DATE: May 27, 2014
TIME: 7:00 PM
LOCATION: Genoa Township Hall, 5111 S. Old 3C Hwy., Westerville, Ohio 43082
AGENDA ITEMS:
- BZA 2014-03 Pat Shively (GSCS Holdings), variance from Section 606.01
- BZA 2014-04 Holmes, variance from Section 806.05
- BZA 2014-05 Hammond, variance from Sections 806.05 & 2002.03
- BZA 2014-06 Hackney, variance from Section 1609.01(A)

CALL TO ORDER
David Dunn called the meeting to order at 7:00 p.m.

ROLL CALL
MEMBERS PRESENT
David Dunn, Vice Chair
Cybele Smith
Mark Antonetz

MEMBERS ABSENT
Sara Walsh
Mark Harmon
Harry Goussetis, Chair
Teresa Yu, Alternate was also present at this meeting but was not a voting member.

MINUTES
The board reviewed meeting minutes presented by the Genoa Township Development and Zoning Department for hearings held on March 18, 2014 and April 22, 2014.

MOTION: Cybele Smith moved to approve the March 18, 2014 hearing minutes, as presented. Motion was seconded by Sara Walsh. Roll call: Mark Harmon, abstained; Cybele Smith, yes; Sara Walsh, yes; Mark Antonetz, yes; David Dunn, yes. Motion carried.

MOTION: Mark Harmon moved to approve the April 22, 2014 hearing minutes, as presented. Motion was seconded by Sara Walsh. Roll call: Mark Harmon, yes; Cybele Smith, yes; Sara Walsh, yes; Mark Antonetz, yes; David Dunn, yes. Motion carried.

PUBLIC HEARING
David Dunn 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.

BZA 2014-03 - PAT SHIVELY, ON BEHALF OF GSCS HOLDINGS LLC, REQUESTING A VARIANCE FROM SECTION 606.01 OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW FOR DEVELOPMENT OF RESIDENTIAL USES ON LOTS LESS THAN THE REQUIRED TWO (2) ACRE MINIMUM, LOCATED ON 4461 & 4485 SOUTH OLD 3C HIGHWAY, WESTERVILLE (PARCELS # 31713001002000, 31713001002001 & 31713001003000), ZONED RURAL RESIDENTIAL (RR) ZONING DISTRICT.

APPLICANTS’ PRESENTATION: Todd Faris, Faris Planning and Design, represented the applicant. Mr. Faris stated that the application before the Board was a variance request to allow residential lots on less than two (2) acres in a Rural Residential Zoning District. The subject property was recently purchased by GSCS Holdings, LLC with the intent of subdividing the property, retaining one lot for the owner’s residence, and marketing the remaining lots.
The following items were noted by the applicant:
1. The road placement to align with the entrance to Vinmar Village was dictated by Delaware County Engineer's Office.
2. Currently, two (2) existing parcels at the southeast corner of the subject property gain access to their property via an easement through the subject property. They must continue to provide access for these properties.
3. Common access drive no longer allowed per Delaware County standards.
4. The subject property can be subdivided into the same number of lots (13) without the variance.
5. Delaware County is also requiring that they provide public access for the parcel adjacent to the southwest corner of the subject property to reduce the number of access points on South Old 3C.
6. Granting the variance provides the ability to provide common ownership of open space at the entrance and existing pond. It would also allow for better lot configurations and less need for future variances to setback requirements.

STAFF REPORT: Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, gave an overview of the staff report and listed the following recommendations:

1. Ensure that the proposed open space is platted in either private ownership or common ownership with a restriction to ensure they will not be used for separate independent building sites.
2. No more than seven (7) proposed lots shall be less than two (2) acres in size and none of these proposed lots shall be less than 1.7 acres in area.

Staff clarified for the Board that the property is located in Delaware County's future sewer service area but sewer is not currently available for this project. Residences built on the proposed lots will use on-site treatment systems.

PUBLIC COMMENTS:
- Jim Carter, 4493 S. Old 3C, stated that he was one of the neighbors immediately adjacent to the southeast property line. He indicated that he had the opportunity to speak with Mr. Faris concerning the proposed project and Mr. Faris was able to address most of his concerns. Mr. Carter suggested reducing the number of lots to twelve (12) from thirteen (13) to eliminate the need for the variance. Mr. Carter also expressed concerns with run-off water onto his property and into Hoover Reservoir when the project is developed.
- Dan Braun, 4383 S Old 3C Hwy., inquired about the plans for the cabin that exists on the property. Mr. Faris indicated that the future plans for the cabin were not known but the cabin will stay at least in the short term.
- Tom Warner, 8216 W. Shore Dr., asked what the setback was from the property lines. Mr. Warner is concerned with the number of trees dying within the wooded area on his property. Mr. Warner would like to see trees planted along the property lines to screen the view of the proposed homes. He also expressed concerns with additional storm water coming onto his property.
- Jeff Burmester, 4299 West Shore Court, expressed concerned with drainage and the detention ponds.
- Gwyn Abell, 8141 Oxbow Road, expressed concern with the lots being proposed at less than the required two (2) acres having room for the septic systems.
- Andy Secrest, 4299 West Shore Dr., questioned why the lots were not configured using shared driveways.
APPLICANT'S RESPONSE: Todd Faris introduced John Moorehead, Advance Civil Design; civil engineer for the proposed project. Mr. Moorehead highlighted Delaware County's storm water management requirements and the storm water plans for the project.

The Board reviewed *Duncan v. Middlefield*, for the variance from Section 606.01 as follows:
(a) Whether the property in question would yield a reasonable return or whether there can be beneficial use of the property without the variance. The Board deemed that the property would yield a reasonable return and there can be beneficial use of the property without the variance because the same number of two acre lots can be created as proposed in the variance application or the land could be split into a different configuration with fewer lots.
(b) Whether the variance is substantial. The Board determined that although the variance is a 15% reduction in lot size on over half of the lots it is not substantial when considering the property as a whole.
(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 be substantially altered since the land is currently undeveloped but the adjoining properties would not suffer a substantial detriment as a result of the variance. Development should increase property values.
(d) Whether the variance would adversely affect the delivery of governmental services. There was no evidence presented that any governmental services would be adversely affected.
(e) Whether the property owner purchased the property with knowledge of the zoning restriction. The Board determined that the applicant did purchase the property with the knowledge of the two acre minimum lot size restrictions.
(f) Whether the property owner's predicament feasibly be obviated through a method other than the variance. The Board deemed that the property owners' predicament can feasibly be obviated through the platting of odd shaped lots.
(g) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance. The Board deemed that the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

MOTION: Cybele Smith moves, incorporating Exhibits A through D into evidence, to approve a variance from Section 606.01 of the Genoa Township Zoning Resolution for BZA 2014-03, application received May 8, 2014, to allow for development of residential uses on lots less than the required two (2) acres located on 4461 and 4485 South Old 3C Highway, Westerville (parcels #31713001002000, 31713001002001, & 31713001003000), zoned Rural Residential (RR) 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 not substantial since it is approximately fifteen (15%) percent 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 can 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 as recommended by staff:

1. The proposed open space will be platted in either private ownership or common ownership with a restriction to ensure that the open space lots will not be used as separate independent building sites, and
2. No more than seven (7) of the proposed lots will be less than 2 acres in size and none of the proposed lots shall be less than 1.7 acres in area.

Motion was seconded by Mark Antonetz. Roll call: Mark Harmon, yes; Cybele Smith, yes; Sara Walsh, yes; Mark Antonetz, yes; David Dunn, yes. Motion carried.

David Dunn announced the hearing closed at 8:03 p.m.

David Dunn called the following hearing to order at 8:04 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

BZA 2014-01 - LANCE C. AND MINDY E. HOLMES, REQUESTING A VARIANCE FROM SECTION 806.05 OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW FOR THE DEVELOPMENT OF LOTS WITH FRONT YARD SETBACKS LESS THAN THE REQUIRED FIFTY (50) FOOT MINIMUM, LOCATED ON 6425 & 6445 FREEMAN ROAD, WESTERVILLE (PARCELS # 31724301001000 & 31724301002000), ZONED SUBURBAN RESIDENTIAL (SR) ZONING DISTRICT.

APPLICANTS’ PRESENTATION: Joe Lobby, Stantec, represented the applicant. Mr. Looby provided the Board with an additional exhibit that contained more details than the one provided with the application. He stated that the proposed lots will comply with all the required zoning regulation with the exception of the request for the reduced front setback from fifty (50) feet to thirty (30) feet.

STAFF REPORT: Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, gave an overview of the staff report.

Staff offered the following recommendations if approval of this variance is granted:

1. The rural feeling of the Freeman Road corridor should be maintained with one of the following options:
   a. Tapper minimum front yard setbacks, requiring 50 feet on lots 1 to 13 and gradually reducing the permitted setback away from Freeman Road; or
   b. Frontage along Freeman Road should be screened to maintain the aesthetic appeal of Freeman Road Corridor.
2. The applicant could commit to a rear yard no build zone, up to 50 feet in depth, where fences are permitted but adjoining residents can otherwise enjoy an increased setback.

PUBLIC COMMENTS:

- Mike Jones, 6289 Freeman Road, questioned if the reason for the variance request was to obtain more lots. He also expressed concerns with drainage in the area.
- Stan Hildreth, 6389 Freeman Road, stated that he would prefer that accessory buildings not be constructed, but if accessory buildings are constructed, he would prefer that all buildings be located at least 50 feet off the rear property line.
- Paula Spinosi, 5766 Blackhawk Forest Drive, asked what will happen to the existing houses on the site. She also asked when construction of the project would begin.
• Lynn Pasi, 6541 Blackhawk Circle, shared her concern with construction of accessory buildings close to the property lines. Her subdivision’s (Blackhawk Forest) deed restrictions do not allow accessory buildings.

APPLICANT’S RESPONSE: Mr. Looby provided the following information in response to public comments:
1. The variance request is not for the purpose of obtaining addition building lots. The original design contained 14 lots which have now been reduced to 13. The reason for the reduced rear setback is to provide larger back yards vs front yards.
2. All run-off water will be directed toward two catch basins to be located on the site. The project will be under Delaware County’s Ditch Maintenance Program.
3. The two existing homes will be removed.
4. Construction of the project is anticipated to begin in 2015.

Mr. Looby stated that the site is very narrow; the only option is a cul-du-sac street down the middle of the parcel. The builder of the project will be Romanelli and Hughes with houses starting at $500,000. Mr. Looby stated that they are not a fan of the conditions proposed by staff.

The Board reviewed Duncan v. Middlefield, for the variance from Section 806.05 as follows:
(a) Whether the property in question would yield a reasonable return or whether there can be beneficial use of the property without the variance. The Board deemed that the property would yield a reasonable return and there can be beneficial use of the property without the variance because the lots can be created with 50 front and rear setbacks.
(b) Whether the variance is substantial. The Board determined that the variance is substantial since it is decreasing the required setback by 40 percent.
(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.
(d) Whether the variance would adversely affect the delivery of governmental services. There was no evidence presented that any governmental services would be adversely affected.
(e) Whether the property owner purchased the property with knowledge of the zoning restriction. The Board determined that the applicant did purchase the property with the knowledge of the setback requirements.
(f) Whether the property owner’s predicament feasibly be obviated through a method other than the variance. The Board deemed that the front setback cannot be decrease by another method other than a variance.
(g) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance. After future discussion, the Board deemed that the spirit and intent behind the zoning requirement would be observed since there is no guarantee of maintaining open space.

MOTION: Cybele Smith moves, incorporating Exhibits A through E into evidence, to approve a Variance from Section 806.05 of the Genoa Township Zoning Resolution for BZA 2014-04, application received May 9, 2014, to allow for development of lots with front yard setbacks less than the required fifty (50) foot minimum, located on 6425 and 6445 Freeman Road, Westerville (parcel # 31724301001000 & 31724301002000) zoned Suburban Residential (SR) 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 forty (40%) percent less than the Zoning Resolution requires.

(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.

Motion was seconded by Mark Harmon.

The Board expressed concerns that there is nothing unique about the property, the option to rezone the parcel and the effects on the adjacent property owners. The Board discussed the reduction to the required front setback and the effects on the surrounding property owners.

Mr. Looby stated that the applicant would be willing to accept the proposed conditions as long as fences are allowed within the fifty (50) foot No Build Zone. They would also agree to a 40 foot front setback on lots one (1) and thirteen (13).

Cybele Smith made a motion to amend the current motion to add the following:

Approval of this Variance is subject to the following conditions:

1. Lots 1 and 13 will have a minimum front yard setback of 40 feet.

2. The frontage along Freeman Road will be screened to maintain the aesthetic appeal of Freeman Road corridor.

3. A fifty (50) foot No Build Zone will be designated at the rear of each lot. Fences will be allowed within the No Build zone.

The amended motion was seconded by Sara Walsh. Roll call: Mark Harmon, yes; Cybele Smith, yes; Sara Walsh, yes; Mark Antonetz, yes; David Dunn, no. Motion carried.

David Dunn announced the hearing closed at 8:44 p.m.

David Dunn called the following hearing to order at 8:47 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.

BZA 2014-05 MATTHEW J. & SUSAN M. HAMMOND, REQUESTING A VARIANCE FROM SECTION 806.05 & 2002.03 OF THE GENOA TOWNSHIP ZONING RESOLUTION TO AN EXISTING NONCONFORMING SINGLE-FAMILY RESIDENCE TO ENCROACH INTO A REQUIRED FIFTY (50) FOOT FRONT YARD SETBACK AND TO ALLOW FOR A RELOCATION OF AN EXISTING NONCONFORMING FENCE TO EXCEED A MAXIMUM ALLOWABLE HEIGHT OF THIRTY (30) INCHES IN A REQUIRED FRONT YARD SETBACK, LOCATED ON 5703 SOUTH OLD 3C HIGHWAY, WESTERVILLE (PARCEL # 31731101001001), ZONED SUBURBAN RESIDENTIAL (SR) ZONING DISTRICT.

APPLICANTS' PRESENTATION: Mr. Hammond presented the application. He stated that the reason for the variance is to allow a covered front porch addition to the front of their existing residence. The addition would encroach into the required front setback area. Mr. Hammond stated that adding...
a front porch would improve the look of their residence and would be in keeping with the character of the neighborhood since many of the other older homes in the area also have encroachments into the front setback. He also stated that they have a side entrance into their house instead of the front entrance as normally seen on most homes.

Mr. Hammond stated that they are also requesting a variance to allow they existing fence to be relocated closer to the dwelling. Mr. Hammond explained that Freeman Road dead ends into South Old 3C Highway directly in front of their house. If a driver does not stop at the stop sign they would potentially crash into their house. Relocated the fence closer to their house would also add a buffer from vehicles traveling along South Old 3C and provide a separation from the sidewalk that is proposed as part of Delaware County's road improvements to South Old 3C. The fence would be moved back approximately 15 feet; more in-line with the fence in Covington Meadows.

STAFF REPORT: Joe Clase, on behalf of the Genoa Township Development and Zoning Department, gave an overview of the staff report.

1. Many of the homes along Old 3C Highway are in a similar situation.
2. Most improvements proposed for this house would require a variance.
3. The subject property shares access with the adjacent four (4) acre property to the east.
4. Open Space for Covington Meadows Subdivision is located to the north.
5. Delaware County plans to begin improvements to South Old 3C in 2016. The plans include the addition of a sidewalk to the east side of the road. The sidewalk would be installed in front of the subject property.
6. The variance for the fence would allow the applicant to re-locate the fence to align it with the existing fence in the Covington Meadows open space which is more visually pleasing to the eye.
7. The fence provides a sense of security from vehicle traffic on Freeman Road and South Old 3C. When Delaware County installs the new sidewalk, as part of the Old 3C road improvement project, the fence will provide a buffer from the pedestrian traffic on the sidewalk.
8. The variance request is substantial; an 8 foot encroachment into the required 50 foot front yard setback is 16 percent and a 52 inch fence height vs the maximum allowed 30 inch height is 73 percent.

Mr. Clase stated that the Development and Zoning Department did not receive any negative comments toward the variance request.

PUBLIC COMMENTS: No one present wished to speak.

The Board reviewed Duncan v. Middlefield, for the variance from Section 806.05 as follows:

(a) Whether the property in question would yield a reasonable return or whether there can be beneficial use of the property without the variance. The Board deemed that the property would yield a reasonable return and there can be beneficial use of the property without the variance because the property is currently has a use as a single family residence.

(b) Whether the variance is substantial. The Board determined that the variance is substantial since the resulting setback for the addition would be approximately 16 percent less than the code requires.

(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.
(d) Whether the variance would adversely affect the delivery of governmental services. There was no evidence presented that any governmental services would be adversely affected.
(e) Whether the property owner purchased the property with knowledge of the zoning restriction. The Board determined that the applicant did purchase the property with the knowledge of the setback requirements but did not know that road improvements to South Old 3C would increase the right-of-way.
(f) Whether the property owner’s predicament feasibly be obviated through a method other than the variance. The Board deemed that an addition cannot be added to the front of the house without obtaining a variance.
(g) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance. The Board deemed that the spirit and intent behind the zoning requirement will be observed.

MOTION: Sara Walsh moved, incorporating Exhibits A through D into evidence, to approve a Variance from Section 806.05 of the Genoa Township Zoning Resolution for BZA 2014-05, application received May 9, 2014, to allow an existing nonconforming single-family residence to encroach into a required fifty (50) foot front yard setback, located on 5703 South Old 3C Highway, Westerville (parcel #31731101001001), zoned Suburban Residential (SR) 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 sixteen (16 %) percent less than the Zoning Resolution requires.
(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 not be observed and substantial justice would be done by granting the variance.

Motion was seconded by Cybele Smith. Roll call: Mark Harmon, yes; Cybele Smith, yes; Sara Walsh, yes; Mark Antonetz, yes; David Dunn, yes. Motion carried.

The Board reviewed Duncan v. Middlefield, for the variance from Section 2002.03 as follows:

(a) Whether the property in question would yield a reasonable return or whether there can be beneficial use of the property without the variance. The Board deemed that the property 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 determined that the variance is substantial since the fence height of 52 inches exceeds the allowable 30 inch height by approximately 73 percent.
(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.
(d) Whether the variance would adversely affect the delivery of governmental services. There was no evidence presented that any governmental services would be adversely affected.
(e) Whether the property owner purchased the property with knowledge of the zoning restriction. The Board determined that the applicant did purchase the property with the knowledge of the setback requirements but did not know that road improvements to South Old 3C would increase the right-of-way.

(f) Whether the property owner's predicament feasibly be obviated through a method other than the variance. The Board deemed that the property owner's predicament cannot be obviated by another method other than a variance. Any fence height over thirty (30) inches would require a variance.

(g) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance. The Board deemed that the spirit and intent behind the zoning requirement will be observed. Moving the fence toward the house, in line with the Covington Meadows fence will be more visually pleasing.

MOTION: Sara Walsh moved, incorporating Exhibits A through D into evidence, to approve a Variance from Section 2002.03 of the Genoa Township Zoning Resolution for BZA 2014-05, application received May 9, 2014, to allow for the relocation of an existing nonconforming fence to exceed the maximum allowable height of thirty (30) inches in a required front yard setback, located on 5703 South Old 3C Highway, Westerville (parcel #31731101001001), zoned Suburban Residential (SR) 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 sixteen (16 %) percent less than the Zoning Resolution requires.

(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 not be observed and substantial justice would be done by granting the variance.

Motion was seconded by Mark Harmon. Roll call: Mark Harmon, yes; Cybele Smith, yes; Sara Walsh, yes; Mark Antonetz, yes; David Dunn, yes. Motion carried.

David Dunn announced the hearing closed at 9:02 p.m.

David Dunn called the following hearing to order at 9:03 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

BZA 2014-06, MICHAEL E. HACKNEY, REQUESTING A VARIANCE FROM SECTION 1609.01(A) OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW A PROPOSED ACCESSORY BUILDING TO ENCROACH INTO A REQUIRED SEVENTY-FIVE (75) FOOT MINIMUM FRONT YARD SETBACK, LOCATED ON 7758 LEWIS CENTER, WESTERVILLE (PARCEL # 31721007012000), ZONED RURAL RESIDENTIAL (RR) ZONING DISTRICT.

APPLICANTS' PRESENTATION: Mr. Hackney presented his application. Mr. Hackney stated that he has looked at several locations for placement of a garage on his property. The location proposed in
the variance application is the best scenario. Like many of the residences in the area, his house is older and sits closer to the road.

STAFF REPORT: Joe Cluse, on behalf of the Genoa Township Development and Zoning Department, gave an overview of the staff report. Mr. Cluse stated that staff has been working with the applicant for a long time to determine the best location for the accessory building.

1. This parcel is unique. The location of the septic field, a twenty (20) foot drainage easement, a twenty (20) foot sanitary easement and the width of the Right of Way make it difficult to place an accessory building in a compliant location.
2. The subject property has a wider right-of-way than the adjoining lots and the existing house has a non-conforming front yard setback.
3. The proposed accessory building would encroachment into the required front setback approximately ten (10) feet; from the edge of the ROW the encroachment would be thirteen (13) percent or from the center of Lewis Center Road the encroachment would be nine (9) percent.
4. Many of the existing homes in the area are closer that the required 75 feet from the right-of-way. Construction of the accessory garage in the proposed location would not be out of character for the neighborhood.

PUBLIC COMMENTS: No one present wished to speak.

The Board reviewed Duncan v. Middlefield, for the variance from Section 1609.01 as follows:

(a) Whether the property in question would yield a reasonable return or whether there can be beneficial use of the property without the variance. The Board deemed that the property would yield a reasonable return and there can be beneficial use of the property without the variance because the property is currently has a use as a single family residence.

(b) Whether the variance is substantial. The proposed garage would encroach into the required 75 foot front yard setback approximately ten (10) feet. The Board deemed this amount of encroachment not substantial.

(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.

(d) Whether the variance would adversely affect the delivery of governmental services. There was no evidence presented that any governmental services would be adversely affected.

(e) Whether the property owner purchased the property with knowledge of the zoning restriction. The Board determined that the applicant did purchase the property with the knowledge of the setback requirements but was not aware of the impact other site conditions would have on the placement of the structure.

(f) Whether the property owner's predicament feasibly be obviated through a method other than the variance. The Board deemed that the construction of an accessory building cannot be achieved by another method other than a variance.

(g) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance. The Board deemed that the spirit and intent behind the zoning requirement will be observed. Construction of the proposed garage would bring the property into compliance with the Zoning Resolution's requirement for a two (2) car garage.

MOTION: Cybele Smith moves, incorporating Exhibits A through D into evidence, to approve a Variance from Section 1609.01 (A) of the Genoa Township Zoning Resolution for BZA 2014-06,
application received May 9, 2014, to allow a proposed accessory building to encroach into a required seven-five (75) foot minimum front yard setback, located on 7758 Lewis Center Road, Westerville (parcel #31721007012000), zoned Rural Residential (RR) 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 not substantial since it is approximately nine (9) to thirteen (13) percent less than the Zoning Resolution requires.
(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.

Motion was seconded by Sara Walsh. Roll call: Mark Harmon, yes; Cybele Smith, yes; Sara Walsh, yes; Mark Antonetz, yes; David Dunn, yes. Motion carried.

David Dunn announced the hearing closed at 9:12 p.m.

ADJOURNMENT
Mark Harmon moved to adjourn this meeting at 9:13 p.m. Motion was seconded by Mark Antonetz. All voted yes. Motion carried.

Meeting was adjourned at 9:13 p.m.

PUBLICATION OF LEGAL NOTICE:
The legal notice for this meeting was printed and published on April 4, 2014 in the Delaware Gazette and posted at the Genoa Township Hall on March 31, 2014. Notice of this meeting was also mailed to the adjacent property owners and a notification sign was placed on the subject property.

SUBMITTED BY:  

ZONING COMMISSION APPROVED:

Susan Dorsch, Permit and Compliance Inspector

David Dunn, Vice Chair

Date Prepared & Submitted: 8/26/14

Date Approved by the Board of Zoning Appeals 8/26/14

OTHERS PRESENT AT MEETING

Joe Looby, Stantec
Todd Faris, Faris Planning & Design
Don McElwee, 6265 Freeman Rd.
David Lloyd, 6240 Freeman Rd.
Paula Spinosi, 5766 Blackhawk Forest Dr.

Joe Clase, Director Development & Zoning
Susan Dorsch, Development & Zoning
Randy Jones, 6551 Blackhawk Circle
Marilyn Paselsky, 8181 Oxbow Rd.
Andy and Nancy Secrest, 8380 West Shore Dr.
Chris Spinosi, 6519 Freeman Rd.
Judy and Stan Hildreth, 6389 Freeman Rd.
Ellen and Tom Ebe, 8020 Holley Woods Dr.
Matthew & Susan Hammond, 5703 S. Old 3C Hwy.
Sally Elleman, 6580 Blackhawk Circle
Tom Warner, 8216 W. Shore Dr.
Dan Braun, 4383 S. Old 3C Hwy.
Marty and Marilyn Lundquist, 4540 S. Old 3C Hwy.
Terry and Lynne Pasi, 6541 Blackhawk Circle
Ed Hatch, 6595 Blackhawk Circle

Jeff & Joyce Burmester, 4299 West Shore Ct.
Mindy & Lance Holmes, 6010 Tussic St.
Ben Gray, 4489 S. Old 3C Hwy
Jeri Price, 6608 Blackhawk Cir.
Gwyn Abell, 8141 Oxbow Rd
Jim & Ann Carter, 4493 S. Old 3C Hwy.
Paul & Katie Schroeder, 6529 Blackhawk Circle
Michael & Cheryl Hackney, 7758 Lewis Center Rd.
John Moorehead, Advanced Civil Design
Mike Jones, 6289 Freeman Rd.