GENOA TOWNSHIP  
BOARD OF ZONING APPEALS  
April 26, 2011

Present:  
David Blair, Vice-Chair  
David Dunn  
Mark Harmon, Alternate

Also Present:  
Joe Clase, Director of Development and Zoning  
Susan Dorsch, Permit & Development Inspector

RE:  
BZA 2011-03, 6636 Charles Road (Beadnell)  
BZA 2011-04, 5515 Turnberry Drive (Houpe)

Mr. Blair called the meeting to order at 7:00 p.m.

OLD BUSINESS

Minutes – 3/15/2011

Mr. Dunn made a motion to approve the minutes from March 15, 2011, Case No. BZA 2011-02, as written. Motion was seconded by Mr. Harmon. Roll call: Mr. Dunn, aye; Mr. Harmon, aye; Mr. Blair, aye. Motion carried.

NEW BUSINESS

BZA 2011-03, 6636 Charles Road (Beadnell)

This hearing began at 7:02 p.m.

Mr. Blair read the legal notice for the record, as follows:

ED AND MARIE BEADNELL REQUESTING A VARIANCE TO §806.05 OF THE GENOA TOWNSHIP ZONING RESOLUTION, TO ENCROACH INTO THE MINIMUM REQUIRED FRONT YARD SETBACK, ON PROPERTY LOCATED AT 6636 CHARLES ROAD, A SUBURBAN RESIDENTIAL (SR) ZONING DISTRICT. (BZA 2011-03)

Mr. Blair marked the following as Exhibits:

Exhibit “A” – Application  
Exhibit “B” – Legal Notice  
Exhibit “C” – Sign-in Sheet
Mr. Blair asked everyone to sign the sign-in sheet and directed those who wished to speak at this hearing to stand and be sworn in.

Mr. Blair noted that the Board of Zoning Appeals is a five (5) member board. This evening there are only three (3) members sitting on the Board so all three members would need to vote in favor of the applicant’s request for the variance to be approved. Mr. Blair gave each applicant the opportunity to table their application until next month. Ms. Houpe and the Beadnell’s affirmed their desire to proceed with this hearing as scheduled.

Mr. Beadnell stated that they are requesting to remove the existing uncovered front porch and handicap ramp and replace them with a covered front porch. Several years ago, a garage addition was added to the rear of the house that provides Mr. Beadnell access to the home. They are requesting to construct a covered porch to provide relief from sunlight. A ramp will not be incorporated into the new porch since Mr. Beadnell has access to the home from the garage. The proposed porch would not extend further into the front setback than the existing porch but the width across the front of the house would be greater. The proposed porch would be centered on the front of the house beginning approximately eleven (11) feet in from each side. The current porch is approximately twenty-six (26) feet across the front of the house and the new porch would be thirty-six (36) feet. The current porch and ramp extend approximately ten (10) feet into the front setback and the proposed porch would also extend ten (10) feet into the required fifty (50) foot front yard. The proposed porch would be approximately ninety (90) square feet larger than the existing porch.

The existing ramp and porch did not require a variance; the Genoa Township Zoning Resolution allows an uncovered porch to extend up to ten (10) feet into a required front or rear setback.

Ms. Dorsch gave a brief history of the property outlined in her staff report along with the reason for this application. Staff provided the Board with an exhibit of the homes along Charles Road. The exhibit showed that other homes along Charles Road also encroach into the fifty (50) foot required front yard. There are at least ten other houses on the road with covered porches. The homes on either side of the subject property both have front porches that encroach into the front setback.

Mr. Dunn asked if the zoning requirement was in place when the applicants purchased their home. Staff indicated that the requirement was in place.

Exhibit “D” – Staff report, dated 4/26/11 and Charles Road exhibit.

Public Comment:

Mr. Dunkel, 6610 Charles Road. Mr Dunkel stated that his porch existed when he purchased his home in 1982. He spoke in favor of the Board granting the Beadnells’ variance request.
Board Comments:

Mr. Dunn asked if the roof on the covered porch would match the roof of the house. The applicants indicated that the materials would be the same. He also questioned if an eight (8) foot wide porch would meet the applicant’s needs. Mr. Beadnell stated that an eight foot porch would be sufficient but a smaller width would not provide adequate room for a table or for him to maneuver his wheelchair.

At this time the Board reviewed Duncan v. Middlefield for the record, as follows:

(a) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance. The property in question would yield a reasonable return and there can be beneficial use of the property without the addition of the covered porch.
(b) Whether the variance is substantial. An eight (8) foot encroachment into the fifty (50) foot front setback would be 16 % more than the Zoning Resolution allows. 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. There are several houses in the neighborhood which have covered porches. Granting this variance to allow the covered porch would not substantially altered the character of the neighborhood and the adjoining properties would not suffer a substantial detriment as a result of the variance.
(d) Whether the variance would adversely affect the delivery of governmental services (i.e. water, sewage, garage) No evidence presented that there would be any adverse effect on the delivery of governmental services.
(e) Whether the property owner purchased the property with knowledge of the zoning restriction. The property owners may not have been aware of the zoning restriction when they purchased the property but the zoning restriction was in place. Therefore, the applicants did purchase the property with knowledge of the zoning restriction.
(f) Whether the property owner's predicament can be feasibly obviated through some method other than a variance. The property owner's predicament cannot feasibly be obviated through a method other than the variance. The location of the house on the lot precludes a porch being constructed in another location such as the side of the house.
(g) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. The spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance.

Board Discussion

David Dunn moved, incorporating Exhibits “A” through “D” into evidence, to approve a variance for BZA 2011-03, to allow Ed and Marie Beadnell to
construct a covered front porch which would encroach into the required front setback by eight (8) feet, pursuant to §806.05 of the Genoa Township Zoning Resolution, as represented on the above-mentioned application dated March 22, 2011, on property located at 6636 Charles Road, a Suburban Residential (SR) Zoning District, based on the following findings of fact:

(a) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance. The property in question would yield a reasonable return and there can be beneficial use of the property without the variance.

(b) Whether the variance is substantial. The variance is substantial since it is approximately 16 % more than the Zoning Resolution allows.

(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 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) Whether the variance would adversely affect the delivery of governmental services (i.e. water, sewage, garbage). The variance would not adversely affect the delivery of governmental services.

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

(f) Whether the property owner’s predicament can be feasibly obviated through some method other than a variance. The property owner’s predicament cannot feasibly be obviated through a method other than the variance.

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

Approval of this variance is subject to the owner’s agreement to the following conditions:

1. Exterior material finishes will match the existing home.
2. Total area of porch will be eight (8) feet by approximately thirty-six (36) feet.

Motion was seconded by Mr. Harmon. Vote: Mr. Dunn, aye; Mr. Harmon, aye; Mr. Blair, aye. Motion carried.

This hearing ended at 7:25 p.m.

BZA 2011-04, 5515 Tumberry Drive (Houpe)

This hearing began at 7:26 p.m.

Mr. Blair read the legal notice for the record, as follows:
SANDY HOUPE, REQUESTING A VARIANCE TO THE APPROVED FINAL DEVELOPMENT PLAN FOR THE HIGHLAND LAKES SUBDIVISION, TO ALLOW AN ENCROACHMENT NOT THE REQUIRED MINIMUM TEN (10)-FOOT SIDE SETBACK ON LOT #2047, 5515 TURNBERRY DRIVE, A PLANNED RESIDENTIAL (PD-1) ZONING DISTRICT. (BZA 2011-04)

Mr. Blair asked everyone to sign the sign-in sheet and directed those who wished to speak at this hearing to stand and be sworn in.

Mr. Blair marked the following as Exhibits:

Exhibit “A” – Application
Exhibit “B” – Legal Notice
Exhibit “C” – Sign-in Sheet

Mr. Anthony Keefer, Keefer Contractors, represented the applicant, Sandy Houpe. The applicants are requesting to construct a three season room addition which would encroach eleven (11) inches into the ten (10) foot side yard setback. The existing deck encroaches sixteen (16) inches into the setback. The deck will be removed and the new room constructed. The screen room will be constructed on piers. The piers will not encroach into the ten (10) foot setback; the room will be cantilevered over the piers. The homeowners originally wanted to construct a fourteen (14) foot square room. When they learned of the ten (10) side yard requirement, they went back to the architect who designed the five sided room being proposed.

Mr. Dunn asked for clarification concerning the door location. Mr. Keefer pointed out the location of existing skylight and their relationship to the location of the proposed structure.

Exhibit “D” – Staff report, dated 4/26/11

Ms. Dorsch gave a brief history of the property outlined in her staff report along with the reason for this application. She stated that the property was located in the Highland Lakes Subdivision; a planned residential district. Ms. Dorsch stated that depending on the location of the neighboring home the applicant may also need a variance to Section 909.01 which requires a twenty (20) foot structure separation. This structure separation should also be addressed to prevent the need for the applicant to return for an additional variance.

Public Comment:

None.
Board Comments:

The Board discussed the location of the existing door and skylights and their effect on the location of the proposed structure. They also discussed the need for an additional variance to Section 909.01 to address the required twenty (20) foot structure separation.

At this time the Board reviewed Duncan v. Middlefield for the record, as follows:

(a) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance. The property in question would yield a reasonable return and there can be beneficial use of the property without the addition of the three (3) season room.

(b) Whether the variance is substantial. The variance is not substantial, since it is approximately nine percent (9%) and one percent (1%) more than the Zoning Resolution allows.

(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 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) Whether the variance would adversely affect the delivery of governmental services (i.e. water, sewage, garage) No evidence presented that there would be any adverse effect on the delivery of governmental services.

(e) Whether the property owner purchased the property with knowledge of the zoning restriction. The zoning restrictions were in place when the applicants purchased their property so the property owners did purchase the property with knowledge of the zoning restriction.

(f) Whether the property owner's predicament can be feasibly obviated through some method other than a variance. The existing deck encroaches into the required setback. Removal of the deck and construction of the proposed three (3) season room will lessen the existing encroachment. The property owner's predicament cannot feasibly be obviated through a method other than the variance.

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

Board Discussion

The Board determined that they would not need to require a foundation survey as part of the variance since the Zoning Department would require the survey as part of the permitting process.
David Dunn moved, incorporating Exhibits “A” through “D” into evidence, to approve a variance for BZA 2011-04, to allow Sandy Houpe to construct a three seasons room which would encroach into the required side setback by eleven (11) inches, pursuant to §919 of the Genoa Township Zoning Resolution, as represented on the above-mentioned application dated April 8, 2011, and also to allow a reduction of three (3) inches to the minimum twenty (20) foot structure separation requirement pursuant to §909.01 of the Genoa Township Zoning Resolution on property located at 5515 Turnberry Drive, a Planned Residential (PD-1) Zoning District, based on the following findings of fact:

(a) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance. The property in question would yield a reasonable return and there can be beneficial use of the property without the variance.

(b) Whether the variance is substantial. The variance is not substantial since it is approximately nine percent (9%) and one percent (1%) more than the Zoning Resolution allows.

(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 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) Whether the variance would adversely affect the delivery of governmental services (i.e. water, sewage, garbage). The variance would not adversely affect the delivery of governmental services,

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

(f) Whether the property owner’s predicament can be feasibly obviated through some method other than a variance. The property owner’s predicament cannot feasibly be obviated through a method other than the variance.

(g) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. 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 Mr. Harmon. Vote: Mr. Dunn, aye; Mr. Harmon, aye; Mr. Blair, aye. Motion carried.

This hearing ended at 7:49 p.m.

Other Business

Mr. Dunn stated that the Board had one more item of business this evening; the election of officers. Mr. Blair expressed that he felt the need for more members to be present when the elections take place. Mr. Dunn and Mr. Harmon agreed.
Mr. Dunn made a motion to extend the current terms of the Chair and Vice-Chair until the next hearing to allow for additional members to be present.

Motion was seconded by Mr. Harmon. Vote: All ayes. Motion carried

Adjournment

Mr. Dunn made a motion to adjourn this meeting. Motion was seconded by Mr. Harmon. Vote: all ayes. Meeting adjourned at 7:52 p.m.

Respectfully submitted,

Susan Dorsch
Permit and Development Inspector

Date Approved: \(\text{Nov 23, 2011}\)

Dave Blair, Vice-Chair