GENOA TOWNSHIP BOARD OF ZONING APPEALS MEETING MINUTES

DATE: July 24, 2018
TIME: 7:00 PM
LOCATION: Genoa Township Hall, 5111 S. Old 3C Hwy., Westerville, Ohio 43082
AGENDA ITEMS: BZA (2018-03) William & Susan Myers – Conditional Use Permit, occupying camper on residential site
BZA (2018-04) William & Susan Myers – Variance, encroachment into setbacks

STAFF PRESENT: Susan Dorsch, Permit and Compliance Inspector

CALL TO ORDER
Chair Mark Harmon called the meeting to order at 7:04 p.m.

ROLL CALL (00:00:19)

<table>
<thead>
<tr>
<th>MEMBERS PRESENT</th>
<th>MEMBERS ABSENT</th>
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<tbody>
<tr>
<td>Mark Harmon, Chair</td>
<td>Teresa Yu</td>
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<tr>
<td>Mark Phillips, Vice chair</td>
<td>David Buhn</td>
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<td>Dorothy Driskell</td>
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<td>Geoffrey Bishop, Alt.</td>
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MINUTES (00:00:35)
The board reviewed meeting minutes presented by the Genoa Township Development and Zoning Department for the hearings held on July 10, 2018.

MOTION: Mr. Phillips moved to approve the July 10, 2018 meeting minutes, (as presented OR with the following amendments):

Motion was seconded by Ms. Yu.

VOTE: 4 For, 0 Opposed, 0 Abstained. Motion carried.

PUBLIC HEARINGS (00:01:10)
Mark Harmon called the following hearing to order at 7:05 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.

WILLIAM AND SUSAN MYERS REQUESTING APPROVAL OF A CONDITIONAL USE PERMIT TO ALLOW TEMPORARY PLACEMENT AND OCCUPATION OF A MOBILE HOME (CAMPER) AT 8330 OXBOW ROAD, WESTERVILLE, OHIO 43082, CURRENTLY ZONED RURAL RESIDENTIAL (RR), WHILE CONSTRUCTION OF A PERMANENT RESIDENCE ON THE SUBJECT PROPERTY OCCURS. (BZA 2018-03).

The following were marked as exhibits “A” – “D”.

Exhibit “A” – Legal Notice
Exhibit “B” – Sign-in Sheet
Exhibit “C” – Application
Exhibit “D” – Staff Report, dated July 24, 2018

STAFF REPORT (00:02:32): Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, gave an overview of Exhibit D (staff report).
APPLICANTS' PRESENTATION (00:05:16): Mr. Myers gave multiple reasons for continuing to live on site. The family intends to have a permanent dwelling as soon as possible.

The board provided the following questions to the applicant:
1. Where is the placement of the camper in relation to the permanent dwelling? (As requested by Fire Marshall Skeel.)
2. What are the plans for the permanent dwelling?
3. What is the timing of insurance claims?
4. What is the planned start time for construction on new permanent structure?
5. What is the age of the current permanent dwelling?

Applicant's response:
1. Hasn't been measured but it is at least 11 feet.
2. Current permanent dwelling is to be demolished.
3. Insurance claims are being processed but there is not a finalized timeline.
4. Plan is to start the new construction as soon as permitted.
5. Approximately 1901.

PUBLIC COMMENTS (00:14:04): Mark Harmon asked any individuals who were properly sworn-in to share their comments.
1. Anne Filbert, 4658 North Shore Drive, Westerville, OH 43082. Ms. Filbert asked about section 1702.03 of the Genoa Township Zoning Resolution. This question is about a health department letter commenting on water and waste water for the temporary mobile home (camper.) Ms. Dorsch stated that is a requirement from the health department. She stated that this needs to happen according to the zoning code and could be included as a condition of approval. Ms. Filbert asked about timing for the health department allowance for water and wastewater. Health department permit is for 9 months.

BOARD DISCUSSION/FINDINGS OF FACT (00:17:30):

The Genoa Township Zoning Resolution Section 1702.03 allows for temporary placement of a mobile home upon a lot where the Board of Zoning Appeals finds that special circumstances or conditions such as fires, windstorms, or other similar events which are fully described in the findings of the Board, exist so that the use of a temporary residential structure is necessary in order to prevent exceptional hardship to the applicant, provided that such a temporary structure does not represent a hazard to the safety, health, or welfare of the community.”

Section 303 states that such uses shall be found to comply with the requirements listed in Section 303. The Board reviewed the application based on the requirements listed as follows:

Section 303
303.01 The Use is so designed, located and proposed to be operated so that the public health safety, welfare and convenience will be protected.
   Yes. Police and Fire have no objections to the structure as long as it is located at least 11 feet from any other permanent structure.

303.02 The Use will not result in the destruction, loss or damage of natural, scenic, or historic features of major importance.
   Yes. The board stated the location of the trailer is on the driveway so there will be no destruction.
The Use will be designed, constructed, operated, and maintained so that it shall not cause substantial injury to the value of the property in the area or neighborhood where it is to be located.

Yes. The board stated it is a trailer or camper. It will be removed once a suitable permanent structure is completed.

The Use shall be compatible with adjoining development and the proposed character of the zoning District where it is to be located.

Yes. The board stated it is a conditional use and is temporary. This is not a long term solution and will not impact the character of the zoning district.

The Use will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools, or that the persons or agencies responsible for the establishment of the proposed Use shall be able to provide any such services adequately.

Yes. The board stated all of these facilities and services already exist. Mr. Myers will have to contact the Health Department for the water and wastewater service.

The Use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community. Public facilities and services include but are not limited to: fire and police protection or other emergency services, roadways, intersections, traffic lights, and sanitary and storm sewers.

Yes. The board stated no extra public facilities or services will be required.

Adequate Landscaping and screening are provided, as required under Article 20.

Yes. The board stated the structure is temporary.

Adequate off street parking is provided, and ingress and egress is so designed as to cause minimal interference with traffic on abutting streets.

Yes. Mr. Phillips asked Mr. Myers if there will be adequate space for off street parking with the temporary structure located on the driveway. Mr. Myers testified there will be adequate space for about 6 vehicles and that will be enough space even during construction of the permanent structure.

The Use conforms to all applicable regulations governing the District in which it is located.

Yes. Ms. Yu asked about any setback requirements for the temporary structure. Ms. Dorsch stated that the code does not allow you to park your trailer in the front setback. The board determined this is an extenuating circumstance.

The Use is compatible with the standards, objectives, and policies of Genoa Township Comprehensive Plan as amended and any revisions thereof.

Yes. The board stated this section is not applicable. The conditional use is temporary.

The Use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odors, or vibrations.

Yes. The board stated there will be no excessive production of traffic, noise, smoke, fumes, glare, odors, or vibrations.

Any other supplementary requirements as prescribed by the Board of Zoning Appeals.

Yes. The board stated the temporary structure will not be there longer than one year. Mr. Myers must be in compliance with the county health department for water and sewer.
MOTION (00:26:45): Mr. Phillips moved, incorporating Exhibits “A” through “D” into evidence, to approve a Conditional Use in accordance with Section 1702.02 of the Genoa Township Zoning Resolution for BZA 2018-03, application received June 29, 2018, to allow for temporary occupancy of a camping trailer on property at 8330 Oxbow Road, zoned Rural Residential (RR) based on the standards listed in Section 303 of the Genoa Township Zoning Resolution and the aforementioned findings.

Approval of the Conditional Use is subject to the owner’s agreement to the following conditions:

1. Location of camper or trailer is a safe distance of no less than 11 feet from any other structures on the property.
2. Applicant seeks and obtains a permit from the county health department under section 1702.03 of the Genoa Township zoning code.
3. The conditional use will terminate one year from the date of receipt of permit from county health department.

Motion was seconded by Mr. Harmon.

Roll call: David Buhn, Yes; Mark Phillips, Yes; Teresa Yu, Yes; Mark Harmon, Yes. Motion carried.

Mr. Harmon announced the hearing closed at 7:35 p.m.

Mr. Harmon called the second hearing to order at 7:35 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.

WILLIAM AND SUSAN MYERS REQUESTING APPROVAL OF A VARIANCE TO ALLOW A SINGLE FAMILY RESIDENCE AND AN ACCESSORY BUILDING TO ENCROACH INTO THE REQUIRED FRONT AND SIDE YARD SETBACKS AT 8330 OXBOW ROAD, WESTERVILLE, OHIO 43082, CURRENTLY ZONED RURAL RESIDENTIAL (RR). (BZA 2018-04).

The following were marked as exhibits “A” – “D”.

Exhibit “A” – Legal Notice
Exhibit “B” – Sign-in Sheet
Exhibit “C” – Application
Exhibit “D” – Staff Report, dated July 24, 2018

STAFF REPORT (00:31:15): Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, gave an overview of Exhibit D (staff report). Mr. Harmon asks about the dimensions of the lot. The dimensions were determined to be 348’x110’. The board determines to utilize motion option II as listed in staff report.

APPLICANTS’ PRESENTATION (00:39:05): Mr. Myers testified that it is an unusual lot and the current location of the home is very close to both Oxbow Road and North Shore Drive. He proposes to place the new home further east on the lot and further from North Shore Drive. The home will still be closer to Oxbow than the zoning resolution allows but will be blocked from view by trees along Oxbow Road. He stated this location is more in line with the location of other homes in the area on their lots. Mr. Harmon asked for clarity on the location of the new house. He advised the applicant that he would prefer to have a definite location of the house to avoid more variance requests in the future. Mr. Harmon and Mr. Myers discussed if they would have to get a variance to build the new structure on the existing structure footprint. Mr. Buhn asked Ms. Dorsch for
clarification on this subject. Ms. Dorsch confirmed that no variance would be required for a new structure on the existing footprint provided the building does not encroach on the existing setback. Mr. Buhn asked the applicant if he plans just one location for the new structure. Mr. Myers stated that he is only planning for the one location. Mr. Harmon discussed the unique layout of the lot provides for a house that would only be 10 feet deep without a setback variance. Mr. Buhn asked about the layout and square footage of the new home. Mr. Harmon asked if the lot is level to determine if the house will have a walkout basement. Mr. Myers stated it will be about a 2000 square foot two-story home on a level lot with no walkout basement.

PUBLIC COMMENTS (00:59:08): Mr. Harmon asked any individuals who were properly sworn-in to share their comments.

1. Ken Davis 8343 Oxbow Road, Westerville, Ohio 43082. Mr. Davis stated that what is currently there is an eyesore. He looked to purchase the lot when Mr. Myers did but decided not to because of the setback issues. He commented on the proposed location of the house and stated that he is in favor of the location and that it would be in line with the locations of neighboring houses on their lots.

2. Anne Filbert 4658 North Shore Drive, Westerville, Ohio 43082. Ms. Filbert stated that she supports a new structure for the applicant. She stated that it would be very difficult to build a new home on the lot without a variance in the setbacks.

3. Ms. Dorsch mentioned after prompting from the board that another neighbor visited the township offices to share her concern of the views from her yard changing with the placement of the new structure.

APPLICANT'S RESPONSE (01:07:06): Mr. Myers stated that he discussed the issue of changing the adjacent neighbors' views. He told the neighbor he will not be removing any trees along the property line for construction of the new home. Mr. Buhn clarified that with building of a new home, the old structure will be removed. This will clear the area near the corner of Oxbow Road and North Shore Drive. The new home will have the same setback variances as the current structure but in a less obtrusive position on the lot. The board discussed making a condition to preserve the tree line. Ms. Yu stated that they should not condition Mr. Myers to keep trees that are on his property.

BOARD DISCUSSION (01:13:53):

The Board reviewed Duncan v. Middlefield, in regards to the variance requested from Section 606.06, 606.07, 1609.01 A and 1609.01 B to allow for construction of a new single family residence at 8330 Oxbow Road 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.

  No. The board stated there cannot be a beneficial use of the property without the variance. This will be further discussed.

b. The variance is substantial.

  Yes. The board stated it is a 66% variance on the front setback and 60% on the side setback.

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.

  Yes. The board stated the new structure would improve the character of the neighborhood.
d. The variance would not adversely affect the delivery of governmental services.
   Yes. Police and Fire commented there would be no affect.

e. The property owner did purchase the property with knowledge of the zoning restriction.
   Yes. The regulations were in effect at the time the property was finished.

f. The property owner’s predicament cannot be feasibly obviated through a method other than the variance.
   Yes. The board stated the property owners could rebuild the residence on the existing footprint, but the board was not in favor of this option. It is not the best utilization of the property.

g. The spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance.
   Yes. The board asked if there was anywhere the structure can be placed to limit the amount of encroachment. Mr. Myers stated that he would prefer to not infringe on neighbors’ properties and sight lines.

MOTION (01:21:30): Ms. Yu moved, incorporating Exhibits “A” through “D” into evidence, to approve a Variance from Sections 606.06 and 606.07 of the Genoa Township Zoning Resolution for BZA 2018-04 (A), application received July 5, 2018 to allow for a 50 ft. reduction in the required 75 ft. front yard setback and a 15 ft. reduction to the required 25 ft. side yard setback for construction of a new single family residence to replace the existing residence on property known as Parcel Number 317-130-01-021-001, 8330 Oxbow Road, Westerville, Ohio 43082, zoned Rural Residential (RR).

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

1. The existing residence will be removed within 90 days of occupancy of the new residence.

Motion was seconded by Mr. Harmon.

Discussion: Mr. Phillips asked about the fire departments request to change the address based on a change of placement of the driveway. Ms. Dorsch stated that address changes are handled by the county and are not in the jurisdiction of the township.

Roll call: David Buhn, Yes; Mark Phillips, Yes; Teresa Yu, Yes; Mark Harmon, Yes. Motion carried.

BOARD DISCUSSION (01:31:57): The board reviewed the variance for the accessory building on the property. Mr. Myers stated that the frontage variance is from Oxbow Road and they will comply with the 75 foot setback from North Shore Drive. Mr. Harmon asked about the size of accessory building. Mr. Myers stated it will be a historic style barn approximately 3000 square feet in size. Ms. Dorsch asked about the size of the barn to insure that the footprint of the buildings does not exceed 10% of the overall lot size.

The Board reviewed Duncan v. Middlefield, in regards to the variance requested from Section 1609.01 A and 1609.01 B to allow for construction of a new accessory building at 8330 Oxbow Road 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.

No. The board stated the only other option would be to not have an accessory building.

b. The variance is substantial.

Yes. The board stated it is a 66% variance on the front setback and 33% on the side setback.

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.

Yes.

d. The variance would not adversely affect the delivery of governmental services.

Yes.

e. The property owner did purchase the property with knowledge of the zoning restriction.

Yes.

f. The property owner’s predicament can be feasibly obviated through a method other than the variance.

Yes. The board stated a smaller accessory building could be built.

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

Yes.

MOTION (01:45:13): Mr. Phillips moved, incorporating Exhibits “A” through “D” into evidence, to approve a Variance from Sections, 1609.01 A and 1609.01 B of the Genoa Township Zoning Resolution for BZA 2018-04 (B), application received July 5, 2018, to allow for a 50 ft. reduction to the required 75 ft. front yard setback from Oxbow Road, and a 5 ft. reduction to the required 15 ft. side yard setback for construction of an accessory building on parcel # 317-130-01-021-001 at 8330 Oxbow Road, Westerville, Ohio 43082, zoned Rural Residential (RR).

Motion was seconded by Ms. Yu.

Roll call: David Buhn, Yes; Mark Phillips, Yes; Teresa Yu, Yes; Mark Harmon, Yes. Motion carried.

Mark Harmon announced the hearing closed at 8:52 p.m.

OTHER BUSINESS (01:47:50):


Mr. Harmon stated the board’s revision of the rules of procedure is ready to be sent to prosecutor’s office. Mr. Phillips asked if the document comes back with comments for revision will they send it to
the prosecutor's office again. The board determined it will be sent back if major revisions are needed but not for minor changes. The board consented to staff sending the current draft of the rules of procedure to the prosecutor's office.

ADJOURNMENT
Mr. Harmon moved to adjourn this meeting at 8:57 p.m. Motion was seconded by Ms. Yu. All voted yes. Motion carried.

Meeting was adjourned at 8:57 p.m.

PUBLICATION OF LEGAL NOTICE:
The legal notice for this meeting was printed and published on July 11, 2018 in the Delaware Gazette and posted at the Genoa Township Hall on July 10, 2018. Notice of this meeting was also mailed to the adjacent property owners. A notification sign was placed on the subject property on July 11, 2018

OTHERS PRESENT AT MEETING
Anne Filbert 4658 North Shore Drive, Westerville, OH 43082
Ken Davis 8343 Oxbow Road, Westerville, OH 43082

PREPARED BY:
Paul Benson, Zoning Secretary

BOARD OF ZONING APPEALS APPROVED:
Mark Harmon, Chair

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