GENOA TOWNSHIP BOARD OF ZONING APPEALS MEETING MINUTES

DATE: June 28, 2016
TIME: 7:00 PM
LOCATION: Genoa Township Hall, 5111 S. Old 3C Hwy., Westerville, Ohio 43082

AGENDA ITEMS:
- BZA (2016-04) McKeeman – Variance – side yard setback, 1st hearing
- BZA (2016-05) Romanelli and Hughes – Identification Signs, 1st hearing
- BZA (2016-06) - West – Variance – front yard setback, 1st hearing

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

ROLL CALL

MEMBERS PRESENT
Mark Harmon, Chair
Sara Walsh, Vice-Chair
Mark Phillips

MEMBERS ABSENT
Teresa Yu
David Buhn, Alt.
Dorothy Driskell, Alt

Cybele Smith

David Buhn was a voting member due the absence of Cybele Smith.

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

The board amended page 4, to read Mark 'Phillips' not Mark 'Smith' .

MOTION: Theresa Yu moved to approve the April 26, 2016, meeting minutes, as amended.

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

PUBLIC HEARINGS
Mark Harmon called the following hearing to order at 7:03 p.m., read the legal notice and asked anyone who wished to speak to this matter to sign-in and to stand.

JOSEPH AND JANE MCKEEMAN, REQUESTING A VARIANCE FROM SECTION 1609.01B OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW FOR CONSTRUCTION OF AN ACCESSORY BUILDING TO ENCROACH APPROXIMATELY TEN FEET INTO THE REQUIRED FIFTEEN (15) FOOT SIDE YARD SETBACK ON PROPERTY KNOWN AS LOT 682 IN LAKE OF THE WOODS, NUMBER 3, 9100 OAKWOOD POINT, WESTERVILLE, 43082, ZONED RURAL RESIDENTIAL (RR) (BZA 2016-04).

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 6/28/2016
APPLICANTS' PRESENTATION: Joe McKeeman, applicant, referred to an aerial view from the Delaware County Auditor website showing the location of the current building, noting he recently purchased the property and is unaware of any complaints by residents on the location of the existing structure. He has worked with several builders and all agree this is the best location for the new structure as it provides a safe turning radius. He stated the Lake of the Woods HOA will not allow the garage doors to face the street. He is limited on placement of the accessory building due to the topography of the lot which has a significant drop off. Mr. McKeeman also stated that he would prefer not to cut down trees. Existing gas and water lines also limit placement. The exterior of the garage will complement the existing house with similar materials being used. The existing accessory building will be razed. The Board asked if the HOA had approved this plan to which the applicant replied they had with the only restriction being the orientation of the garage doors. The Board asked if adding more asphalt would eliminate the need for the variance. Mr. McKeeman stated that, however, the drop off adversely impacted this option.

STAFF REPORT: Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, gave an overview of the staff report. She indicated Lake of the Woods, Number 3, was platted in June, 1959. This property, Lot #682, was built in 1964 per the Delaware County Auditor’s website; the applicant purchased the property in May, 2016. Mr. McKeeman has worked with the Zoning Office on several occasions and is aware of the required setbacks. In reviewing the site plan provided by the applicant, staff was unable to determine if the proposed location for the accessory building would comply with the required seventy-five (75) foot front setback required by the current Zoning Resolution; if this request is approved, the applicant may need an additional variance for the front setback. The applicant indicated he would move the structure, if needed, to be compliant with the required front setback.

PUBLIC COMMENTS: Mark Harmon 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 1609.01B to allow for construction of an accessory building to encroach approximately ten (10) feet into the fifteen (15) foot side yard setback on property known as Lot 682 in Lake of the Woods, Number 3, 9100 Oakwood Point, Westerville, 43082, a Rural Residential (RR) 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 66%.
(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, it was in place when purchased.
(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.

MOTION: Mark Phillips moved, incorporating Exhibits A through D into evidence, to approve a Variance from Section 1609.01B of the Genoa Township Zoning Resolution for BZA 2016-04, original application received May 25, 2016, to allow for construction of an accessory building to encroach approximately ten feet.
(10) feet into the required fifteen (15) foot side yard setback on property known as Lot 682 in Lake of the Woods, Number 3, 9100 Oakwood Point, Westerville, 43082, zoned Rural Residential (RR) 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 66 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 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: There was no additional discussion.

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

Mark Harmon announced the hearing closed at 7:26 p.m.

Mark Harmon called the following hearing to order at 7:26 p.m., read the legal notice and asked anyone who wished to speak to this matter to sign-in and to stand.

ROMANELLI AND HUGHES INC., REQUESTING A CONDITIONAL USE PERMIT PER SECTION 1804.02 OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW TWO FREESTANDING IDENTIFICATION SIGNS TO BE LOCATED AT THE ENTRANCE TO THE LONDON CROSSING SUBDIVISION, 5844 AND 5847 ELISE LANE, ZONED SUBURBAN RESIDENTIAL (SR) (BZA 2016-05).

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 6/28/2016
Exhibit “E” – Updated setback from right-of-way diagram
Exhibit “F” – Updated line-of-sight document

APPLICANTS’ PRESENTATION: Chuck Orth, Romanelli and Hughes representative, is asking to be allowed to place two (2) permanent four (4) by four (4) foot signs, constructed of brick and stone with a hip roof, at the entrance of their London Crossing subdivision to better define their project. Updates in response to the staff report were provided to the Board; adjustments were made due to the sanitary easement and “line of sight” concerns. Mr. Orth has also been working with the County to obtain a drainage easement. A permanent landscape easement will be placed on this so the HOA can then incorporate this into their documents; this is necessary since these will be placed on private lots and access will need to be granted for the HOA to maintain the signs and the fence. A landscape plan will be presented to the Zoning Office.
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 thirteen (13) lot subdivision that was platted in November, 2015. In May, 2014, the BZA granted a variance for a reduction of the required fifty (50) front yard setbacks for a Suburban Residential (SR) district to thirty (30) feet (BZA 2014-04). The two previous homes on this property have been removed and five permits have been issued to date. Ms. Dorsch indicated the original application did not include the fence and so that has been updated. The code allows for only a thirty (30) inch fence between the front and the right-of-way, this fence is forty-eight (48) inches high so it will need to be part of the variance request. This application will also require a letter from Delaware Soil and Water and the Delaware County Engineer’s Office (for line of sight) before a permit would be issued by the Zoning Office. Ms. Dorsch also noted that this is a straight district, not a planned district, and thus does not have open space requirements.

PUBLIC COMMENTS: Mark Harmon asked any individuals who were properly sworn-in to share their comments.
- Lance Holmes (6010 Tussic Street) is a home owner in London Crossing. He indicated this was previously a horse farm and the design will be in keeping with the property history.

BOARD DISCUSSION/FINDINGS OF FACT:

The Board reviewed Conditional Use Standards, in regards to the variance requested from Section 1804.02 to allow two freestanding identification signs and a forty-eight (48) inch high crossbuck fence to be located at the entrance to the London Crossing Subdivision, 5844 and 5847 Elise Lane, zoned Suburban Residential (SR) Zoning District as follows:

Section 303

303.01 The Use is so designed, located and proposed to be operated so that the public health safety, welfare and convenience will be protected.

303.02 The Use will not result in the destruction, loss or damage of natural, scenic, or historic features of major importance.

303.03 The Use will be designed, constructed, operated, and maintained so that it shall not cause substantial injury to the value of the property in the area or neighborhood where it is to be located.

303.04 The Use shall be compatible with adjoining development and the proposed character of the zoning District where it is to be located.

303.05 The Use will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools, or that the persons or agencies responsible for the establishment of the proposed Use shall be able to provide any such services adequately.

303.06 The Use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community. Public facilities and services include but are not limited to: fire and police protection or other emergency services, roadways, intersections, traffic lights, and sanitary and storm sewers.

303.07 Adequate Landscaping and screening are provided, as required under Article 20.

303.08 Adequate off street parking is provided, and ingress and egress is so designed as to cause minimal interference with traffic on abutting streets.

303.09 The Use conforms to all applicable regulations governing the District in which it is located.
The Use is compatible with the standards, objectives, and policies of Genoa Township Comprehensive Plan as amended and any revisions thereof.

The Use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odors, or vibrations.

Any other supplementary requirements as prescribed by the Board of Zoning Appeals.

**MOTION:** Sara Walsh moved to incorporate Exhibits A through F into evidence and approve a Conditional Use Permit per Section 1804.02 of the Genoa Township Zoning Resolution for BZA 2016-05, original application received May 26, 2016, to allow two freestanding identification signs and a forty-eight (48) inch high crossbuck fence to be located at the entrance to the London Crossing Subdivision, 5844 and 5847 Elise Lane, zoned Suburban Residential (SR) Zoning District 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. The approval letter from Delaware County Soil and Water Conservation District about the crossbuck fence and the cited structures to be constructed within the twenty-three (23) foot and thirty-three (33) foot drainage easement will need to be provided before a zoning permit will be issued.
2. The approval letter from the Delaware County Environmental Services allowing the fence and the cited structure to be constructed within the forty (40) foot sanitary easement will need to be provided to the Township before a zoning permit will be issued.
3. Record of a permanent landscape easement for the maintenance of the landscape fencing and the signage areas will need to be added.

Motion was seconded by Teresa Yu.

Discussion on Motion: There was no additional discussion.

Roll call: Sara Walsh, yes; Teresa Yu, yes; Mark Phillips, yes; David Buhn, yes; Mark Harmon, yes.

Motion carried.

Mark Harmon announced the hearing closed at 7:47 p.m.

Mark Harmon called the following hearing to order at 7:47 p.m., read the legal notice and asked anyone who wished to speak to this matter to sign-in and to stand.

**TONY AND JENNIFER WEST, REQUESTING A VARIANCE FROM SECTION 1609.01A OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW FOR CONSTRUCTION OF AN ACCESSORY BUILDING TO ENCLOSE THIRTY-FIVE (35) FEET INTO THE REQUIRED FIFTY (50) FOOT FRONT YARD SETBACK ON PROPERTY KNOWN AS PARCEL 31722001023002, 6821 LEWIS CENTER ROAD, GALENA, 43021, ZONED RURAL RESIDENTIAL (RR) (BZA 2016-06).**

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 6/28/2016
APPLICANTS’ PRESENTATION: Tony West, applicant, stated he was unaware of the depth of the setback when he purchased the home as the house faces to the side, not the road, on this horizontal flag lot. His home is fifty-one (51) feet from the front setback, thus is compliant. He would like to maintain the character of the existing property and feels this is the only logical location for the new structure. The Board asked if it could be placed in the open area to the rear of the home to which the applicant responded this would take up a significant portion of the backyard and impact their deck that is attached to the rear of their house. The septic system is in the front of the house. The Board questioned Mr. West regarding the impact on surrounding properties. He stated there is a significant thicketed area between the applicant’s home and the home this would abut adding he had spoken with his neighbor and said there was no objection expressed to this plan. There is a pole barn and a pond on 6807 Lewis Center, however, the owner has no residence on this property. Ms. Dorsch indicated the facing flag lot owner visited the zoning office and had no objection after seeing the proposed plan.

STAFF REPORT: Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, gave an overview of the staff report. She stated this is a large five (5) acre property that was created in 1993 and the current house was built in 1999; the applicant purchased the house in May, 2015. When Mr. West came to the Zoning Office for a permit it was noted that the setback was not compliant. She explained to those present how the setback calculation is determined.

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

- Charles Glass (6551 Lewis Center Road) indicated that the property owned by Mr. Bush is not occupied and is meticulously maintained. Mr. Glass has no objection to this application. He also noted that there is a significant drop off in the rear of the property.

BOARD DISCUSSION/FINDINGS OF FACT:

The Board reviewed Duncan v. Middlefield, in regards to the variance requested from Section 1609.01A to allow for construction of an accessory building to encroach thirty-five (35) feet into the fifty (50) foot front yard setback on property known as Parcel #31722001023002, 6821 Lewis Center Road, Galena, 43021, a Rural Residential (RR) 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. No.

(e) Whether the property owner purchased the property with knowledge of the zoning restriction. No, applicant indicated he was unaware of setbacks.

(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.

MOTION: Sara Walsh moved to incorporate Exhibits A through D into evidence and approve a Variance from Section 1609.01A of the Genoa Township Zoning Resolution for BZA 2016-06, original application received May 27, 2016, to allow for construction of an accessory building to encroach thirty-five (35) feet into the required fifty (50) foot front yard setback on property known as Parcel #31722001023002, 6821 Lewis Center Road, Galena, 43021, zoned Rural Residential (RR) 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 the building would encroach thirty-five (35) feet into the required fifty (50) foot building line which is approximately seventy (70) 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 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 Mark Phillips.

Discussion on Motion: The Board’s consensus was that this was a logical solution for this property.

Roll call: Sara Walsh, yes; Teresa Yu, yes; Mark Phillips, yes; David Buhn, yes; Mark Harmon, yes.

Motion carried.

Mark Harmon announced the hearing closed at 8:10 p.m.

NEX T MEETING:
- Tuesday, July 26, 2016, 7:00 p.m. if an application(s) is received.

ADJOURNMENT

Sara Walsh moved to adjourn this meeting at 8:11 p.m. Motion was seconded by Teresa Yu. All voted yes. Motion carried.

Meeting was adjourned at 8:11 p.m.

PREPARED BY:

Connee Goodman

June 30, 2016

Date Prepared

BOARD OF ZONING APPEALS APPROVED:

Mark Harmon, Chair

Date Approved by the BZA

<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>
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<tr>
<td>Joe McKeeman</td>
<td>9100 Oakwood Point, 43082</td>
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<tr>
<td>Charles Glass</td>
<td>6551 Lewis Center Road, 43021</td>
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<td>Tony West</td>
<td>6821 Lewis Center Road, 43021</td>
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<tr>
<td>Chuck Orth</td>
<td>Romanelli &amp; Hughes, 148 Schrock Road, 43081</td>
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<tr>
<td>Paula Spinozi</td>
<td>5766 Blackhawk Forest, 43082</td>
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<tr>
<td>Lance &amp; Mandy Holmes</td>
<td>6010 Tussic Street Road, 43082</td>
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