to be between a principal structure and the edge of the contiguous road right-of-way, application received June 26, 2015, located on property at 7968 Big Walnut Road, Westerville, zoned Rural Residential Zoning District (RR) 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 seventy-five (75) percent 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.

Approval of the Variance is subject to the owner’s agreement to the following conditions:
   1. To allow the driveway to encroach no more than eighteen (18) inches into the required two (2) foot side yard setback.
   2. Compliance with the Genoa Township Fire Marshall’s letter dated July 21, 2015, wherein the applicant will be required to obtain an engineer’s certification that the driveway will support a fire truck weighing 75,000 pounds if any portion of the structure is greater than one hundred fifty (150) feet from Big Walnut Road.

Motion was seconded by Teresa Yu.

Discussion on Motion: There was no additional discussion.

Roll call: Mark Harmon, yes; Teresa Yu, yes; Mark Phillips, yes; David Buhn, yes; David Dunn, yes.
Motion carried.

David Dunn announced the hearing closed at 8:40 p.m.

ELECTION OF OFFICERS

David Dunn opened nominations for officers.

CHAIR NOMINATION: Mark Harmon moved to nominate David Dunn as chair of the Board of Zoning Appeals for 2015-2016. Motion was seconded by David Buhn.

CLOSE NOMINATIONS: David Buhn moved to close officer nominations for Chair. Motion was seconded by Mark Phillips. All voted in favor. Motion carried.

Roll call: Mark Harmon, yes; Teresa Yu, yes; Mark Phillips, yes; David Buhn, yes; David Dunn abstain. Motion carried.
VICE-CHAIR NOMINATION: David Dunn moved to nominate Mark Harmon as vice chair of the Board of Zoning Appeals for 2015-2016. Motion was seconded by Teresa Yu.

CLOSE NOMINATIONS: David Buhn moved to close officer nominations for Vice Chair. Motion was seconded by Mark Phillips. All voted in favor. Motion carried.

Roll call: Mark Harmon, abstain; Teresa Yu, yes; Mark Phillips, yes; David Buhn, yes; David Dunn, yes. Motion carried.

ADDITIONAL BUSINESS
David Dunn welcomed Mark Phillips and David Buhn to the Board of Zoning Appeals.

ADJOURNMENT
Mark Harmon moved to adjourn this meeting at 8:43 p.m. Motion was seconded by David Buhn. All voted yes. Motion carried.

Meeting was adjourned at 8:43 p.m.

PUBLICATION OF LEGAL NOTICE:
The legal notice for this meeting was printed and published on July 10, 2015 in the Delaware Gazette and posted at the Genoa Township Hall on July 7, 2015. Notice of this meeting was also mailed to the adjacent property owners.

PREPARED BY:  

Connie Goodman,

Date Prepared: August 8, 2015

BOARD OF ZONING APPEALS APPROVED:

David Dunn, Chair

Date Approved by the Board of Zoning Appeals: 8/25/15

<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>Kris Richardson</td>
<td>6446 Lake Trail Drive, Westerville 43082</td>
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<tr>
<td>Amy Harrington</td>
<td>7968 Big Walnut Road, Westerville 43082</td>
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<tr>
<td>Sean Harrington</td>
<td>7968 Big Walnut Road, Westerville 43082</td>
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<tr>
<td>Carol Dezse</td>
<td>5725 Red Bank Road, Galena 43021</td>
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<td>David Deese</td>
<td>5725 Red Bank Road, Galena 43021</td>
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<tr>
<td>Mike Stumpf</td>
<td>Riverstone Construction, 6295 Maxtown Road, Westerville 43082</td>
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<tr>
<td>Bob Gildner</td>
<td>HER Realtors, 413 North State Street, 43082</td>
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<tr>
<td>Patricia Milton</td>
<td>5110 Medallion Drive West, Westerville 43082</td>
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<tr>
<td>Chuck Pledgeger</td>
<td>6450 Lake Trail Drive, Westerville 43082</td>
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<td>Paul Johnson</td>
<td>7968 Big Walnut Road, Westerville 43082</td>
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<td>Matthew &amp; Cynthia Bateman</td>
<td>5476 Red Bank Road, Galena 43021</td>
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<td>Steve Krupp</td>
<td>10382 Gorsuch Road, Galena 43021</td>
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