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

OLD BUSINESS

Minutes – 10/22/13

Mr. Harmon moved to approve the minutes from October 22, 2013, as written. Motion was seconded by Ms. Walsh. Roll call: Ms. Walsh, aye; Mr. Dunn, abstain; Ms. Smith, aye; Mr. Harmon, aye; Mr. Goussetis, aye. Motion carried.

NEW BUSINESS

BZA 2013-09 (6146 Lewis Center Rd.) (O'Brien)

This hearing began at 7:01 p.m.

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

PAM AND TIM O'BRIEN, REQUESTING A VARIANCE TO §1107.07 OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW FOR A BUILDING TO BE CLOSER THAN THE MINIMUM REQUIRED TO A RESIDENTIAL DISTRICT BOUNDARY LINE ON PROPERTY LOCATED AT 6146 LEWIS CENTER ROAD, A COMMUNITY BUSINESS (CB) 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 marked the following as Exhibits:

Exhibit "A" – Legal Notice
Exhibit "B" – Sign-in Sheet
Exhibit "C" – Application
Exhibit "D" – Staff Report, dated 11/19/13
Exhibit "E" – Four photographs of property
Exhibit "F" – Four photographs of property

Alyssa Lowry, Architectural Alliance, appeared on behalf of the applicant and presented the facts of the application to the Board. Tim Snyder, Construction Manager for the project, also appeared and assisted in the presentation. Ms. Lowry stated that applicant is proposing to build an addition onto the existing building to provide an indoor large muscle area for the students. She also stated that the addition will help screen the outdoor playground.

Mr. Goussetis stated that the proposed addition will be approximately 26.4 feet of the Cummings’ property. He asked what the distance would be from the proposed addition to the Johnson property. Ms. Lowry stated that she was not sure of that distance. Mr. Goussetis asked if the large muscle area is a state requirement that all childcare facilities must provide to their students. Pam O’Brien, owner of Hugs & Hearts, stated that it is not a state requirement, but the applicant wants to provide it for the children.

Mr. Dunn asked if the applicant looked at any different options for the location of the proposed addition so that a variance wasn’t necessary. Ms. Lowry stated that they did look at other options, however, this seemed to be the best practical location. Mr. Snyder also stated that he spoke with Genoa Fire Marshall Skeel and it was determined that this was the best location for the addition to address fire department concerns. Mr. Snyder stated that, with the proposed location of the addition, it should not impact the existing screening between the building and the adjacent residential properties.

Ms. Dorsch stated that the subject property is surrounded by single-family homes on large lots, ranging from 1-1/2 to over 50 acres. This parcel was previously part of the Freeman family farm and was split off in 2004 after the property was rezoned to Community Business. The existing building was the home of Freeman Family Market since 2005. In October, 2013, the Township received an Application for Change of Permitted Use for this facility, which was approved on October 8, 2013.

Following approval of the Change of Permitted Use, Ms. Lowry asked what the requirements were to obtain a permit to construct the proposed addition to the existing building. At that time, the Township notified Ms. Lowry that applicant’s proposal would
require a variance since the Zoning Resolution required a 100-foot setback from residential properties for buildings in the Community Business District.

Ms. Dorsch testified that the applicant is proposing to construct a 30x48 foot addition to the existing building to allow for an indoor large muscle room play area for the childcare facility, adding 1,440 square feet to the east side of the existing building. This proposed addition will increase the length of the rear of the building by 48 feet and will encroach into the 100-foot required setback on the east property line by approximately 75 feet, which would be a 48% increase from the existing 75-foot setback. The existing 75-foot setback along the northern and southern property lines will remain as is.

Ms. Dorsch stated that no zoning violations were found on the property and the Township did not receive any comments with respect to this variance request after public notification.

Public Comment:

Cheryl Johnson (6180 Lewis Center Rd.)

Ms. Johnson stated that she currently has some natural screening on her property; however she is concerned that if something happens to her existing trees, there would not be any screening between her residence and the proposed addition. She asked if applicant would be willing to plant additional trees or foliage to ensure that there will be enough screening in the future.

Lois Freeman (6142 Lewis Center Rd.)

Ms. Freeman stated that their property lines and that of the Cummings’ residence are both located approximately where the outdoor play area is proposed. She stated that the existing trees which they were required to plant during construction of the Freeman Farm Market, should sufficiently screen their properties from that play area.

Board Comment:

Ms. Walsh asked applicant if they have considered planting any additional screening so as to lessen the impact of the proposed addition and the outdoor play area from the adjacent properties. Applicant stated that they had not previously considered doing that.

The Board reviewed *Duncan v. Middlefield*, 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 yield a reasonable
return and there can be 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 74% less than the Zoning Resolution will allow.
(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 delivery of governmental services would not be adversely affected with the granting of this variance.
(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 prior to 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 property owner's predicament can be obviated through some method other than a variance; however the addition is best suited in the proposed location.
(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. Dunn moved, incorporating Exhibits "A" through "F" into evidence, to approve a variance for BZA 2013-09, dated November 1, 2013, to allow a building to be closer than the minimum required to a residential district boundary line on property located at, 6146 Lewis Center Road, a Community Business (CB) Zoning District, based on the following findings of fact:

(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 since it is approximately seventy-four percent (74%) 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. Applicant is required to plant five (5) five and one-half (5 1/2) foot tall evergreens at the northeast corner of the property, the location to be determined by the Johnson property owners.

Motion was seconded by Ms. Walsh. Discussion: Mr. Harmon stated his concern with the large encroachment into the setback, stating that the requirements of the Zoning Resolution are there to protect the residents. Ms. Walsh stated that she believes sufficient notice was given to the public prior to this hearing and the fact that there was no opposition, this variance request should be approved. Mr. Dunn stated that he does not believe that the required screening is necessary; however, the applicant is willing to provide that screening at the request of an adjacent resident. Ms. Smith concurred with Mr. Dunn. Mr. Gousetis concurred with Mr. Harmon with respect to the requirements of the Zoning Resolution, but is also concerned with the placement of the required screening as noted above. Roll call: Ms. Walsh, aye; Mr. Dunn, aye; Ms. Smith, aye; Mr. Harmon, aye; Mr. Gousetis, aye. Motion carried.

Mr. Harmon moved to adjourn this meeting at 7:57 p.m. Motion was seconded by Mr. Dunn. Vote: all ayes. Motion carried.

Respectfully submitted,

Vicki L. Stainer  
Zoning Secretary

Date Approved: 7/18/14  
Harry Gousetis, Chair