GENOA TOWNSHIP BOARD OF ZONING APPEALS MEETING MINUTES

DATE: August 25, 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 2nd hearing
BZA 2015-07 Cuske – Retaining Wall 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
Mark Harmon
Cybele Smith
Sara Walsh
David Buhn, Alt.

MEMBERS ABSENT
Teresa Yu
Mark Phillips, Alt.

MINUTES
The board reviewed meeting minutes presented by the Genoa Township Development and Zoning Department for the hearing held on July 28, 2015.

MOTION: Mark Harmon moved to approve the July 28, 2015, meeting minutes, as presented.

Motion was seconded by Sara Walsh. Roll call: Mark Harmon, yes; Cybele Smith, abstain; Sara Walsh, yes; David Buhn, yes; David Dunn, yes. Motion carried.

PUBLIC HEARING
David Dunn called the following hearing to order at 7:02 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 ENCROACHMENT INTO THE SETBACKS REQUIRED FOR CONSTRUCTION OF AN ACCESSORY BUILDING 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). PREVIOUSLY HEARD ON JULY 28, 2015.

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 8/25/2015
Exhibit “E” – Email
Exhibit “F” – Picture

APPLICANTS’ PRESENTATION: Glenn Richardson, owner and applicant, thanked the Board for continuing the case as he and his wife were unable to attend the prior meeting. Mr. Richardson submitted an email to the Zoning Department with clarifying information indicating the request is for
a two car garage. The dimensions in the original document were twenty-two (22) by twenty-four (24) feet; they now feel they can get by with a smaller structure of twenty (20) by twenty (20) feet with minimal inconvenience. This adjustment removes the need for the rear variance and reduces the need for the side variance from eight (8) feet to four (4) feet. Mr. Richardson provided reasons why the current garage does not provide enough room for two vehicles; pictures were provided as illustration. Mr. Richardson stated that a cantilever closet on the inside of the house protrudes into the garage, making the space a seventeen (17) by sixteen (16) foot parking space. Additionally, Mr. Richardson stated that because the existing garage is a side load it makes this even more difficult to park in the space. The materials proposed for the accessory building will match the house. An arborist was consulted regarding the removal of trees; it was determined there would be no impact on the trees due to the distance from the proposed structure. Mr. Richardson stated that this property is unique due to a large stream crossing the front of the lot. The location of the stream required that the house be located further back on the lot than the adjacent neighbors. A variance was granted before the house was built to allow for a reduced rear setback. This limited the space in the rear of the property. The Board thanked Mr. Richardson for his thoroughness on responding to their questions from the prior hearing.

STAFF REPORT: Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, noted that Mr. Richardson addressed the Board's questions from the last hearing that were listed in the staff report. She stated that the requested variance is a thirty (30) percent encroachment into the required side yard setback.

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

BOARD DISCUSSION/FINDINGS OF FACT:
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, it is 30% and thus 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. No, it conforms to the character of the neighborhood.
(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 requirement would be observed and substantial justice would be done by granting the variance. Yes.

MOTION: Mark Harmon moved, incorporating Exhibits “A” through “F” into evidence, to approve a Variance from Section 1609.01 (B) of the Genoa Township Zoning Resolution for BZA 2015-04, application received June 4, 2015, to allow an encroachment into the setbacks required for construction of an accessory building on property known as Lot 1836 in Highland Lakes Section 4, 6446 Lake Trail Drive, Westerville, zoned Suburban Residential (SR) based on the following finding 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 thirty (30) 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 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.

The Board thanked the applicant for clarifying the points questioned at the previous meeting and his specifically addressing the uniqueness of this property.

Motion was seconded by Sara Walsh. Roll call: Mark Harmon, yes; Cybele Smith, yes; Sara Walsh, yes; David Buhn, yes; David Dunn, yes. Motion carried.

David Dunn announced the hearing closed at 7:20 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.

JOSEPH AND NANCY CUSKE REQUESTING A VARIANCE FROM SECTION 2004.02 OF THE GENOA TOWNSHIP ZONING RESOLUTION FOR CONSTRUCTION OF A RETAINING WALL CLOSER TO THE SIDE PROPERTY LINE THAN THE REQUIRED ON PROPERTY LOCATED AT 6091 SUNBURY ROAD, WESTERVILLE, ZONED RURAL RESIDENTIAL (RR) ZONING DISTRICT. (BZA 2015-07).

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 8/25/2015

APPLICANTS' PRESENTATION: Mr. Cuske showed an illustration of his property, explaining that his house currently under construction extends to both side setbacks. He stated that since there is a significant slope to turn into the side load garage, he felt this was unsafe and so the width of the garage door was increased from sixteen (16) to eighteen (18) feet to accommodate turning into the garage. This change necessitated the need to construct the retaining wall closer to the side property line. The Board asked what stage of completion the house was in. Mr. Cuske stated that the shell of the house is complete; finishing work is being done on the outside and inside. The Board also questioned the water runoff, to which Mr. Cuske explained there is a natural path for the water to flow to drain toward the rear of the property. The requested variance is fifty (50) percent as the required distance per the Zoning Code is twice the height.

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 and one half (1.5) acre property; zoned Rural Residential (RR). The ranch house previously existing on this parcel was demolished. A zoning permit for construction of the new single family residence was issued in April, 2014. The house is currently under construction; it has windows and white wrap on the outside. The driveway has not been installed. The original site plan submitted with the zoning permit application
showed a one and one half (1.5) feet high retaining wall; set back three (3) feet from the property line which complies with code. The applicant is now asking for a three (3) feet high retaining wall at the same three (3) ft. setback. The code would require the proposed three (3) ft. high retaining wall to be at least six (6) from the property line. The police, fire, or maintenance departments expressed no concerns.

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

- Harry Goussetis (6069 Sunbury Road) stated that he is not opposed to the application; however he does have some questions. He asked how far to the rear of the property the retaining wall will extend. He stated that there appear to be multiple garage doors for side, front, and rear load. Mr. Goussetis asked if the driveway would extend to the rear garage door. Mr. Goussetis questioned if there would be storage in this area. He is concerned due to the location of his screen porch and the view to this area. Additionally, he is concerned about the water runoff and whether or not it has been evaluated. Finally, he expresses concerns about the current property elevation and possible future increases to the elevation.

APPLICANTS' RESPONSE: Mr. Cuske indicated the back of the garage is the back of the driveway. Mike Meeks, the builder, indicated the side load garage slab would be pushed back by about five feet to assist with a better turning radius and as an aesthetic, decorative element. The plan is for the retaining wall to go the entire length of the driveway. The garage doors in the front and rear are functional but are designed to create a period-correct look of a barn; they will be manually operated and are quite heavy they most likely would not be used on a daily basis. The Board asked if they could remove the five (5) feet of concrete to which the builder indicated he felt this would be acceptable but the decision was up to Mr. Cuske; Mr. Cuske also agreed. The Board asked about possible erosion or damage to neighboring trees due to water, both standing and runoff. The applicant indicated that water would exit beyond the neighbor's tree line; there would be grass and possibly a French drain added for adequate drainage. A curb will be constructed to the inside edge of the retaining wall to prevent vehicles from being driven over the edge of the retaining wall.

BOARD DISCUSSION/FINDINGS OF FACT:
The Board reviewed Duncan v. Middlefield, in regards to the variance requested from Section 2004.02 to allow for construction of a retaining wall closer to the side property line than required 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. Yes, it is fifty (50) percent.
(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. No.
(g) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance. Yes.

The Board thanked the applicant for his willingness to agree to the conditions noted during the discussion.
MOTION: Mark Harmon moved, incorporating Exhibits A through D into evidence, to approve a Variance from Section 2004.02 of the Genoa Township Zoning Resolution for BZA 2015-07, to allow for construction of a retaining wall closer to the side property line than required, application received August 7, 2015, on property located at 6091 Sunbury Road, Westerville, zoned Rural Residential Zoning District (RR) 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 fifty (50) 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. Terminating the retaining wall at the back of the garage.
2. Creation of a drain and landscaping to slope water prior to reaching the reservoir.

Motion was seconded by Sara Walsh.

Discussion on Motion: There was no additional discussion.

Motion was seconded by Sara Walsh. Roll call: Mark Harmon, yes; Cybele Smith, yes; Sara Walsh, yes; David Buhn, yes; David Dunn, yes. Motion carried.

David Dunn announced the hearing closed at 7:55 p.m.

ADDITIONAL BUSINESS

ADJOURNMENT
Mark Harmon moved to adjourn this meeting at 7:55 p.m. Motion was seconded by Sara Walsh. All voted yes. Motion carried.

Meeting was adjourned at 7:55 p.m.

PUBLICATION OF LEGAL NOTICE:
The legal notice for this meeting was printed and published on August 14, 2015 in the Delaware Gazette and posted at the Genoa Township Hall on August 11, 2015. Notice of this meeting was also mailed to the adjacent property owners.

PREPARED BY:  
Connie Goodman

BOARD OF ZONING APPEALS APPROVED:

David Dunn, Chair
Mark Harmon, Vice Chair
<table>
<thead>
<tr>
<th>OTHERS PRESENT AT MEETING</th>
<th>ADDRESS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Susan Dorsch</td>
<td>Genoa Township Zoning and Development Office</td>
</tr>
<tr>
<td>Candice Richardson</td>
<td>6446 Lake Trail Drive, Westerville 43082</td>
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<tr>
<td>Glenn Richardson</td>
<td>6446 Lake Trail Drive, Westerville 43082</td>
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<tr>
<td>Harry Goussettis</td>
<td>6069 Sunbury Road, Westerville 43082</td>
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