GENOA TOWNSHIP BOARD OF ZONING APPEALS MEETING MINUTES

DATE: December 19, 2017
TIME: 7:00 p.m.
LOCATION: Genoa Township Hall, 5111 S. Old 3C Hwy., Westerville, Ohio 43082
AGENDA ITEMS: BZA (2017-10) Moody - Variance, encroach into the required side setback.

STAFF PRESENT: Susan Dorsch, Genoa Township Development and Zoning

ROLL CALL (00:00:30)

<table>
<thead>
<tr>
<th>MEMBERS PRESENT</th>
<th>MEMBERS ABSENT</th>
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<tr>
<td>Mark Harmon, 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>
<td>Mark Phillips, Vice-Chair</td>
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<td>Sara Walsh</td>
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MINUTES (00:01:00)
The board reviewed meeting minutes presented by the Genoa Township Development and Zoning Department for the hearing held on November 28, 2017.

MOTION: Cybele Smith moved to approve the November 28, 2017, meeting minutes, as presented.

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

HEARINGS (00:02:26)

Mark Harmon called the following hearing to order at 7:03 p.m. and read the legal notice.

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 317421010020000, 5489 SUNBURY ROAD, WESTERVILLE, OHIO 43082, ZONED RURAL RESIDENTIAL (RR) (BZA 2017-10). PREVIOUSLY HEARD NOVEMBER 28, 2017.

The following were marked as exhibits “A” – “D”.
- Exhibit “A” - Legal Notice
- Exhibit “B” - Sign-in Sheet
- Exhibit “C” - Application
- Exhibit “D” - Revised Staff Memorandum dated December 19, 2017
- Exhibit “E” - Lot coverage data provided by Applicant, dated November 29, 2017
STAFF REPORT: Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, reviewed updates to the staff report. On November 29, 2017 Staff received the requested information from the Applicant pertaining to lot coverage for structures and impervious surfaces on the property. According to the data submitted by the applicant, the building coverage is 7.5%, which is under the 10% maximum lot coverage for the Rural Residential zoning district. The impervious surface calculation was 19.5%, which is under the maximum 25% impervious surface coverage allowed. A sign announcing the meeting was posted on the property and copies of the meeting notice were posted at the Township's Administration and Zoning building. Staff did not receive any public comment concerning this application.

APPLICANTS' PRESENTATION:
Curtis Moody announced that per the Board's request, he had provided the lot coverage information. He informed the Board that he had spoken to the neighbor that this variance request would affect the most and the neighbor had no objections. He requested approval to finish the work that had begun. The Board asked Mr. Moody to review how he chose the particular spot to erect the building. He responded that based on the cost to relocate the mechanical equipment along the side of the house and location of other structures and impervious surfaces, the chosen location made the most sense. Mr. Moody pointed out that the materials for the accessory structure were consistent with the house and garage. He explained that the reason he had started to construct the structure prior to filing an application for a zoning permit was because he was under the impression from his contractor that one was not required. The Board asked Mr. Moody how the numbers he provided were obtained. Mr. Moody testified that the data submitted regarding lot coverage was put together by his engineering department and pulled from the construction plans.

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 regard to the variance requested from Section 1609.01B, to allow construction of an accessory building to encroach into the required 15 foot side setback 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 because the structure could be placed in another location.
(b) The variance is substantial; it is an 80% reduction of the side yard setback.
(c) The essential character of the neighborhood will not be substantially altered and the adjoining properties will not suffer a substantial detriment as a result of the variance because it matches the style of the residence and the street has a variety of housing styles. Additionally, there were no neighbors present at the meeting to testify that it would be a detriment.
(d) There is no evidence that the variance will adversely affect the delivery of governmental services.
(e) The property owner purchased the property with knowledge of the zoning restriction, but was not aware that it required a variance.
(f) The property owner's predicament cannot be feasibly obviated through a method other than the variance; it would be too costly to move the AC and other units and this is the only space between the sidewalk and the property line where it can be built.
(g) The spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance because it would allow for storage and is the best spot for the structure.
MOTION: (00:15:17) Cybele Smith moved, incorporating Exhibits A through E into evidence, to approve a Variance from Section 1609.01B of the Genoa Township Zoning Resolution for BZA 2017-10, application received October 17, 2017 and additional information received November 29, 2017, to allow for construction of an accessory building, as proposed on the plan dated September 29, 2015, to encroach up to 12 feet into the required 15 foot setback on property known as parcel number 31742101002000, 5489 Sunbury Road, Westerville, Ohio 43082, zoned Rural Residential (RR).

This motion is based on the following Findings of Fact:
1. The property in question could yield a reasonable return without the variance.
2. The variance is substantial because it is an 80% reduction into the required side yard setback.
3. The central character of the neighborhood would not be substantially altered and adjoining property would not suffer a substantial detriment as a result of the variance.
4. The variance will not adversely affect the delivery of government services.
5. The property owner purchased the property while the zoning restriction was in place, but without the knowledge of the zoning restriction.
6. The property owner’s predicament cannot be feasibly obviated through a method other than the variance, because it would be too costly to move the AC units and this is the best place for the accessory building on the property.
7. The spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance because it will allow for storage and is the best spot for the structure.

Motion was seconded by Teresa Yu.

Discussion on Motion: Mr. Harmon stated 2 key elements to granting this variance:
1. There is no impact on delivery of governmental services.
2. The properties on the road are unique and this is a unique property. He does not believe that this has any impact on the overall neighborhood, and has no impact on the adjoining properties.

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

Motion carried.

Mark Harmon announced the hearing closed at 7:23 p.m.

ADJOURNMENT (00:22:06)
Dorothy Driskell moved to adjourn this meeting at 7:24 p.m. Motion was seconded by Teresa Yu. All voted yes. Motion carried.

Meeting was adjourned at 7:24 p.m.
PREPARED BY:

Jennifer Elliott, Zoning Secretary

December 28, 2017
Date Prepared

BOARD OF ZONING APPEALS APPROVED:

Mark Harmon, Chair

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, and the continuance notice was posted on December 7, 2017.

OTHERS PRESENT AT MEETING
No others present.

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