DATE: August 26, 2014
TIME: 7:00 PM
LOCATION: Genoa Township Hall, 5111 S. Old 3C Hwy., Westerville, Ohio 43082
AGENDA ITEMS:

- BZA 2014-08 James and Brenda Devine - rear yard setback variance
- BZA 2014-09 Christopher Pettograsso - front yard setback variance

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

ROLL CALL

<table>
<thead>
<tr>
<th>MEMBERS PRESENT</th>
<th>MEMBERS ABSENT</th>
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<tbody>
<tr>
<td>David Dunn, Vice-Chair</td>
<td>Sara Walsh</td>
</tr>
<tr>
<td>Cybele Smith</td>
<td>Mark Harmon</td>
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<tr>
<td>Mark Antonetz, Alt</td>
<td>Teresa Yu, Alt.</td>
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<td>Harry Goussetis</td>
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MINUTES
The board reviewed meeting minutes presented by the Genoa Township Development and Zoning Department for a hearing held on May 27, 2014.

MOTION: Cybele Smith moved to approve the meeting minutes from May 27, 2014 as presented.
Motion was seconded by Mark Harmon. Roll call: Cybele Smith, yes; Mark Antonetz, yes; Mark Harmon, yes; Teresa Yu, yes; David Dunn, yes. Motion carried.

The board reviewed meeting minutes presented by the Genoa Township Development and Zoning Department for a hearing held on June 24, 2014.

MOTION: Mark Harmon moved to approve the meeting minutes from June 24, 2014 as presented.
Motion was seconded by Teresa Yu. Roll call: Cybele Smith, yes; Mark Antonetz, yes; Teresa Yu, yes; Mark Harmon, yes; David Dunn, yes. Motion carried.

PUBLIC HEARING
David Dunn 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.

### BZA 2014-08 - JAMES A. DEVINE JR. & BRENDA DEVINE REQUESTING A VARIANCE FROM THE MINIMUM REQUIRED 30 FOOT REAR YARD SETBACK SPECIFIED IN THE FINAL DEVELOPMENT PLAN FOR HIGHLAND LAKES EAST (ZC 91-04) APPROVED BY THE BOARD OF TRUSTEES ON FEBRUARY 5, 1992 IN ACCORDANCE WITH SECTION 919 OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW ENCROACHMENT OF AN ADDITION TO AN EXISTING RESIDENCE, LOCATED ON 6865 SUNNINGDALE DRIVE, WESTERVILLE, ZONED PLANNED RESIDENTIAL (PRD) ZONING DISTRICT.

The following were marked as exhibits “A” – “E”.
- Exhibit “A” – Legal Notice
- Exhibit “B” – Sign-in Sheet
- Exhibit “C” – Application
- Exhibit “D” – Staff Report, dated 8/26/2014
- Exhibit “E” – Color Rendering of the Proposed Project
APPLICANTS' PRESENTATION: James A. Devine indicated his home was purchased from Dominion Homes in 1998. This lot has a unique pie shape that limits his ability to add on to the property; however he was not aware of this at the time of purchase. He has contracted with Champion Windows and has the approval of the Homeowner's Association to add this structure. This proposed addition would encroach into the 30 foot setback. Chad Johnson, project manager for Champion Windows, offered to respond to any technical questions the Board may have. Mr. Johnson indicated that moving this addition to any other area of the house would require substantially more work and cost as utilities would need to be moved/added and an entirely new hole would need to be cut into the house. The construction materials will be white vinyl, similar to what is at the rear of the house currently.

STAFF REPORT: Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, reviewed the staff report. She indicated the lot is in Highland Lakes East and has a rear setback of 30 feet. The applicant is requesting to encroach 4 feet into this rear yard setback. Moving to the opposite corner may encroach into the side yard setback and may have an impact on drainage. Additionally, the bedroom is on the opposite corner, not a public living area (kitchen). There has been no public comment on this request and staff has no objections nor does staff propose any restrictions.

PUBLIC COMMENTS: David Dunn asked any individuals who were properly sworn-in to share their comments. There were no public comments.

APPLICANT'S RESPONSE: Mr. Devine had no additional comments.

The Board reviewed Duncan v. Middlefield, for the variance from Section 919 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 deemed that the 13% variance increase is 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 applicant would not substantially alter the character of the neighborhood and the adjoining properties would not suffer a substantial detriment as a result of the variance.
(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. It appears the property owner purchased the property without knowledge of the zoning restriction as he indicated he did not check into this at the time of purchase.
(f) Whether the property owner's predicament feasibly be obviated through a method other than the variance. The property owner cannot encroach into the rear yard setback without obtaining a variance. The other options available would not be as desirable and may have other negative impacts.
(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 would be done by granting the variance.
BOARD DISCUSSION: The Board had no additional comments following the review of Duncan v. Middlefield.

MOTION: Cybele Smith moved, incorporating Exhibits A through E into evidence, to approve a Variance from the minimum required 30 foot rear yard setback specified in the Final Development Plan for Highland Lakes East (ZC 91-04) approved by the Board of Trustees on February 5, 1992, in accordance with Section 919 of the Genoa Township Zoning Resolution to allow encroachment of an addition to an existing residence, located on 6865 Sunnydale Drive, Westerville, zoned Planned Residential (PRD) Zoning District (BZA2014-08) 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 13 percent more 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.

Motion was seconded by Mark Harmon.

Discussion on Motion: The Board indicated this is a unique parcel, well-suited to this request for a variance.

Roll call: Mark Harmon, yes; Cybele Smith, yes; Mark Antonetz, yes; Teresa Yu, yes; David Dunn, yes. Motion carried.

David Dunn announced the hearing closed at 7:19 p.m.

PUBLIC HEARING
David Dunn called the following hearing to order at 7:20 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 2014-09 – CHRISTOPHER PETTOGRASSO REQUESTING TWO VARIANCES: (1) A VARIANCE FROM THE MINIMUM REQUIRED 30 FOOT FRONT YARD SETBACK SPECIFIED IN THE FINAL DEVELOPMENT PLAN FOR SHEFFIELD PARK (ZC 2000-13) APPROVED BY THE BOARD OF TRUSTEES ON MAY 23, 2001 IN ACCORDANCE WITH SECTION 919 OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW ENCROACHMENT OF AN ACCESSORY BUILDING, AND (2) A VARIANCE FROM THE MAXIMUM ALLOWED 30 INCH FENCE REQUIREMENT IN A FRONT SETBACK AREA IN ACCORDANCE WITH SECTION 2002.03, LOCATED ON 6563 MINGO DRIVE, GALENA, ZONED PLANNED RESIDENTIAL (PRD) ZONING DISTRICT.

The following were marked as exhibits “A” – “E”.
Exhibit “A” – Legal Notice
Exhibit “B” – Sign-in Sheet
Exhibit “C” – Application
Exhibit “D” – Staff Report, dated 7/22/2014
APPLICANTS' PRESENTATION: Christopher Pettograsso, applicant, noted he and his wife purchased the home in 2008 and do not currently have any landscaping. They have contacted Shearer Landscaping to do the design and installation of same. Variances are being requested for both the front and the side (8-10 feet) of the lot. Craig Shearer, Shearer Patio and Landscape, indicated the 48 inch high fence is required to be installed for the pool and that the fence will encroach about 10 feet into the no build line.

STAFF REPORT: Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, reviewed the staff report. She indicated Sheffield Park has 30 foot setbacks in the rear and the front yards, and 10 foot setbacks on the side yards. This, however, is a corner lot and so there is a 30 foot setback on the side closest to the street (e.g., 2 front yards). The proposed structure is open-air, however, the Zoning Resolution considers it a building since it has solid, permanent pillars. No illustrations of the structure were included with the application. Several comments from Sheffield Park residents were received by the Zoning Office. Contacts asked if the applicant had HOA approval, what the structure was going to look like, how would this look as appear when going down Sheffield Park Drive, and if there would be an impact on drainage. The location of the fence is what has necessitated the additional variance for the height of the fence. The Zoning Office asked why the structure could not be reversed; this would obstruct the view from the 2 story living room.

PUBLIC COMMENTS: David Dunn asked any individuals who were properly sworn-in to share their comments. There were no public comments.

BOARD DISCUSSION: When asked by the Board if he had HOA approval, Mr. Pettograsso replied he had submitted the application for HOA approval but it has not yet been returned. He further noted he had submitted technical drawings to the HOA just this morning. The Board asked if he had considered alternatives such as decreasing the size of the building, moving the fence in within the Code allowances, etc. Mr. Pettograsso indicated he and his wife have an optional plan, but it is not really what they want.

APPLICANT'S RESPONSE: The applicant had no additional comments.

The Board reviewed Duncan v. Middlefield, for the variance from Section 919 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 deemed that the 23% encroachment is a substantial variance.
(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 noted that there were questions from neighbors wanting more details and that the HOA approval had not yet been granted.
(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 property owner purchased the property while this zoning restriction was in place.
(f) Whether the property owner's predicament feasibly be obviated through a method other than the variance. Yes, if the property owner covered a smaller fenced area or altered the location of the structures.
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 would be done by granting the variance.

The Board reviewed Duncan v. Middlefield, for the variance from Section 2002.03 to allow a fence higher than 30 inches in the front setback area 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 deemed that the 62% increase in height of the fence is 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 reinforced that there were questions from neighbors wanting more details and that the HOA approval had not yet been granted.

(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 property owner purchased the property while this zoning restriction was in place.

(f) Whether the property owner's predicament feasibly be obviated through a method other than the variance. The size of the fence could be reduced.

(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 would be done by granting the variance.

BOARD DISCUSSION: The Board asked if the first variance is not approved, is there a need to vote on the second one since it is dependent upon the first. After discussion, it was decided it would be best to vote on both variance requests. It was clarified that the 23% variance noted in the Duncan v. Middlefield review of the Variance request for Section 919 was actually 16% and thus not substantial.

MOTION #: Cybele Smith moved, incorporating Exhibits A through D into evidence, to approve a Variance from the minimum required 30 foot front yard setback specified in the final development plan for Sheffield Park Subdivision (ZC 2000.13) approved by the Board of Trustees on May 23, 2001, in accordance with Section 919 of the Genoa Township Zoning Resolution for BZA 2014-09 application received August 8, 2014, to allow encroachment of an accessory building 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 16 percent more 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 the Variance is subject to the owner’s agreement to the following conditions:
   1. HOA Approval must be obtained.
   2. Screening is required of a sufficient height and density to maintain aesthetics along Sheffield Park Drive as proposed in the application.

Discussion on Motion: Some Board members indicated they felt this could be obviated in a method other than a variance. It was noted to the applicant that there may be an obstacle with the HOA, more than the Township, especially since other residents had some unanswered questions. Another comment was that there does not seem to be a true uniqueness to this situation and that there are viable alternatives available.

Motion was seconded by Mark Antonetz.

Roll call: Mark Harmon, yes; Cybele Smith, yes; Mark Antonetz, yes; Teresa Yu, yes; David Dunn, yes. Motion carried.

MOTION #2: Cybele Smith moved, incorporating Exhibits A through D into evidence, to approve a Variance from Section 2002.03 of the Genoa Township Zoning Resolution for BZA 2014-09, application received August 8, 2014, to allow for a fence to be higher than the maximum 30 inches between the road right-of-way and the building setback line 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 62 percent higher 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 the Variance is subject to the owner’s agreement to the following conditions:
   3. HOA Approval must be obtained.
   4. Screening is required of a sufficient height and density to maintain aesthetics along Sheffield Park Drive as proposed in the application.

Discussion on Motion: The Board had no additional comments.

Motion was seconded by Teresa Yu.

Roll call: Mark Harmon, yes; Cybele Smith, yes; Mark Antonetz, yes; Teresa Yu, yes; David Dunn, yes. Motion carried.

David Dunn announced the hearing closed at 8:00 p.m.
ADJOURNMENT
Mark Harmon moved to adjourn the meeting at 8:00 p.m. Motion was seconded by everyone. All voted yes. Motion carried.

Meeting was adjourned at 8:00 p.m.

PUBLICATION OF LEGAL NOTICE:
The legal notice for this meeting was printed and published on August 13, 2014 in the Delaware Gazette and posted at the Genoa Township Hall on August 26, 2014. Notice of this meeting was also mailed to the adjacent property owners and a notification sign was placed on the subject property.

PREPARED BY:  
Connie Goodman

ZONING COMMISSION APPROVED:  
Harry Goussetis, Chair

November 2, 2014  
Date Prepared

OTHERS PRESENT AT MEETING  
ADDRESS
Susan Dorsch  
Genoa Township Zoning and Development Office
James A. Devine  
6865 Sunnydale Drive, Westerville OH 43082
Chad Johnson  
Champion Windows, 6325 Zumstein Drive, Columbus OH 43229
Craig Shearer  
3362 Marcliff Drive, Lewis Center, OH 43035
Christopher Pettograsso  
6563 Mingo Drive, Galena OH 43021