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

OLD BUSINESS

Minutes – 8/23/11

Mr. Williams moved to approve the Minutes from August 23, 2011, as written. Motion was seconded by Mr. Harmon. Roll call: Mr. Harmon, aye; Mr. Williams, aye; Mr. Goussetis, abstain since he was not present at that meeting; Ms. Smith, aye; Mr. Blair, aye. Motion carried.

BZA 2011-13 (5373 Langwell Dr.)

This hearing began at 7:02 p.m.

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

ROMANELLI AND HUGHES, REQUESTING A VARIANCE TO §909.01(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. Goussetis asked everyone to sign the sign-in sheet and directed those who wished to speak to stand and be sworn in. Mr. Goussetis stated that this hearing was a continuation from August 23, 2011, and reminded those in attendance that if they were sworn in at the previous hearing, they were still under oath.
Mr. Goussetis marked the following as new Exhibits:

Exhibit “E” – Revised Application
Exhibit “F” – Sign-in Sheet
Exhibit “G” – Staff Report, dated 9/27/11

David Fisher, Attorney for applicant, appeared and presented the application to the Board. Mr. Fisher gave a brief description of the application and the property at issue. Mr. Fisher stated that applicant is unsure what caused the structures to be built too close together. The suspicion is that a reference point for measuring distance in order to set the foundation was used incorrectly, resulting in this variance request. The current property owner of 5393 Langwell Drive, along with the prospective owner of 5383 Langwell Drive have both acknowledged the violation of the required setback and have submitted letters requesting the Board grant the requested variance.

Mr. Fisher then reviewed the amended application previously submitted to the Board, more fully explaining the requested variance. Mr. Fisher also acknowledged the correspondence provided by Lieutenant Craig Skeel of the Genoa Township Fire Department with respect to this matter. As Mr. Skeel requested, applicant has had a licensed engineering firm inspect the property and provide their findings to the Board with respect to the concerns of the Fire Department. As a result of the violation, applicant has upgraded the exterior materials on those buildings to be Hardiplank as opposed to the vinyl siding previously approved.

Mr. Fisher stated that applicant also provided correspondence from William Kramer, PhD., a Fire Service Consultant, who provided an analysis of the safety situation with respect to the distance violation between Buildings 57 and 58. Mr. Fisher stated applicant believes that Dr. Kramer has submitted sufficient evidence to prove that there are not increased fire safety issues that arise as a consequence of granting this variance.

Mr. Goussetis asked Mr. Fisher why applicant did not supply the Zoning Office with a foundation survey as required by the zoning permit. Mr. Fisher stated that it was definitely an error on applicant’s part that it was not submitted, and that applicant has instilled a policy within their office to make sure that it does not happen again. Mr. Goussetis also asked what applicant’s position was with regard to adding fire suppression to Buildings 57 and 58, as discussed at the previous hearing. Mr. Fisher stated that it is very difficult and very expensive to install fire suppression into a building that has already been completed. Applicant also believes that the violation can be safely mitigated in alternative ways so that fire suppression is not necessary.

Joe Clase, Director of Development and Zoning, briefly reviewed the Staff report previously submitted to the Board, stating that Staff has no objections to the variance request as long as the Fire Department’s concerns are addressed and satisfied. Mr. Goussetis asked if the Township had any policy to follow up with builders to make sure foundation surveys are submitted when necessary. Mr. Clase stated that the Township
will not issue a Certificate of Compliance without the foundation survey when one is required.

Lieutenant Skeel, Fire Inspector for the Genoa Township Fire Department, stated that the Fire Department is in agreement with applicant’s proposed modifications to the properties to improve the fire safety between units. However, he stated that it is for the health and safety of residents that the Fire Code was instituted and believes developers should be held to those standards.

Public Comment:

Steve Havens (Member of Board of Directors of Homestead at Highland Lakes)

Mr. Havens stated that the Condominium Association has concerns with the exterior materials being used since the Association is responsible for the exterior of the units. He asked if the Genoa Township Fire Department is satisfied with the modifications to the units proposed by applicant. Lieutenant Skeel acknowledged that the Fire Department, in fact, would be satisfied with the proposed modifications by applicant.

Jill Rudler (Potential Buyer for 5383 Langwell Dr.)

Ms. Rudler stated that she is a realtor and is very familiar with condominium units. She feels that, although the units were built too close together, that she would be safer in this unit that in a condominium community that has shared walls. She also believes that were fire suppression added to the unit, it would not only have the potential for water damage, but would greatly affect the resale value of her home due to the fact that there are no other units in Genoa Township that have internal fire suppression. Ms. Rudler stated that she is comfortable with the proposed modifications and asked the Board to consider granting this variance request.

Linda Wentzel (5393 Langwell Dr.)

Ms. Wentzel stated that although her residence is constructed closer to 5383 Langwell Drive than what is required by the Zoning Resolution, she does not feel any less safe than living next door to a two-story home that is constructed the required distance. She also stated that she is against having any type of sprinkler system installed in her home.

Board Comment:

At this time, *Duncan v. Middlefield*, was reviewed by Mr. Blair, 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 not yield a
reasonable return nor would there be any 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 1.5 feet less 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 Board deemed that the essential character of the neighborhood would not be substantially altered nor would adjoining properties 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 Board deemed that 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 Board deemed that the property owner did have knowledge of the zoning restriction at the time of the purchase of 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 owner's predicament can feasibly be obviated through a method other than the requested variance short of demolition of the unoccupied unit.

(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.

Mr. Blair moved, incorporating Exhibits “A” through “G” into evidence, to approve a variance for BZA 2011-13, dated August 5, 2011, and revised application dated September 9, 2011, to allow Romanelli and Hughes a 1.35-foot encroachment into the required 11-foot building separation between Building Numbers 57 and 58, pursuant to §909.01(C) of the Genoa Township Zoning Resolution, on property located in the Homestead at Highland Lakes, 5373 Langwell Drive, a Planned Residential (PRD) Zoning District, based on the following findings of fact:

(a) The property in question would not yield a reasonable return and there cannot be beneficial use of the property without the variance.

(b) The variance is substantial since it is approximately 15% less 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 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.

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

1. Both residences will have Hardiplank materials on the eaves, siding and trim;
2. Applicant will install heat reflective glass in the three windows on the side of both homes;
3. Applicant will install glass block in the basement windows of both homes.

Motion was seconded by Mr. Williams. Discussion: Mr. Blair thanked Mses. Rudler and Wentzel for attending and testifying at this hearing. Roll call: Mr. Goussetis, aye; Mr. Blair, aye; Ms. Smith, aye; Mr. Williams, aye; Mr. Harmon, nay. Motion carried.

This hearing ended at 8:13 p.m.

Ms. Smith moved to adjourn this meeting. Vote: all ayes. Meeting adjourned at 8:14 p.m.

Respectfully submitted,

Vicki L. Stainer
Zoning Secretary

Date Approved: 1-24-18

Harry Goussetis, Chair