GENOA TOWNSHIP
BOARD OF ZONING APPEALS
AUGUST 23, 2011

Present: David Blair, Sitting Chair
Cybele Smith
Curtis Williams
David Dunn
Mark Harmon, Alternate

Also Present: Joe Clase, Director of Development & Zoning

RE: BZA 2011-12 through BZA 2011-13

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

OLD BUSINESS

Minutes – 7/26/11

Ms. Smith moved to approve the Minutes from July 26, 2011, as written. Motion was seconded by Mr. Williams. Roll call: Mr. Harmon, aye; Mr. Williams, aye; Mr. Dunn, abstain since he was not present at that meeting; Ms. Smith, aye; Mr. Blair, aye. Motion carried.

NEW BUSINESS

BZA 2011-10 (A&B) (4885 Lakes Club Dr.)

This hearing began at 7:02 p.m.

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

JILL ORTLIP, REQUESTING A CONDITIONAL USE PERMIT TO §1609.01(G) OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW HUMAN OCCUPANCY OF AN ACCESSORY BUILDING (BZA 2011-12(A)) AND A VARIANCE TO §1609.01(E) OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW CONSTRUCTION OF AN ADDITION WHICH WILL EXCEED THE MAXIMUM ALLOWED SQUARE FOOTAGE ON LOT 2197 OF THE HIGHLAND LAKES SUBDIVISION, 4885 LAKES CLUB DRIVE, A PLANNED RESIDENTIAL (PRD) ZONING DISTRICT.
Mr. Blair asked everyone to sign the sign-in sheet and directed those who wished to speak to stand and be sworn in.

Mr. Blair marked the following as Exhibits:

Exhibit "A" – Legal Notice
Exhibit "B" – Sign-in Sheet
Exhibit "C" – Application
Exhibit "D" – Staff Report
Exhibit "E" – Letter of authorization, dated 8/19/11

Tony DiBlasi, friend and construction advisor to applicants, appeared and presented the application to the Board. Mr. DiBlasi stated that applicant is seeking a Conditional Use Permit to allow human occupancy in the existing accessory structure. This accessory structure has been used as a guest house on the property for approximately 16 years. Mr. DiBlasi briefly reviewed the history of the property in which three lots were consolidated into one lot which now holds applicants’ existing home and guest house. The Genoa Township Zoning Office issued permits for both structures in 1996 and 1999, respectively. Issuance of this Conditional Use Permit will correct the existing non-conformity on the property regarding occupancy of an accessory structure.

The requested variance is to allow applicants to construct a 16 square foot addition onto the existing accessory structure, which would exceed the maximum allowable square footage for an accessory structure on the property per the Zoning Resolution. The addition would be used strictly for personal storage.

Joe Clase, Director of Development and Zoning, briefly reviewed the Staff report previously submitted to the Board. Mr. Clase reiterated that the Conditional Use Permit would correct a non-compliance on the property with respect to §2503.01 of the Zoning Resolution. He stated that the proposed addition would be located west of the existing accessory garage. The accessory square footage would total 1,942 square feet, totaling an approximate 62% increase in the maximum square footage of an accessory building allowed by the Zoning Resolution. Mr. Clase noted that applicants’ lot is approximately five times larger than the rest of the lots in this portion of the Highland Lakes subdivision. The proposed addition would not be visible from adjacent properties or from residents on Lake Club Drive. Mr. Clase testified that there are no outstanding issues with respect to this application by either Staff or the Genoa Township Fire Department. No negative comments from residents were received by Staff prior to this hearing.

Mr. Dunn advised applicant, in the event this application is approved, to be sure to seek approval from the Highland Lakes Homeowners’ Association prior to any construction.
Public Comment:

None.

Board Comment

At this time, *Duncan v. Middlefield* was reviewed by Mr. Dunn for the variance portion of this application, 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 Board deemed that 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 Board deemed that the variance is substantial, since it is approximately sixty-two percent (62%) more than the Zoning Resolution allows.

(c) Whether the essential character of the neighborhood would be substantially altered or whether the adjoining properties would suffer a substantial detriment as a result of the variance. The Board deemed that the character of the neighborhood would not be substantially altered nor would the adjoining properties suffer a substantial detriment as a result of the variance due to the existing screening on the property.

(d) Whether the variance would adversely affect the delivery of governmental services (i.e., water, sewage, garbage). The Board deemed that the delivery of governmental services would not be adversely affected.

(e) Whether the property owner purchased the property with knowledge of the zoning restriction. The Board deemed that the property owner did not have knowledge of the zoning restriction when they purchased the property.

(f) Whether the property owner's predicament feasibly can be obviated through some method other than a variance. The Board deemed that the property owners' predicament can be feasibly obviated through some method other than a variance.

(g) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice 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.

(BZA 2011-12(A))

Mr. Dunn moved, incorporating Exhibits “A” through “E” into evidence, to approve a Conditional Use Permit for BZA 2011-12(A), to allow occupancy in the existing accessory building, pursuant to §1609.01(G) of the Genoa Township
Zoning Resolution, as represented on the above-mentioned application dated August 2, 2011, on Lot #2197 of the Highland Lakes subdivision, 4885 Lakes Club Drive, a Planned Residential (PRD) Zoning District. Motion was seconded by Ms. Smith. Roll call: Mr. Harmon, aye; Mr. Williams, aye; Mr. Dunn, aye; Ms. Smith, aye; Mr. Blair, aye. Motion carried.

(BZA 2011-12(B))

Mr. Dunn moved, incorporating Exhibits “A” through “E” into evidence, to approve a variance for BZA 2011-12(B), to allow construction of an addition which would exceed the maximum allowed square footage by seven hundred forty-two (742) square feet pursuant to §1609.01(E) of the Genoa Township Zoning Resolution, as represented on the above-mentioned application dated August 2, 2011, on Lot #2197 of the Highland Lakes subdivision, 4885 Lakes Club Drive, a Planned Residential (PRD) 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 sixty-two percent (62%) more than the Zoning Resolution allows.
(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 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 Mr. Williams. Roll call: Mr. Harmon, aye; Mr. Williams, aye; Mr. Dunn, aye; Ms. Smith, aye; Mr. Blair, aye. Motion carried.

This hearing ended at 7:35 p.m.

BZA 2011-12 (5373 Langwell Dr.)

This hearing began at 7:36 p.m.

Mr. Blair read the legal notice for the record, as follows:
ROMANELLI AND HUGHES, REQUESTING A VARIANCE TO §809.01(C) OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW AN ENCROACHMENT INTO THE REQUIRED BUILDING SEPARATION BETWEEN BUILDING NUMBERS 57 AND 58, IN THE HOMESTEAD AT HIGHLAND LAKES CONDOMINIUM SUBDIVISION, 5373 LANGWELL DRIVE, A PLANNED RESIDENTIAL (PRD) ZONING DISTRICT.

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

Mr. Blair marked the following as Exhibits:

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

Ron Leonard, Engineer with Bauer Davidson & Merchant, appeared and presented the application to the Board. John Circle from Romanelli & Hughes also appeared and assisted in the presentation. Mr. Leonard stated that he is uncertain how the above-referenced condominium units were built too close together. However, since an error was made, they are now before the Board seeking a variance in order to retain the new construction as built. Mr. Dunn asked what steps were being taken by the applicant and the builder to prevent these errors from happening in the future. Mr. Leonard believes that providing foundation surveys are the key to preventing future errors. Mr. Circle stated that he was not required to provide a foundation survey to the Township for the construction of Buildings 57 and 58. Mr. Blair advised Mr. Circle that providing a foundation survey was required by the Township as denoted on the Zoning Permit obtained by Romanelli & Hughes. Mr. Clase confirmed that it is Staff policy that the Township requires a foundation survey be submitted if construction is within one foot of any property or setback line.

Mr. Leonard stated that he met with Genoa Township Fire Inspector, Lt. Craig Skeel. At that meeting, Mr. Leonard believed the siding on the condominium unit was vinyl. Since that meeting, Mr. Leonard has learned that the siding is actually hardy plank. Mr. Leonard stated that the current Fire Code allows units to be built six feet apart, and that single-family stand-alone residences are not required to have sprinkling units installed. Because of these current standards he does not believe the Fire Department should have any issues with the buildings as they now exist.

Lt. Skeel confirmed Mr. Leonard’s facts with respect to the Fire Code; however, the existing Zoning Resolution requires a minimum eleven foot building separation in conjunction with the concessions made by the Fire Department who actually believe that 11 feet is not adequate. Lt. Skeel testified that the concerns of the Fire Department are the potential for fire to spread between buildings and the reduction of space for
firefighter safety during a potential emergency situation. Lt. Skeel stated that the Fire Department stands firm that applicant should be required to put a residential sprinkler system in both condominium units for them to remain as constructed.

Mr. Dunn asked if applicant was willing to install the sprinkler system in the condominium units as required by the Fire Department. Mr. Circle stated that he is unaware at this time if applicant is willing to install the sprinkler system in the two buildings. Mr. Dunn suggested applicant table this matter until they are prepared to discuss the installation of a sprinkler system in Buildings 57 and 58. Mr. Circle asked if the Board would give him a few minutes to call Mr. Romanelli. The Board agreed.

Mr. Circle asked the Board if there were any alternatives that applicant could do to remedy this situation other than installing fire suppression in the two buildings. The Board advised applicant that there were no other alternatives but to table this matter until the next regularly scheduled meeting so Mr. Circle could discuss with a representative of Romanelli & Hughes an amicable resolution of this matter. At this time, Mr. Leonard requested a tabling of this matter until September 27, 2011. Mr. Clase advised applicant that any additional documents, along with the required tabling fee, would need to be presented to the Development & Zoning Office with respect to this matter would need to be submitted no later than September 8, 2011 at noon.

Board Comment:

Mr. Blair accepted applicant's request to table BZA 2011-13, until September 27, 2011 at 7:00 p.m. All additional materials to be presented must be submitted to the Development and Zoning Office by September 8, 2011 at 12:00 p.m.

This hearing ended at 7:35 p.m.

Mr. Blair made a motion to adjourn this meeting. Motion was seconded by Mr. Williams. Vote: all ayes. Meeting adjourned at 7:36 p.m.

Respectfully submitted,

Vicki L. Stainer
Zoning Secretary

Date Approved:

Harry Goussetis, Chair