GENOA TOWNSHIP BOARD OF ZONING APPEALS MEETING MINUTES

DATE: September 26, 2017
TIME: 7:00 PM
LOCATION: Genoa Township Hall, 5111 S. Old 3C Hwy., Westerville, Ohio 43082
AGENDA ITEMS: BZA (2017-08) Raines – Variance, encroachment of accessory building into side yard setback line

STAFF PRESENT: Susan Dorsch, Permit and Compliance Inspector

CALL TO ORDER:
Mark Harmon called the meeting to order at 7:00 p.m.

ROLL CALL (00:00:17)

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<tr>
<th>MEMBERS PRESENT</th>
<th>MEMBERS ABSENT</th>
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<tr>
<td>Mark Harmon, Chair</td>
<td>Dorothy Driskell,</td>
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<td>Mark Phillips, Vice-Chair</td>
<td>David Buhn, Alt.</td>
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<tr>
<td>Teresa Yu</td>
<td>Cybele Smith</td>
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<td>Sara Walsh</td>
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MINUTES (00:00:38)
The board reviewed meeting minutes presented by the Genoa Township Development and Zoning Department for the hearings held on June 27, 2017 and July 25, 2017.

MOTION: Dorothy Driskell moved to approve the June 27, 2017, meeting minutes as presented.

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

MOTION: Teresa Yu moved to approve the July 25, 2017, meeting minutes as presented:

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

HEARING (00:02:46)
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.

RONALD AND ALYSON RAINES, REQUESTING A VARIANCE FROM SECTION 1609.01(B) OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW FOR CONSTRUCTION OF AN ACCESSORY BUILDING TO ENCROACH APPROXIMATELY 5 FEET INTO THE REQUIRED 15 FOOT SIDE YARD SETBACK ON PROPERTY KNOWN AS PARCEL NUMBER 31711003003000, 9907 GALENA POINTE DRIVE, GALENA, OHIO 43021, ZONED RURAL RESIDENTIAL (RR) (BZA 2017-08).
The following were marked as exhibits “A” – “E”.
Exhibit “A” – Legal Notice
Exhibit “B” – Sign-in Sheet
Exhibit “C” – Application
Exhibit “D” – Staff Memorandum, dated September 26, 2017
Exhibit “E” – Letter from AEP, dated April 11, 2017, provided by Applicant

STAFF REPORT: Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, gave an overview of the staff report. Ms. Dorsch explained that the purpose of the meeting was to review a variance application. The Zoning Resolution requires that accessory buildings in a Rural Residential District be a minimum of 15 feet from the side property line, and the Applicant is requesting to encroach into that required setback by 5 feet and have a resulting 10 foot side yard setback.

Staff had some comments after reviewing the application. The Applicant stated that an accessory building in the intended area would not yield a structure of the necessary size to be functional for the intended purposes. Staff did not find any specific purposes or intended use of the building. The Applicant stated that a ten foot utility easement runs the length of the parcel and it has been vacated by AEP. Ms. Dorsch did not believe that this is actually a factor in the variance as the Applicant is only requesting to be 10 feet off the property line. She explained that if the board should deem that the AEP easement is a factor, there should be written proof from AEP that the easement has been vacated.

Applicant provided an illustration showing the location of the existing house and proposed location of the accessory building and driveway as part of the application. Staff pointed out that there is language on the drawing that says it is requested that an area of 5’ x 32’ be vacated from the township building code. Ms. Dorsch clarified that it is a variance to encroach into the required setback, and that nothing is being vacated. She also noted that the township does not have a building department, and therefore no building code.

She indicated that the current regulations would allow Applicant to build a 24’ wide accessory building and Applicant is asking for a 30’ wide building. The 15’ side yard setback requirement for the accessory building has been in place since the zoning permit was issued for construction of the house in 1998. Police, fire and maintenance had no concerns with the application. The adjacent property owners were notified of the variance request, as required by the ORC, the legal notice was advertised and Staff did not receive any comments from residents.

APPLICANTS’ PRESENTATION: The property owner spoke to the board and said that the home was purchased in October, 2009. Once the Applicant moved in to the home he realized that the garage was not deep enough for his pickup truck. He also noted that more storage space for vehicles, tools, lawn equipment and bicycles was needed. He also claimed that he was not aware of the zoning resolution when the property was purchased. The Applicant stated that he meant to include in his application a letter from AEP vacating the easement; a copy was submitted to the Board and marked as Exhibit “E”.

James Green, the contractor hired by the Applicant, spoke about the area highlighted on the drawing where the proposed accessory building is to be located. A brief discussion took place regarding the driveway and garage measurements.
The Board asked if the garage could still be constructed, but moved over 5 feet. The Applicant responded that it could, but that it would hurt the aesthetics of the home because the view from the large picture window at the rear of his house would be the garage wall.

During the Applicant’s presentation the board asked if there was a Homeowners Association (HOA). A short discussion occurred regarding the Homeowners Association. The Applicant stated that the HOA was not active. No dues are paid and he was not aware of an HOA approval process.

The Board reviewed and discussed the letter from AEP (Exhibit “E”). They pointed out that AEP is not abandoning their easement. While AEP does not object to the Applicant building next to their easement, they have not abandoned it. It was noted that construction would not take place in any part of the AEP easement. A short conversation occurred pertaining to drainage concerns and improvements.

BOARD DISCUSSION/FINDINGS OF FACT:

The Board reviewed Duncan v. Middlefield, in regards to the variance requested from Section 1609.01(B), to allow an encroachment into the required side yard building setback line in 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. The Board determined that there can be beneficial use without the variance.

(b) Whether the variance is substantial. The Board noted that at 33%, the variance is 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. The Board determined that the neighborhood would not suffer a substantial detriment.

(d) Whether the variance would adversely affect the delivery of governmental services. The Board did not receive any evidence that the delivery of governmental services would be affected.

(e) Whether the property owner purchased the property with knowledge of the zoning restriction. The Board concluded that the Applicant did purchase the property with knowledge of the zoning restriction.

(f) Whether the property owner’s predicament feasibly be obviated through a method other than the variance. The Board does not think it would be feasibly obviated through a method other than the variance since the zoning regulation was in effect at the time of purchase.

(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 believes that justice would be done by granting the variance.

MOTION: (00:31:01)
Mark Phillips moved, incorporating Exhibits A through E into evidence, to approve a Variance from Section 1609.01(B) of the Genoa Township Zoning Resolution for BZA 2017-08, application received August 23, 2017, to allow for construction of an accessory building, as proposed on the plan dated August 16, 2017, to encroach up to 5 feet into the required 15 foot side yard setback on property

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known as parcel #31711003003000, 9907 Galena Pointe Drive, Galena, Ohio 43021, zoned Rural Residential (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 because the building could be located in another area.
(b) The variance is substantial because it amounts to 33% into the 15’ set back line.
(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 because no evidence has been provided.
(e) The property owner did purchase the property with knowledge of the zoning restriction because the restriction was in place when the house was purchased.
(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 Teresa Yu.

There was no additional discussion by the Board.

Roll call: David Buhn, yes; Dorothy Driskell, yes; Mark Phillips, yes; Teresa Yu, yes; Mark Harmon, yes.

Motion carried.

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

OTHER BUSINESS: (00:36:00)
Ms. Dorsch presented the proposed draft of a calendar for the 2018 Board of Zoning Appeals meetings. She asked the Board to review the draft and check dates for conflicts or errors, and requested that the Board verify the dates so that a full board could be present at all scheduled meetings. Staff would like to hold a vote at the next meeting to approve the calendar.

ADJOURNMENT: (00:37:17)
Mark Phillips moved to adjourn this meeting at 7:37 p.m. Motion was seconded by David Buhn. All voted yes. Motion carried.

Meeting was adjourned at 7:37 p.m.

PREPARED BY:  
Jennifer Elliott, Zoning Secretary  
Date Prepared: 10-3-17  

BOARD OF ZONING APPEALS APPROVED:  
Mark Harmon, Chair  
Date Approved by the Board of Zoning Appeals: 10/24/2017  

Genoa Township Board of Zoning Appeals Meeting Minutes – September 26, 2017
**PUBLICATION OF LEGAL NOTICE:**
The legal notice for this meeting was printed and published on September 9, 2017, in the Delaware Gazette and posted at the Genoa Township Hall on September 7, 2017.

**OTHERS PRESENT AT MEETING**

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<th>Name</th>
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<tbody>
<tr>
<td>Ronald &amp; Alyson Raines</td>
<td>9907 Galena Points Drive</td>
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<td>James Green</td>
<td>(Not provided)</td>
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