GENOA TOWNSHIP BOARD OF ZONING APPEALS MEETING MINUTES

DATE: June 25, 2019
TIME: 7:00 PM
LOCATION: Genoa Township Hall, 5111 S. Old 3C Hwy., Westerville, Ohio 43082

AGENDA ITEMS:
BZA (2019-08.A) Romanelli, Variance, front yard setback
BZA (2019-08.B) Romanelli, Variance, fence height
BZA (2019-09) Bedell, Variance, rear setback
BZA (2019-10) Armstrong, Variance, improvement in no build zone

STAFF PRESENT:
Susan Dorsch, Permit and Compliance Inspector

CALL TO ORDER
Mr. Harmon called the meeting to order at 7:00 p.m.

ROLL CALL (00:00:30)

<table>
<thead>
<tr>
<th>MEMBERS PRESENT</th>
<th>MEMBERS ABSENT</th>
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<tbody>
<tr>
<td>Mark Harmon, Chair</td>
<td>David Buhn</td>
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<td>Mark Phillips, Vice chair</td>
<td>Geoffrey Bishop, Alt.</td>
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<tr>
<td>Dorothy Driskell</td>
<td>Tiffany Lipscomb-Jackson, Alt.</td>
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<td>Teresa Yu</td>
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PUBLIC HEARING (00:01:20)
Mr. Harmon called the following hearing to order at 7:03 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.

VINCENT ROMANELLI REQUESTING APPROVAL OF THE FOLLOWING UNDER ONE APPLICATION: A) A VARIANCE FROM SECTION 806.05 OF THE GENOA TOWNSHIP ZONING RESOLUTION, TO REDUCE THE REQUIRED FIFTY (50) FOOT FRONT YARD SETBACK OF FOURTEEN (14) FUTURE LOTS, TO BE CREATED VIA SUBDIVISION OF PROPERTY CURRENTLY KNOWN AS, AND LOCATED AT, 6611, 6625, AND 6663 SOUTH OLD 3C HIGHWAY, WESTERVILLE, OH 43082, COMMONLY KNOWN AS GRACE’S PLACE; AND B) A VARIANCE FROM SECTION 2002.03 OF SAID RESOLUTION TO ALLOW A FENCE TALLER THAN THIRTY (30) INCHES TO BE LOCATED BETWEEN THE RIGHT-OF-WAY LINE AND THE BUILDING LINE OF THE AFOREMENTIONED PROPERTIES. THE SUBJECT PROPERTIES ARE ALL CURRENTLY ZONED SUBURBAN RESIDENTIAL (SR); (BZA 2019-08).

Chair noted that this hearing contains two parts; Application A, a variance request from section 806.05 will be heard first and application B, a variance request from section 2002.03 will be heard second.

Mr. Harmon noted that the legal notice for both hearings was printed and published on June 8, 2019, in the Delaware Gazette and posted at the Genoa Township Hall on June 5, 2019. An attempt to mail notice of this hearing to property owners contiguous to and across the street from the subject property was also made.

VARIANCE REQUEST A

The following were marked as exhibits "A" – “D”.
- Exhibit “A” – Legal Notice
- Exhibit “B” – Sign-in Sheet
- Exhibit “C” – Application
Mr. Harmon stated that he had received a phone call from someone that chose to be anonymous and he felt that the person was not in favor of the variance.

APPLICANTS’ PRESENTATION (00:06:53): David Fisher (Kephart/Fisher) and Joe Looby (Stantec) presented on behalf of the applicant.

Mr. Fisher stated that the reason for the variance is to provide larger, usable rear yards because there will be drainage swales located in the rear of each lot. He added that comparable variances have been granted in other subdivisions. Mr. Looby stated that the stormwater management system they are utilizing has been determined by Delaware County.

Mr. Harmon asked if the homes will be single-family detached. Mr. Fisher provided a history of plans for the property.

Mr. Harmon asked if Romanelli and Hughes will build the houses. Mr. Fisher stated that Romanelli and Hughes owns the property, but he cannot say for sure that they will build the houses.

Mr. Harmon stated that he is concerned with the amount of off-street parking that will be available with shorter front setbacks. Mr. Fisher stated that the minimum size of the homes is required in the Zoning Resolution and the houses will be comparable to the existing nearby houses. Mr. Fisher asked Mr. Looby how many cars can fit into the driveways without blocking the sidewalk. Mr. Looby stated: two cars will fit. Mr. Fisher noted that the garages in London Crossing are not directly on the building line. He stated that the builders may make longer driveways for marketability purposes. Mr. Fisher testified that they would agree to a condition that the driveways must be a certain distance from the sidewalk. Ms. Dorsch stated that most single-family homes are built very close to the front building line to allow for more room in the rear yard.

Mr. Harmon asked if the basins will be no build zones. Mr. Looby stated yes. Ms. Dorsch stated that they will not be labeled no build zones, but they will be platted as an easement.

Mr. Phillips asked if the applicant believes the variance is substantial. Mr. Fisher stated that they are not substantial as the spirit and intent of the Zoning Resolution will be observed and it is in the best interest of the future homeowners to have larger, usable rear yards.

Mr. Harmon asked why the rezoning to PRD was denied. Mr. Fisher stated the Zoning Commission did not like the divergence for total acreage of the development. He added that a number of residents were supportive of the planned development.

Mr. Buhn asked if the development can still be built without the variance. Mr. Looby stated yes, but the rear yards will be small.

Mr. Fisher reiterated that the applicant is willing to offset the garage to increase the size of the driveway.
PUBLIC COMMENTS (00:47:54): Mr. Harmon asked any individuals who were properly sworn-in to share their comments.

1. Mary Ann Morehart (6688 Seckel Dr) stated that she likes the idea of the houses being closer to the street. She added that she would like the development to start because they currently have drainage issues behind their house.
2. Mark Lavalle (6510 S. Old 3C Hwy) stated that he does not believe the Township needs any more development.
3. Robert Dunkel (6610 Charles Rd) stated that he is in support of the variance to keep the houses farther from the existing homes.

BOARD DISCUSSION/FINDINGS OF FACT (00:55:05): Mr. Harmon stated he is comfortable with the 40-foot driveway length. He added that the property is unique both in layout and with the requirement of the drainage areas in the rear of the lots.

The Board reviewed Duncan v. Middlefield, in regards to the variance requested from Section 806.05 to allow for front yard setbacks less than the required fifty (50) feet in a Suburban Residential (SR) 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.

   The Board agreed with the applicant that the properties are still buildable.

b. The variance is substantial.

   The Board stated that the percentage of variance is substantial, but it is a practical variance and that makes it less substantial.

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.

   The Board stated the neighbors that spoke at the meeting would prefer the variance be granted to allow the new houses to be built further from any existing houses.

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

   The Board stated that there were no comments received from Police, Fire, and Maintenance.

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

   The Board stated the property owner was not present to testify, but since the Zoning Resolution is available to the public, they would assume the property owner had knowledge of the restrictions.

f. The property owner's predicament cannot be feasibly obviated through a method other than the variance.

   The Board stated there is no other way to maximize the size of the rear yards.

g. The spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance.
The Board stated that allowing the variance would make the properties more marketable.

MOTION (01:02:30): Mr. Phillips moved, incorporating Exhibits A through D into evidence, to approve a Variance from Section 806.05 of the Genoa Township Zoning Resolution for BZA (2019-08.A), application received May 17, 2019, to allow for front yard setbacks of forty (40) feet on two lots and thirty (30) feet on 12 lots of property known as Grace’s Place at 6611, 6625, and 6631 South Old 3C Highway, Westerville, OH 43082 zoned Suburban Residential (SR).

This motion is based on the following Findings of Fact:

1. Maximization of the rear yards for marketability purposes.

2. Maximize the purchase price of the property.

3. Maximize the use of the back yard while still maintaining stormwater runoff in the rear of the properties.

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

1. All driveways will be a minimum of forty (40) feet in length from the front right-of-way.

Motion was seconded by Mr. Harmon.

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

Chair announced the hearing for BZA 2019-08.A closed at 8:10 p.m.

VARIANCE REQUEST B

PUBLIC HEARING (01:08:30)

The chair noted that they would now hear the second part of the application BZA 2019-08.B, for a variance from section 2002.03. The chair asked everyone who wished to speak to this matter that was not sworn-in for part a to stand. Those standing were sworn-in.

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 June 14, 2019 (for the June 25, 2019 meeting)

STAFF REPORT (01:09:18): Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, gave an overview of Exhibit D.

APPLICANTS’ PRESENTATION (01:12:23): David Fisher (Kephart/Fisher) and Joe Looby (Stantec) presented on behalf of the applicant.
Mr. Fisher stated that this is a code enforcement issue and they want to include an entrance feature for the development. He stated that it is approved in a planned district through the Final Development Plan, but since this a suburban residential district there is no development plan. Mr. Fisher stated it will not enclose anything. Mr. Looby stated it is about 16 feet in length.

Ms. Driskell asked what the materials will be used for the fence and who will maintain the fence. Mr. Looby stated they have not determined the materials for the fence, but it will be maintained by the Homeowner’s Association.

Mr. Harmon asked if it will be an open fence style. Mr. Looby stated they have not determined the style.

Mr. Phillips asked if there was a cap on what they are requesting. Mr. Looby stated they are asking for 60 inches, but the typical fence is 48 inches.

PUBLIC COMMENTS (01:17:02): Mr. Harmon asked any individuals who were properly sworn-in to share their comments.

1. Mary Ann Morehart (6688 Seckel Dr) stated she is not allowed to have a fence higher than 42 inches so she feels the applicant should not be allowed to have a taller fence. Mr. Looby stated that fences are allowed to be eight feet tall if they are not located in a front setback. Mr. Fisher stated the applicant is willing to limit it to a 48-inch tall fence with pillars at a maximum of 60 inches. Ms. Morehart stated that with the sidewalk on that side of the road, a five-foot tall fence would not fit the character of the neighborhood.

2. Robert Dunkel (6610 Charles Rd) stated that he does not have an issue with the entrance. He asked if a small fence could be added along the perimeter of the development. Mr. Fisher stated that is not possible with a suburban residential district and each homeowner will be able to install a fence at their discretion.

BOARD DISCUSSION/FINDINGS OF FACT (01:25:45): Mr. Phillips asked the length of the fence. Mr. Looby stated it will run the entire length of the property, approximately 200 feet.

The Board reviewed *Duncan v. Middlefield*, in regards to the variance requested from Section 2002.03 to allow for a fence higher than thirty (30) inches between the right-of-way line and the building line in a Suburban Residential (SR) 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.

   The Board stated it is a residential property; the houses will be built whether or not the variance is granted.

b. The variance is not substantial.

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.

   The Board stated that during discussion, it was determined that 60 inches would be too high, and the applicant agreed to limit the height of the fence to 48 inches.

d. The variance would not adversely affect the delivery of governmental services.
The Board stated there were no comments received from Police, Fire, or Maintenance.

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

The Board stated the zoning restrictions are public knowledge and the property owner is charged with knowing the restrictions when purchasing the property.

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

The Board stated they could choose to not install the fence. The aesthetic features of the fence will benefit both the property owners and the neighbors.

g. The spirit and intent behind the zoning requirement would not be observed and substantial justice would be done by granting the variance.

**MOTION (01:30:25):** Mr. Phillips moved, incorporating Exhibits A through D into evidence, to approve a Variance from Section 2002.03 of the Genoa Township Zoning Resolution for BZA (2019-08.B), application received May 17, 2019, to allow for a fence up to forty-eight inches (48") high with pillars up to sixty inches (60") high in an area between the right-of-way line and the building line on property known as Grace’s Place at 6611, 6625, and 6631 South Old 3C Highway, Westerville, OH 43082 zoned Suburban Residential (SR).

This motion is based on the following Findings of Fact:

1. The proposal is essentially an entrance feature into the subdivision. This should improve the aesthetics of the surrounding area and the new neighborhood.

2. The Homeowner’s Association will maintain the fence and the pillars.

3. It complements the proposed subdivision.

4. It will serve as a nice visual barrier for the new South Old 3C corridor.

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

1. There will be a landscape easement that is part of the plat.

Motion was seconded by Mr. Harmon.

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

Mr. Harmon announced the hearing closed at 8:35 p.m.

The Board took a short recess and resumed the meeting at 8:40 p.m.

**PUBLIC HEARING (01:35:00)**

Mr. Harmon called the following hearing to order at 8:41 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.
PHILIP & CATHERINE BEDELL REQUESTING APPROVAL OF A VARIANCE TO ALLOW A PORCH ADDITION TO ENCROACH INTO THE REQUIRED FORTY (40) FOOT REAR SETBACK AT 7120 MARRISEY LOOP, GALENA, OHIO 43021, IN THE VINMAR FARMS SUBDIVISION, CURRENTLY ZONED PLANNED RESIDENTIAL (PRD) (BZA 2019-09).

Mr. Harmon noted that the legal notice for this hearing was printed and published on June 8, 2019, in the Delaware Gazette and posted at the Genoa Township Hall on June 5, 2019. An attempt to mail notice of this hearing to property owners contiguous to and across the street from the subject property was also made.

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 June 14, 2019 (for the June 25, 2019 meeting)

STAFF REPORT (01:36:30): Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, gave an overview of Exhibit D.

APPLICANTS’ PRESENTATION (01:40:00): Philip Bedell (applicant) presented. He stated that when they purchased the house in 2013, they did not think about the impact the afternoon/evening sun would have on the rear of their house. He added that they have tried other options to shield the sun, but they were ineffective and unsightly. Mr. Bedell stated that there are other houses in the neighborhood that have covered patios.

Mr. Harmon asked if the roof addition will cover the entire patio. Mr. Bedell stated no and clarified the plan drawings that they submitted.

Mr. Bedell stated he spoke with neighbors and they did not have any issues. He added that they feel it will be consistent with the character of the neighborhood.

Mr. Phillips asked what the addition will look like. Mr. Bedell stated it will be open with columns and a flat roof. He added it will not be closed or screened, it is mainly just for shade.

Mr. Harmon asked if design approval is required by the HOA. Mr. Bedell stated there is an architectural review board.

BOARD DISCUSSION/FINDINGS OF FACT (01:52:30):

The Board reviewed Duncan v. Middlefield, in regards to the variance requested from Section 919 to allow for an addition to encroach into a forty (40) foot rear setback in a Planned Residential (PRD) 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.

   The Board determined the patio is still usable but it may not be as comfortable.

b. The variance is substantial.
The Board determined it is subjective. Eight feet is not very much but a 20% reduction is substantial.

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.

The Board determined this is a typical improvement for the neighborhood and the Township as a whole.

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

The Board stated there is no evidence to the contrary and there were no comments provided by Police, Fire, and Maintenance.

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

The Board stated the applicant testified they did not, but the Board believes they should have.

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

The Board determined they could use a different method to provide shade, but the utility of those options may not be as useful.

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

The Board stated the area to the rear of the property is open space that is not to be developed.

**MOTION (01:56:00):** Mr. Harmon moved, incorporating Exhibits A through D into evidence, to approve a Variance from Section 919 of the Genoa Township Zoning Resolution for BZA (2019-09), application received May 31, 2019, to allow for an eight (8) foot encroachment into a forty (40) foot rear setback on property known as lot number 7229 in Vinmar Farms Subdivision, 7120 Marrisey Loop, Galena, OH 43021, zoned Planned Residential Development (PRD).

This motion is based on the following Findings of Fact:

1. The property is unique as it is less deep than other lots in the subdivision.

Motion was seconded by Ms. Driskell.

Discussion: Mr. Harmon stated that without the shade, it could make the rear patio mostly unusable during the summer months.

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

Mr. Harmon announced the hearing closed at 9:05 p.m.
PUBLIC HEARING (01:58:51)
Mr. Harmon called the following hearing to order at 9:06 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.

THOMAS ARMSTRONG REQUESTING APPROVAL OF A VARIANCE TO ALLOW AN ADDITION TO ENCROACH INTO A NO BUILD ZONE AT 5533 ST. GEORGE AVENUE, WESTERVILLE, OHIO 43082, IN THE HIGHLAND LAKES NORTH SUBDIVISION, CURRENTLY ZONED PLANNED RESIDENTIAL (PRD) (BZA 2019-10).

Mr. Harmon noted that the legal notice for this hearing was printed and published on June 8, 2019, in the Delaware Gazette and posted at the Genoa Township Hall on June 5, 2019. An attempt to mail notice of this hearing to property owners contiguous to and across the street from the subject property was also made.

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 June 14, 2019 (for the June 25, 2019 meeting)

STAFF REPORT (02:00:24): Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, gave an overview of Exhibit D.

APPLICANTS’ PRESENTATION (02:03:00): Thomas Armstrong (applicant) presented.

Mr. Armstrong stated that they would like to convert the existing concrete patio into a screened porch. He stated the porch will be approximately 12 feet by 24 feet. Mr. Armstrong added that he spoke with the Homeowner’s Association. Mr. Armstrong testified that he spoke with the neighbors on all sides and they did not have an issue with the addition.

Mr. Phillips asked if the patio was existing when they purchased the home. Mr. Armstrong stated it was there when they purchased the home.

Mr. Buhn asked if the patio encroaching into the no build zone would be classified as existing non-compliant. Ms. Dorsch stated that patios do not require a permit so there was no review by the zoning office for the patio addition.

Mr. Buhn asked if the screened porch would cover the footprint of the patio. Mr. Armstrong stated yes, they are not going beyond the borders of the existing patio.

Mr. Phillips asked if there is anything that the Board can do to eliminate the encroachment into the no build zone. Ms. Dorsch stated the variance would cover any future issues of the screened porch encroaching into the no build zone.

BOARD DISCUSSION/FINDINGS OF FACT (02:13:23):

The Board reviewed Duncan v. Middlefield, in regards to the variance requested from Section 919 to allow for an addition to encroach into a no build zone in a Planned Residential 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.

The Board stated the screened porch will sit on the existing patio.

b. The variance is substantial.

The Board stated the screened porch will encroach into the no build zone.

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.

The Board stated that they received no comments from Police, Fire, and Maintenance.

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

The Board stated the no build zone is stated on the property survey that was provided when the home was purchased.

f. The property owner’s predicament can be feasibly 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 (02:16:55):** Mr. Buhn moved, incorporating Exhibits A through D into evidence, to approve a Variance from Section 919 of the Genoa Township Zoning Resolution for BZA (2019-10), application received May 31, 2019, to allow for an addition to encroach ten (10) feet into a fifty (50) foot no build zone on property known as lot 3859 in Highland Lakes North Subdivision, 5533 St. George Avenue, Westerville, OH 43082, zoned Planned Residential Development (PRD).

 Motion was seconded by Ms. Driskell.

Discussion: Mr. Harmon stated this is a similar case to one a couple of months ago. He stated that this hearing has merit. He noted that the Board members should make every attempt to be consistent with their voting. Mr. Harmon stated that this application is reasonable. Mr. Buhn stated that with the previous case there was less space in the rear yard past where the fence would be. Ms. Driskell stated each case stands alone on their own merit.

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

Mr. Harmon announced the hearing closed at 9:30 p.m.

**MINUTES (02:23:00)**

Mr. Harmon provided some ideas to help make the minutes easier to read and follow.
The board reviewed meeting minutes presented by the Genoa Township Development and Zoning Department for the hearings held on April 23, 2019.

MOTION: Ms. Driskell moved to approve the April 23, 2019 meeting minutes, as presented:

Motion was seconded by Ms. Yu.

VOTE: 5 For, 0 Opposed, 0 Abstained. Motion carried.

PREPARED BY:  
Paul Benson, Zoning Secretary
6/14/2019  
Date Prepared

BOARD OF ZONING APPEALS APPROVED:  
Mark Harmon, Chair  
8/27/2019  
Date Approved by the Board of Zoning Appeals

ADJOURNMENT
Mr. Buhn moved to adjourn this meeting at 9:42 p.m. Motion was seconded by Ms. Driskell. All voted yes. Motion carried.

Meeting was adjourned at 9:42 p.m.

OTHERS PRESENT AT MEETING
Philip Deveny  
Robert Dunkel  
David Fisher  
Joe Looby  
Tom and Tammy Armstrong  
Mark and Mary Ann Morehart  
Mark Lavalley

6721 Henschen Cr.  
6610 Charles Rd.  
207 N. 4th St. Columbus  
Stantec  
5533 St. George Ave.  
6688 Seckel Dr.  
6510 S. Old 3C Hwy.

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