GENOA TOWNSHIP BOARD OF ZONING APPEALS MEETING MINUTES

DATE: March 22, 2016
TIME: 7:00 PM
LOCATION: Genoa Township Hall, 5111 S. Old 3C Hwy., Westerville, Ohio 43082

AGENDA ITEMS:
- BZA (2015-12) Mosier – Variance Withdrawal Request
- BZA (2016-01) Miller/Dole II – Variance, Side Yard Setback
- BZA (2016-02) Lundak – Variance, Building Coverage
- BZA (2016-03) Ciotola – Variance, Signage

CALL TO ORDER
Mark Harmon called the meeting to order at 7:01 p.m.

ROLL CALL
MEMBERS PRESENT
Mark Harmon, Vice-Chair
Cybele Smith
Sara Walsh

Teresa Yu
David Buhn, Alt.

MEMBERS ABSENT
David Dunn, Chair
Mark Phillips, Alt.

MINUTES
The board reviewed meeting minutes presented by the Genoa Township Development and Zoning Department for the hearings held on January 26, 2016.

MOTION: Cybele Smith moved to approve the January 26, 2016, meeting minutes, as presented.

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

PUBLIC HEARINGS
Mark Harmon called the following hearing to order at 7:02 p.m. and read the legal notice for the record.

BRUCE AND CHRIS MOSIER REQUESTING A VARIANCE FROM SECTION 606.07 OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW AN ENCROACHMENT INTO THE REQUIRED TWENTY-FIVE (25) FOOT SIDE YARD SETBACK FOR PROPERTY LOCATED AT 6572 WALNUT VALLEY DRIVE, GALENA, A RURAL RESIDENTIAL (RR) ZONING DISTRICT (BZA 2015-12). (PREVIOUSLY HEARD, OCTOBER 27, 2015.)

Mr. Harmon noted that the applicant, Bruce and Chris Moser, sent a written notice to the Development and Zoning Department via email on March 17, 2016, to request withdrawal of the application for a Variance on property located at 6572 Walnut Valley Drive, Galena.

MOTION: Teresa Yu moved to accept the request to withdraw application, BZA 2015-12, per the written notice received by the Genoa Township Development and Zoning Department on March 17, 2016.
Motion was seconded by Sara Walsh.

Discussion on Motion: None.

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

Mark Harmon announced the hearing closed at 7:04 p.m.

Mark Harmon called the following hearing to order at 7:05 p.m., read the legal notice and asked anyone who wished to speak to this matter to sign-in and to stand. Those standing were sworn-in.

“Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?”

**WILLIAM E. MILLER AND THOMAS S. DOLE II, REQUESTING A VARIANCE FROM SECTION 606.07 OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW AN ENCROACHMENT INTO THE REQUIRED TWENTY-FIVE FOOT SIDE YARD SETBACK FOR PROPERTY LOCATED AT 6541 LAKE OF THE WOODS POINT, GALENA, A RURAL RESIDENTIAL (RR) ZONING DISTRICT. (BZA 2016-01).W I**

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 3/22/2016

**APPLICANTS’ PRESENTATION:** William Miller and Thomas Dole presented their application and noted their goal is to maximize their property value and believe the improvements to their property will also increase the value of neighboring properties. Mr. Miller stated that the rear of their property is adjacent to Hoover Reservoir. The proposed garage addition would allow them to convert the current garage into living space to maximize the view of the water. They are requesting a variance from the required 25 foot side yard setback to allow the proposed addition to be ten (10) foot from the side lot line.

Mr. Miller noted that upon review of their application, the Genoa Township Fire Department issued a letter dated March 10, 2016 which expressed concerns with separation between the proposed addition and the existing structures on the neighbor's property. Mr. Miller stated that they provided a letter to the Fire Marshal, dated March 21, 2016, which contained the requested information; the distance from the proposed structure to the neighbor's fence is twenty-four (24) feet and from the proposed structure to the neighbor's residence is sixty (60) feet. The applicant stated that the neighbor has not been issued a variance to allow them to build closer to the lot line. Mr. Miller and in fact, their pool is in that space so it is unlikely the neighbor would be placing a structure there. The Fire Marshall issued a letter dated also dated March 21, 2016, stating that they received Mr. Miller's letter and all concerns had been addressed.

When asked by the Board about alternatives, the applicant indicated one option would place the structure over an existing septic tank and another would block a neighbor's view of the reservoir from their deck. The Board clarified the variance amount to which the applicant responded they wanted to be ten (10) feet from the property line, thus making the variance fifteen (15) feet.

**STAFF REPORT:** Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, gave an overview of the staff report. She indicated this is Lot 255 in Lake of the Woods, Subdivision Number 2, and is a 1.5 acre lot in a Rural Residential (RR) Zoning District. The house was
built in approximately 1967 and no permits were found for additions to the home; there was a permit
for a pool to be added in 1971. The applicants purchased the property in 2013. She stated the
applicant did a good job of clarifying and resolving the questions that had been raised in the staff
report. No comments have been received by the Zoning Office from neighbors regarding this
application.

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

1. Charles Lang (Chuck’s Septic Tank Systems) reinforced the applicant could not build over the
existing septic system and without moving his entire system, which could result in other
items needing to be moved.

BOARD DISCUSSION/FINDINGS OF FACT:

The Board reviewed Duncan v. Middlefield, in regards to the variance requested from Section
606.07 to allow an encroachment into the side yard setbacks required for construction of a garage
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 15 feet.
(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, there is
no evidence it would.
(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, restrictions were in place in 2013.
(f) Whether the property owner’s predicament feasibly be obviated through a method other than
the variance. Option to build backward would be complex, that is over septic and blocking view.
(g) Whether the spirit and intent behind the zoning requirement would be observed and substantial
justice would be done by granting the variance. Yes, it would.

MOTION: Cybele Smith moved, incorporating Exhibits A through D into evidence, to approve a
Variance from Section 606.07 of the Genoa Township Zoning Resolution for BZA 2016-01, application
received February 23, 2016, to allow an encroachment into the required twenty-five (25) foot side
yard setback for property located at 6541 Lake of the Woods Point, Galena, 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 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.

Motion was seconded by Sara Walsh.
Discussion on Motion: The Board felt there was a uniqueness to this property, however there are alternatives available. Given the placement of the driveway, alternatives might be expensive and detrimental to the land while under construction and to neighbors. This option still keeps the structure quite far from the neighboring property. When asked, the Zoning Office indicated they had no objection to this application and all issues with the Genoa Township Fire Department had been resolved.

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

Mark Harmon announced the hearing closed at 7:32 p.m.

Mark Harmon called the following hearing to order at 7:33 p.m., read the legal notice and asked anyone who wished to speak to this matter to sign-in and to stand. Those standing were sworn-in.

“Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?”

| CHRISTOPHER J. AND KIRSTIN M. LUNDAK, REQUESTING A VARIANCE FROM SECTION 606.10 OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW FOR BUILDING COVERAGE IN EXCESS OF TEN PERCENT (10%) FOR A SINGLE-FAMILY RESIDENCE LOCATED ON PARCEL #317-220-01-042-000, 6155 JAYCOX ROAD, GALENA, A RURAL RESIDENTIAL (RR) ZONING DISTRICT. (BZA 2016-02). |

Mark Harmon noted that the applicant, Christopher J. and Kirsten M. Lundak, sent a written notice to the Development and Zoning Department via email on March 21, 2016, to request a continuance to the April 26,2016, BZA meeting for the application for a Variance on property located at 6155 Jaycox Road, Galena.

CONTINUANCE MOTION: Sara Walsh moved, to accept the applicant’s written request, dated March 21, 2016, to continue the public hearing until April 26, 2016, at 7:00 p.m. in the Genoa Township Hall for a Variance from Section 606.10 of the Genoa Township Zoning Resolution for BZA 2016-02, application received February 25, 2016, to allow for building coverage in excess of ten percent (10%) for a single family residence located on Parcel #317-220-01-042-000, 6155 Jaycox Road, Galena, zoned Rural Residential Zoning District (RR). Additional materials will be due in the Genoa Township Development and Zoning Office by April 12, 2016, at noon.

Motion was seconded by David Buhn.

Discussion on Motion: None.

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

Mark Harmon announced the hearing closed at 7:36 p.m.

Mark Harmon called the following hearing to order at 7:36 p.m., read the legal notice and asked anyone who wished to speak to this matter to sign-in and to stand. Those standing were sworn-in.

“Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?”
The following were marked as exhibits “A” – “F”.
- Exhibit “A” – Legal Notice
- Exhibit “B” – Sign-in Sheet
- Exhibit “C” – Application
- Exhibit “D” – Staff Report, dated 3/22/2016
- Exhibit “E” – Photo of Building
- Exhibit “F” – Signature of Neighbors

APPLICANTS’ PRESENTATION: Tim Devore, Danielle Miranda, and Chuck Lang, presented the application as partners in Rock N Shock. Mr. Devore began by noting the uniqueness of this situation, stating they are toward a back area that is not well-lit, this is an all-female facility open from 5 a.m. to 9 p.m., and they have a very aggressive marketing strategy that could make this more of a target due to public awareness. The covering, which is similar to car wrap, is very clear when looking from the inside out, however, limits visibility inward unless interior lighting is altered. The applicant has spoken with neighbors and showed them how this works; a sheet with signatures of neighbors was submitted as Exhibit “F”. The applicant noted there are window coverings on the store previously occupied by Blockbuster Video and that they felt this was more appealing than blinds. The Board asked if there were any pictures to which Ms. Dorsch responded no pictures were received.

STAFF REPORT: Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, gave an overview of the staff report. The business is located on Lot 1436 (1.1 acre) of the Chandler Corporate Park, a Planned Industrial Warehouse (PID) Zoning District. The building was built in 1988 and is 15,000 sq. ft. building with 4 units within the building; all are currently occupied. The Final Development Plan for this building states the property will follow the Genoa Township Zoning Resolution and there is no divergence indicated for signage. The applicant received a Change of Use Permit from the Zoning Office in December, 2015. The Zoning Office was contacted by a tenant regarding the signage after which representatives from Zoning met with the applicant on-site. The Board asked if there were any pictures to which Ms. Dorsch responded no pictures were received.

PUBLIC COMMENTS: Mark Harmon asked any individuals who were properly sworn-in to share their comments.
1. Francesca Ciotola (5310 Gillen Way, B&E Enterprises, LTD.) owns the building. When she first saw what had been done, she really liked it and thought it made the building look better. She felt there was no harm done by this and that it looked very classy.
2. Tom Crumrine (5901 Chandler Court #C) has a business located in another section of the building. He is fine with this and thinks it looks nice, noting he would contemplate something similar on his unit.
3. Millie Evans (2049 Brittany Road) is a member of Rock N Shock and was pleased the business was clearly identified and felt it was much safer this way.

APPLICANT’S RESPONSE: When asked by the Board, the applicant noted they had not yet opened for business and that their hours of operation would be 5 a.m. with the last class beginning at 8 p.m.
so they may be leaving as late as 9:30 p.m. or 10:00 p.m. The Board questioned when the window coverings were installed to which the applicant responded about three months ago. The applicant stated they looked at other buildings and were unaware of the zoning code. The applicant indicated they had spoken to the gym owners located in the same building and indicated they are different operations with no intention of taking business from them; Rock N Shock is not a typical gym, but rather is customized to a person's individual needs in small classes of 10-12 at any given time; some members are referred for rehabilitation exercises prescribed by doctors. There are 2200 sq. ft. for the gym and there is a small office space of about 1200 sq. ft. The Board expressed concern that the existing covering is more advertising than strictly window covering. Ms. Dorsch reviewed the code, noting a solid color would be window coverage, not advertising which is governed separately. If there were no words or graphics on the coverings, these would not be advertising. The name of the business is an identification sign. The Board stated that the signage was not as offensive as was the fact that they had ignored the code and now were asking for permission. The applicant felt signage had changed significantly from the time this code was written and that it the Code is very outdated.

The Board asked Ms. Dorsch what was the original intent of the code related to this to which she responded she was not in the Zoning Office at that time. She was then asked if there was a review of signage planned in the future to which she responded this is often a topic of discussion and would likely continue to be so. They also asked the intent and purpose of the signage rules to which Ms. Dorsch read the relevant section(s).

BOARD DISCUSSION/FINDINGS OF FACT:

The Board reviewed Duncan v. Middlefield, in regards to the variance requested from Section 1804 to allow for multiple window signs to cover 100% of the total window area in a Planned Industrial-Warehouse (PID) Zoning District as follows:

Whether the property in question would yield a reasonable return or whether there can be beneficial use of the property without the variance.

(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 100% everywhere rather than the 25% allowed; 75% greater than what is allowed.

(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. At least one neighbor feels it is a detriment.

(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. Zoning was in place when purchased. Yes, it was leased with this is place.

(f) Whether the property owner's predicament feasibly be obviated through a method other than the variance. Yes, by removing the covering in excess of what is allowed.

(g) Whether the spirit and intent behind the zoning would be observed and substantial justice would be done by granting the variance. Yes.

MOTION: Sara Walsh moved, incorporating Exhibits A through F into evidence, to approve a Variance from Section 1804 of the Genoa Township Zoning Resolution for BZA 2016-03, application received February 29, 2016, to allow for multiple window signs to cover 100% of the total window area for Rock N Shock Fitness, LLC., located at 5901 Chandler Court, Unit-A, Lot 1436 in the Chandler Corporate Park, Westerville, zoned Planned Industrial-Warehouse Zoning District (PID) 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 75 percent more 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/tenant did purchase/lease 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 Cybele Smith.

Discussion on Motion: The Board expressed concerns of the clarity of Section 1804, however, it may not have accounted for such a large number of windows in proximity. The larger number of smaller windows may be more pleasing than one very large window. It was also noted that the pictures were more palatable and that there were too many words on the signs. The location of this building makes additional signage less of an issue than one located in a very highly trafficked area. The Board noted that there are other ways to have resolved this without resulting in graphics and words, such a plain colored cover, and that this situation is not truly unique; further noting that a change could result in something less appealing. It was also expressed that covering the windows is a protection for the community as a whole.

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

Mark Harmon announced the hearing closed at 8:28 p.m.

OTHER BUSINESS
None

NEXT MEETING:
- Tuesday, April 26, 2016, 7:00 p.m.

ADJOURNMENT
Sara Walsh moved to adjourn this meeting at 8:29 p.m. Motion was seconded by Cybele Smith. All voted yes. Motion carried.

Meeting was adjourned at 8:29 p.m.

PREPARED BY:

Connie Goodman

BOARD OF ZONING APPEALS APPROVED:

Mark Harmon, Vice-Chair
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<tr>
<th>OTHERS PRESENT AT MEETING</th>
<th>ADDRESS</th>
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<tbody>
<tr>
<td>Joe Shafer</td>
<td>Genoa Township Zoning and Development Office</td>
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<tr>
<td>Francesca Ciotola</td>
<td>5310 Gillen Way, Westerville 43082</td>
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<tr>
<td>Danielle Miranda</td>
<td>5901 Chandler Court, Westerville 43082</td>
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<tr>
<td>Millie Evans</td>
<td>2049 Brittany Road, Columbus 43229</td>
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<td>Chuck Lang</td>
<td>Rock N Shock</td>
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<td>Tim Devore</td>
<td>Rock N Shock</td>
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<td>Tom Dole</td>
<td>6541 Lake of the Woods Point, Galena 43021</td>
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<td>William Miller</td>
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<td>Kate Falk</td>
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<td>Jessica Falk</td>
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<td>Tom Crumrine</td>
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