Genoa Township Board of Zoning Appeals Meeting Minutes

DATE: November 28, 2017
TIME: 7:00 p.m.
LOCATION: Genoa Township Hall, 5111 S. Old 3C Hwy., Westerville, Ohio 43082
AGENDA ITEMS: BZA (2017-07) Eckels- Variance, encroachment into required front setback
BZA (2017-09) Hance- Variance withdrawal request
BZA (2017-10) Moody- Variance, encroach into the required side setback

STAFF PRESENT: Susan Dorsch, Genoa Township Development and Zoning

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

ROLL CALL (00:00:23)

<table>
<thead>
<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>Dorothy Driskell, Alt.</td>
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<td>Cybele Smith</td>
<td>David Buhn, Alt.</td>
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<td>Teresa Yu</td>
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MINUTES (00:00:37)
The board reviewed meeting minutes presented by the Genoa Township Development and Zoning Department for the hearing held on October 24, 2017.

MOTION: Mark Phillips moved to approve the October 24, 2017 meeting minutes as presented.

Motion was seconded by Sara Walsh. Roll call: Mark Phillips, yes; Cybele Smith, abstain; Sara Walsh, yes; Mark Harmon, yes; David Buhn, yes.
Motion carried.

HEARINGS (00:01:38)
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.

SHAD AND SHELLY ECKELS, REQUESTING A VARIANCE FROM SECTION 606.06 OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW FOR CONSTRUCTION OF AN ADDITION TO ENCROACH INTO THE REQUIRED 75 FOOT FRONT BUILDING LINE ON PROPERTY KNOWN AS PARCEL #31721007003000, 8140 LEWIS CENTER RD., WESTERVILLE, OHIO 43082, ZONED RURAL RESIDENTIAL (RR) (BZA 2017-07). PREVIOUSLY HEARD JULY 25, 2017.

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 November 28, 2017
STAFF REPORT: Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, gave an overview of the staff report. She stated that the case is for 8140 Lewis Center Road; the parcel is approximately 3 acres and is located in a Rural Residential zoning district. The homeowner is requesting a variance from Section 606.06 of the Genoa Township Zoning Resolution to allow construction of additions to the existing house that would encroach into the required 75 foot front setback. A zoning permit was issued in 1982 for construction of the existing house. The original plot plan submitted showed a setback of 62 feet to the front, which was compliant at the time. The BZA granted a continuance at the July 25, 2017 meeting so the Applicant could determine location of the front property and right-of-way lines. Applicant did submit a revised application to the Zoning Department on October 26, 2017. The construction of the proposed addition requires a variance from section 606.06, which states the minimum front yard depth is 75 feet measured from the edge of the continuous road right-of-way. The existing house did conform to the zoning standard at the time it was constructed, but could not be built today at the current 52 foot setback. Without the homeowners obtaining a variance from the required 75 foot front setback, Staff would not be able to issue zoning permit for construction of the proposed addition. On the revised application, the Applicant did address all the items that were of concern at the last meeting. They gave specific numbers to how far the house would be set back from the property line. The garage addition would be 6 inches closer to the front property line and the front porch would be 3 feet 8 inches closer than the existing front porch. The garage addition is 51.8 feet from property line, 23.4 ft. encroachment into the 75 foot setback, or 31% encroachment into setback. The front porch is 44%. They are asking for a 5% increase over what it is today. Police, fire and maintenance department did not have any concerns or comments.

APPLICANTS' PRESENTATION: The property owner, Shad Eckels, presented his application to the Board. Mr. Eckels stated that at the first meeting the Applicant did not have accurate measurements but they have been corrected. He identified and described the proposed changes and setback measurements. Mr. Eckels is asking for the front porch to be deeper and closer to the road. The Board asked Ms. Dorsch why the setback had been changed from 60 to 75 feet. She was not aware of the reason. A discussion occurred regarding measurement and right-of-way lines. The Board questioned the Applicant as to his view concerning his neighbors possibly requesting similar types of variances. Mr. Eckels stated that the reason for not using the back of the house for building is due to the slope of the yard and gas line easements.

PUBLIC COMMENTS: Mark Harmon noted that there were no individuals present to comment.

BOARD DISCUSSION/FINDINGS OF FACT:

The Board reviewed Duncan v. Middlefield, in regards to the variance requested from Section 606.06, to allow an encroachment into the required front yard building setback line in a Rural Residential (RR) Zoning District as follows:

(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 because it amounts to 31% into the setback 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.
(e) The property owner purchased the property without knowledge of the zoning restriction.
(f) The property owner's predicament cannot feasibly be obviated through a method other than the variance due to a gas line easement and slope of the back yard.
(g) The spirit and intent behind the zoning requirement would be observed and substantial justice
would be done by granting the variance.

MOTION (00:29:08): Mark Phillips moved, incorporating Exhibits A through D into evidence, to
approve a Variance from Section 606.06 of the Genoa Township Zoning Resolution for BZA 2017-07,
application received June 26, 2017, revised application received October 26, 2017, to allow a front
porch addition to encroach up to 32 feet 10 inches and an addition to the existing garage to encroach
up to 23.4 feet into the required 75 foot front building line on property known as parcel
#31721007003000, 8140 Lewis Center Rd., Westerville, Ohio 43082.

This motion is based on the following Findings of Fact:
1. The Applicant had no knowledge of the restriction at the time of the purchase.
2. Few practical alternatives are available to the Applicant given the gas line easement and slope of
   yard.
3. No apparent opposition from neighbors.
4. Does not change character of the neighborhood.
5. There is no evidence that it will affect the delivery of governmental services.

Motion was seconded by Sara Walsh.

Roll call: Mark Phillips, yes; Cybele Smith, yes; Sara Walsh, yes; Mark Harmon, yes; David Buhn, yes.

Motion carried.

Mark Harmon announced the hearing closed at 7:33 p.m.

Mark Harmon called the following hearing to order at 7:34 p.m. and read the legal notice.

ROBERT AND LAURA HANCE, REQUESTING A VARIANCE FROM SECTION 606.10 OF THE GENOA
TOWNSHIP ZONING RESOLUTION TO ALLOW FOR CONSTRUCTION OF AN ACCESSORY BUILDING TO
EXCEED THE 25% MAXIMUM LOT COVERAGE FOR BUILDINGS AND IMPERVIOUS SURFACES ON
PROPERTY KNOWN AS PARCEL NUMBER 31742403012000, 6407 SUNBURY ROAD, WESTERVILLE, OHIO

Mark Harmon noted that the Applicant, Robert and Laura Hance, sent a notice to the Development
and Zoning Department via email on November 15, 2017, to request withdrawal of the Application for
a Variance on property located at 6407 Sunbury Road, Westerville, Ohio, 43082.

MOTION: (00:35:30) Cybele Smith moved to accept the Applicant’s request to withdraw Application
BZA 2017-09, per the email notice received by the Genoa Township Development and Zoning
Department on November 15, 2017.

Motion was seconded by Sara Walsh.

Roll call: Mark Phillips, yes; Cybele Smith, yes; Sara Walsh, yes; Mark Harmon, yes; David Buhn, yes.

Motion carried.
Mark Harmon announced the hearing closed at 7:37 p.m.

Mark Harmon called the following hearing to order at 7:38 p.m. and read the legal notice. Those standing were sworn in.

**CURTIS AND ELAINE MOODY, REQUESTING A VARIANCE FROM SECTION 1609.01B OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW FOR CONSTRUCTION OF AN ACCESSORY BUILDING TO ENCROACH INTO THE REQUIRED 15 FOOT SIDE SETBACK ON PROPERTY KNOWN AS PARCEL NUMBER 31742101002000, 5489 SUNBURY ROAD, WESTERVILLE, OHIO 43082, ZONED RURAL RESIDENTIAL (RR) (BZA 2017-10).**

The following were marked as exhibits “A” – “D”.
- Exhibit “A” – Legal Notice
- Exhibit “B” – Sign-in Sheet
- Exhibit “C” – Application

**STAFF REPORT:** Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, gave an overview of the staff report. This parcel, that is located at 5489 Sunbury Road, is approximately a 1 acre parcel; it is located in a Rural Residential Zoning District. Staff noticed that there was some construction on the site and contacted Mr. Moody concerning construction of an accessory structure. Consequently, Mr. Moody submitted a zoning permit application. Staff determined that the proposed setback did not comply with the required 15 foot setback for an accessory structure. The Applicant then submitted a variance application.

Applicant is requesting a variance from Section 1609.01 B to allow for construction of an accessory building to encroach into the required 15 foot side setback. The specific amount of the encroachment was not listed on the Application. But, on the site plan it is noted that it is 3 feet from the property line which would be a reduction of 12 feet from the required setback, or 80% less than the code requires. Staff was unable to calculate if the construction of the accessory building would comply with the impervious surface coverage because staff was unable to locate those figures in the application. To be able to calculate the total lot coverage of all buildings and the total lot coverage of all impervious surfaces the square footage of the house and attached garage, the covered decks, porches, the proposed accessory building, all patio/deck areas, the driveway, sidewalks and the square footage of all other impervious surfaces would be needed. Police, fire and maintenance department did not have any concerns or comments. Staff did receive a phone call from an adjacent property owner and thought they would attend the meeting. The property owner did not give an opinion as to how he felt about the proposed variance.

**APPLICANTS’ PRESENTATION:** Curtis Moody discussed the history of his ownership of the property and the reason for the variance request. He consulted with the Delaware County Building Department and was told a permit was not required. Until he was notified by Genoa Township, the Applicant was under the impression that he was legally compliant. He also noted what stage the construction was in at this time.

After a lengthy discussion about the measurements and consideration of granting the variance without knowing the amount of lot coverage and impervious surface coverage, the Board deferred to Mr. Moody to obtain the correct numbers and request a continuance.
MOTION: (01:03:29) Mark Phillips moved to table BZA 2017-10 to allow the Applicant an opportunity to provide calculations for the 10% lot coverage and the 25% impervious surface until December 19, 2017 at 7 p.m., with new information to be submitted to the Development and Zoning Department by December 8, 2017. Motion was seconded by Cybele Smith. All voted yes. Motion carried.

Mark Harmon announced the hearing closed at 8:07 p.m.

ADJOURNMENT (00:00:00)
Mark Phillips moved to adjourn this meeting at 8:10 p.m. Motion was seconded by Sara Walsh. All voted yes. Motion carried.

Meeting was adjourned at 8:10 p.m.

PREPARED BY: Jennifer Elliott, Zoning Secretary

BOARD OF ZONING APPEALS APPROVED:

Mark Harmon, Chair

December 5, 2017
Date Prepared

12/19/2017
Date Approved by the Board of Zoning Appeals

PUBLICATION OF LEGAL NOTICE:
The legal notice for this meeting was printed and published on November 17, 2017, in the Delaware Gazette and posted at the Genoa Township Hall on November 7, 2017.

OTHERS PRESENT AT MEETING
Curtis and Elaine Moody
Shad Eckels

5489 Sunbury Road
8140 Lewis Center Road

Audio of this meeting is available at www.genoatwp.com