GENOA TOWNSHIP BOARD OF ZONING APPEALS MEETING MINUTES

DATE: June 27, 2017
TIME: 7:00 PM
LOCATION: Genoa Township Hall, 5111 S. Old 3C Hwy., Westerville, Ohio 43082
AGENDA ITEM: BZA (2017-06) D’Ginto – Variance, encroachment into front building setback line.

STAFF PRESENT: Susan Dorsch, Permit and Zoning Compliance Inspector

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

ROLL CALL

<table>
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<tr>
<th>MEMBERS PRESENT</th>
<th>MEMBERS ABSENT</th>
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<tbody>
<tr>
<td>Mark Harmon, Chair</td>
<td>Sara Walsh</td>
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<td>Mark Phillips, Vice-Chair</td>
<td>Teresa Yu</td>
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<tr>
<td>Cybele Smith</td>
<td>Dorothy Driskell, Alt.</td>
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<td>David Buhn, Alt.</td>
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MINUTES
The board reviewed meeting minutes presented by the Genoa Township Development and Zoning Department for the hearings held on March 28, 2017.

MOTION: Mark Phillips moved to approve the March 28, meeting minutes, as presented.

Motion was seconded by Sara Walsh. Roll call: Mark Phillips, yes; Cybele Smith, abstain; Sara Walsh, yes; Teresa Yu, yes; Mark Harmon, yes. Motion carried. Minutes were approved

HEARING
Mark Harmon 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.

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

RICHARD A. AND DEBORAH L. D’GINTO, REQUESTING A VARIANCE FROM SECTION 909.01 A OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW FOR CONSTRUCTION OF AN ADDITION TO ENCROACH UP TO FIVE (5) FEET INTO THE REQUIRED THIRTY (30) FOOT FRONT BUILDING LINE ON PROPERTY KNOWN AS PARCEL #31742310001000, 7883 MILFORD AVE, WESTERVILLE, OHIO 43082, ZONED PLANNED RESIDENTIAL (PRD) (BZA 2017-06).

The following were marked as exhibits "A" – "D".

Exhibit "A" – Legal Notice
Exhibit "B" – Sign-in Sheet
Exhibit "C" – Application
Exhibit "D" – Staff Memorandum, dated June 27, 2017

STAFF REPORT: Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, gave an overview of the staff report. Ms. Dorsch stated that the subject property at
7883 Milford Avenue is located in Harvest Wind (Phase 7, Section 2, Part 1) a Planned Residential Development. Ms. Dorsch stated that the applicant was requesting to add an additional garage bay to the existing two car garage. The proposed addition would encroach approximately five (5) ft. into the required thirty (30) ft. front building line. The house was built in 2003 (permit #20030427). No additional zoning permits were found. According to the Delaware County Auditor’s site the D’Ginto’s purchased the property in December 2016.

Ms. Dorsch explained that on May 24, 2017, Mrs. D’Ginto called the Development and Zoning Department to obtain information on the process to obtain a variance. Their application was submitted on May 26, 2017; the application deadline for the June 27, 2017 Board of Zoning Appeals hearing.

Ms. Dorsch stated that the site plan submitted with the Variance Application showed a 13 ft. wide addition to the east side of the existing two car garage; 4.102 ft. of which would encroach into the required 30 ft. building setback line; a 14% encroachment.

APPLICANTS’ PRESENTATION: Mr. D’Ginto presented his variance application to the Board. He stated that he and his wife recently relocated from Philadelphia. He stated that the dimensions of the two car garage are smaller here than the area from which they moved. He testified that his wife drives a standard size sedan but her car will barely fit into the existing garage. When asked by the Board, Mr. D’Ginto stated that a majority of the houses around them have three car garages. He believes that adding the addition space to their existing garage will add value to his property and enhance the neighborhood. Mr. D’Ginto stated that they had contacted their surrounding neighbors and they had not received any negative responses to their plans.

PUBLIC COMMENTS: Mark Harmon asked any individuals who were properly sworn-in to share their comments. No one from the public was in attendance.

BOARD DISCUSSION/FINDINGS OF FACT:

The Board reviewed Duncan v. Middlefield, in regards to the variance requested from Section 909.01-A, to allow an encroachment into the required front yard building setback line in a Planned Residential (PRD) 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. The Board determined that there would be a reasonable return and beneficial use of the property without the variance because the dimensions of the garage are typical for a two car garage and will hold two (2) average size cars.

(b) Whether the variance is substantial. The Board deemed that the proposed 14 percent encroachment was not substantial since it is less than 20 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. The Board determined that the addition would not substantially alter the character of the neighborhood.

(d) Whether the variance would adversely affect the delivery of governmental services. The Board heard no evidence that the requested variance would adversely affect the delivery of governmental services.
(e) Whether the property owner purchased the property with knowledge of the zoning restriction. The Board stated that the homeowner’s knew the house had a two car garage when it was purchased but wasn’t aware of the limitations.

(f) Whether the property owner’s predicament feasibly be obviated through a method other than the variance. The homeowner’s could still add on a small garage addition that did not encroach into the building line.

(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.

MOTION: Sara Walsh moved, to incorporate Exhibits A through D into evidence, to approve a Variance from Section 909.01-A of the Genoa Township Zoning Resolution for BZA 2017-06, application received May 26, 2017, to allow for construction of an addition, as proposed on the site plan dated 5/22/2017, to encroach up to five (5) feet into the required thirty (30) ft. front building line on property known as parcel #31742310001000, 7883 Milford Ave, Westerville, Ohio 43082, zoned Planned Residential (PDR) 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 not substantial because it is less than 20%; about 14%.
(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 because there are many other houses in the neighborhood with three car garages.
(d) The Board did not hear any evidence that the variance would adversely affect the delivery of governmental services.
(e) The property owner did purchased 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 because they could build a smaller addition which would not require a 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: Several Board members expressed that the encroachment was not significant and the addition would not change the look of the neighborhood.

Roll call: Mark Phillips, No; Cybele Smith, yes; Sara Walsh, yes; Teresa Yu, yes; Mark Harmon, yes.

Motion carried. The Variance as requested was granted.

Mark Harmon announced the hearing closed at 7:27 p.m.

ADJOURNMENT
Sara Walsh moved to adjourn this meeting at 7:28 p.m. Motion was seconded by Cybele Smith. All voted yes. Motion carried.
Meeting was adjourned at 7:29 p.m.

PREPARED BY:  

Susan Dorsch, Development and Zoning  

7/13/17  

Date Prepared

BOARD OF ZONING APPEALS APPROVED:  

Mark Harmon, Chair  

9/26/17  

Date Approved by the Board of Zoning Appeals

PUBLICATION OF LEGAL NOTICE:  
The legal notice for this meeting was printed and published on June 10, 2017, in the Delaware Gazette and posted at the Genoa Township Hall on June 8, 2017. Notice of this meeting was also mailed to the adjacent property owners and notification signs placed on the property.

OTHERS PRESENT AT MEETING  

Susan Dorsch, Genoa Township Development and Zoning  

Mr. and Mrs. D'Ginto (applicant)