CALL TO ORDER
David Dunn called the meeting to order at 7:02 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>
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<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
No minutes were submitted for approval.

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.

CURTIS MOODY, ON BEHALF OF TRUSTEES CARLA AND BRUCE ARDINGER, REQUESTING VARIANCES FROM THE MINIMUM LOT SIZE OF TWO (2) ACRES AND MINIMUM REAR SETBACK OF 50 FEET IN ACCORDANCE WITH SECTIONS 606.01 AND 606.08 OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW FOR A LOT SPLIT AND REAR YARD ENCROACHMENT, LOCATED ON 5489 SUNBURY ROAD, WESTERVILLE, ZONED RURAL RESIDENTIAL (RR) ZONING DISTRICT (BZA 2014-10).

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 9/23/2014

APPLICANTS’ PRESENTATION: As an architect, the applicant stated he is very familiar with restrictions on the property. He said he has spoken to adjacent neighbors as well as the Medallion Golf Course personnel who were supportive. The City of Columbus provided a letter addressing the watershed; however the applicant felt there was a misunderstanding by the City of Columbus and there were no issues with the drip system. The applicant is requesting to build 2 residences; a personal resident and an additional structure. They met the 150 setback on each of the properties and the driveway was moved to between the two properties so there was no change in the curb cut. The 25 setbacks on the side yards, 75 feet in the front yard and 50 feet in the rear are met on the north lot. The triangular shape of the south lot does not meet this. The foundation of the new homes will be within the setbacks of the current structure which will be demolished. The affordability of this project is based on being able to build 2 homes. The applicant felt there were already several non-conforming properties along the reservoir and thus he is requesting approval of this split. Screening will be provided between the north and the south property, likely a tree line.
The applicant indicated he would meet the more restrictive set back for the drip line however it would only be needed on the north as there would be a new system on the south. The new system will support two four-bedroom homes.

**STAFF REPORT:** Joe Clase, on behalf of the Genoa Township Development and Zoning Department, reviewed the staff report. He indicated the parcel is zoned Rural Residential and the current home was built in 1968 in a position somewhat central to the property. The property did have a prior rear yard variance granted in 1985, after which the current accessory building was constructed. The applicant is currently in contract with the owner to purchase the property. The first request is to allow less than the minimum 2 acres required by the Zoning Resolution. The lot is non-conforming today at 1.5 acres and this would be a 62.5% reduction to allow two ¾ acre lots. The range of lot sizes along Sunbury Road is from one to three acres in size. Prior to 1987, the Code required one acre as the minimum lot size and several of these lots were plotted prior to that time. There may have been some reductions in lot size due to the City of Columbus acquiring additional property from these lots. Regarding standards, the applicant would be required to meet the requirement of no more than 10% of the lot being covered by the building; this equates to about 3200 square feet of coverage. An alternative plan was reviewed and met the setbacks, however, the lot to the north then would be about ¾ acre and may not have met the health department standards. Staff recommended trying to keep the lot sizes more equal and was transparent about the need for certain variances in order to accomplish this. The 1999 Zoning Code was amended to account for on-site waste water treatment systems with a minimum of 2 acres being required. In the 2008 Comprehensive Plan, the waste water treatment system requirement was dropped by the health department; the 2 acre minimum was retained by the Township in an attempt to keep open space and to prohibit the clustering of lots surrounding rural residential districts. The rear yard setback on the south lot is a 50% reduction from the rear yard setback or a 28% reduction from the existing house today. To rebuild the existing house, they would already be allowed a 34.7 feet encroachment and the applicant is asking for an additional allowance of up to 9.7 feet. The Zoning Office has received a few calls on this request and has suggested these callers attend this meeting, if possible. A letter from the City of Columbus was also received addressing the drip system and erosion issues. If approved tonight, the applicant will still need to obtain additional approvals from the county, including the health department. The Zoning Office has recommended the lots be equal in size and as well as some requirements regarding aesthetics.

**PUBLIC COMMENTS:** David Dunn asked any individuals who were properly sworn-in to share their comments.

1. Lawrence Alexander, 5385 Sunbury Road, Westerville OH 43082 – Mr. Alexander lives 2 houses north of this on 1.05 acres. He questioned if there are any other lots less than 0.8 acres within one mile of this location. There is one lot to the south. Mr. Alexander also questioned if it was not possible to build a single home on this lot and it is. He asked if Mr. Moody was authorized to speak on behalf of the current owners; their realtor was present. Additionally, he asked why Mr. Moody wanted to split the lot to which Mr. Moody responded the cost of the land made this a better option. Mr. Alexander asked how this would improve his property to which Mr. Moody responded that each of the houses to be built would be over $1 million. Mr. Moody further indicated the Hoover Reservoir took ¼ acre from each of the property lines, thus the lots appear larger than what is actually plotted. He felt the laws were written for sanitation issues and this was no longer a concern. His goal is to get another realtor to work with other homeowners along Sunbury Road to build additional homes to the standard of what he is proposing. Mr. Alexander asked what the minimum house size is for the district. In this district, a 2-story home minimum would be 1400 square feet with at least 800 square feet being on the first floor. Mr. Alexander questioned what is a valid reason to reduce the lot size and could others come in the future with the same
request to which the Board responded anyone can make a request, however, each case is weighed on its own merit without setting a precedent.

2. David Pemberton, Jr., 5441 Sunbury Road, Westerville OH 43082 – Mr. Pemberton is president of Suburban Natural Gas and has lived in his home for almost 25 years. Mr. Moody spoke with him and he previously understood that these homes would be tied into the sewer system across the street. Mr. Pemberton is concerned that he will be looking directly into this house and is unclear as to who is building on which lot. Additionally, he is very concerned about the number of accidents that have occurred on this corner with the current configuration, the closeness of the proposed houses to each other, the smaller lot size due to the City of Columbus acquiring some of the land, and the septic system. Mr. Pemberton feels he will need to add additional screening both for privacy and safety and disagrees with this project.

APPLICANT’S RESPONSE: Mr. Moody will own the property to the south and the proposal for the property to the north is unclear. The north lot can meet all the setbacks. The applicant tried to get utilities from across the road, however, it is 2000 linear feet and there are six property owners who would need to grant easements. It was felt the owners would not grant easements without compensation. He is willing to create some sort of screening on the northern line to provide some privacy and is willing to install a line of 6 foot pine trees spaced about 8 feet apart from the center of each tree between the 50 and 75 foot setback lines. Mr. Moody was asked if he had a “Plan B” should this be approved and future levels of approval be denied to which he replied he would redesign the house and return for other variances, if needed. When asked if his offer on the property was contingent on the approval of these variances, he said it was and that the property had been on the market for four years.

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.

(b) Whether the variance is substantial. The Board deemed that the 62.5% reduction from the required minimum or a 50% reduction from the current size 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 deemed that this 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. The lots would be of similar character, but slightly small at .75 acre.

(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 zoning restriction was in place when the contract was signed.

(f) Whether the property owner's predicament feasibly be obviated through a method other than the variance. No, a variance is the only method to gain two (2) 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 would be done by granting the variance.

BOARD DISCUSSION: The Board discussed Duncan v. Middlefield noting a question of the reasonable return on the property based on the fact that it has been on the market for four years. The two acre requirement was less of a concern than the resulting character of the neighborhood. It was also
noted that this property may have been on the market for four years due to the structure and that it is clearly a tear-down. The smaller size of these resulting properties would have an impact on the character of the neighborhood and furthermore, most of the variances on Sunbury are setbacks, not lot sizes. The Board also noted that there are safety concerns and that variances based on economics are not the intent of the Zoning Code. By reducing the size of these lots, the character of Sunbury Road will be substantially altered.

**MOTION:** Cybele Smith moved, incorporating Exhibits A through D into evidence, to approve a Variance from Section 606.01 of the Genoa Township Zoning Resolution for BZA 2014-10 application received September 4, 2014, to allow for a lot split of less than the required two (2) acres, located at 5489 Sunbury Road (parcel #317-421-01-002-000), zoned Rural Residential Zoning District (RR) 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 50-62.5% percent less than the Zoning Code requires.

c. The essential character of the neighborhood would be substantially altered and the adjoining properties would 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 as it was in place when the contract was signed.

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. The resulting lots from the split will be equal in size.

2. The resulting lots will maintain a shared driveway.

3. Screening of minimum six (6) foot evergreens or pines is required on the north line of the northern property between the setbacks on 10 foot centers.

Motion was seconded by Mark Harmon.

**Discussion on Motion:** The Board amended the third condition to be on 8 foot centers, thus reading: Screening of minimum six (6) foot evergreens or pines is required on the north line of the northern property between the setbacks on 8 foot centers. If the motion is not approved, the applicant can still build on this lot and the screening on the north line will not be required. The Board questioned if the split is the best use of the property since the resulting homes will not look like the other homes, especially with the shared driveway. A discussion of the 2 acre requirement was noted in the 2008 Comprehensive Plan there was a desire to keep the appearance of open space and was no longer tied to septic systems. Also noted that the type of homes in this area do not have a “rural residential feel”, but rather are large homes on larger lots, however, this is the zoning for this area. The Board noted this was an especially difficult case.

**Roll call:** Cybele Smith, yes; Mark Harmon, no; Sara Walsh, no; Teresa Yu, yes; David Dunn, no. Motion denied.
DISCUSSION: Following the denial, the Zoning Office proposed the option of an adjacent lot split. The applicant wished to have an opportunity to do an adjacent lot split with a minimum lot size of one (1) acre.

The Board again reviewed Duncan v. Middlefield, for the variance from Section 606.01 to allow for the creation of two (2) lots less than the minimum of two (2) acres in a Rural Residential Zoning District as follows:

(h) 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.

(i) Whether the variance is substantial. The Board deemed that the 50% reduction from the required minimum size is substantial.

(j) 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 this 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.

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

(l) Whether the property owner purchased the property with knowledge of the zoning restriction. The zoning restriction was in place when the contract was signed.

(m) Whether the property owner’s predicament feasibly be obviated through a method other than the variance. No, a variance is the only method to gain two (2) lots.

(n) 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 was in agreement with the Duncan v. Middlefield review.

MOTION: Cybele Smith moved, incorporating Exhibits A through D into evidence, to approve a Variance from Section 606.01 of the Genoa Township Zoning Resolution for BZA 2014-10 application received September 4, 2014, to allow for a lot split of less than the required two (2) acres, located at 5489 Sunbury Road (parcel #317-421-002-000), zoned Rural Residential Zoning District (RR) based on the following findings of fact:

h. The property in question would yield a reasonable return and there can be beneficial use of the property without the variance.

i. The variance is substantial since it is approximately 50-62.5% percent less than the Zoning Code requires.

j. 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.

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

l. The property owner did purchase the property with knowledge of the zoning restriction as it was in place when the owner signed the contract.

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

n. 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. There will be an adjacent property transfer of not less than a one acre residual lot without generating a new building space.

Motion was seconded by Mark Harmon.

Discussion on Motion: The Board felt that this better conformed to what currently exists in the area.

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

David Dunn announced the hearing closed at 8:38 p.m.

ADJOURNMENT
Sara Walsh moved to adjourn the meeting at 8:38 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 September 10, 2014 in the Delaware Gazette and posted at the Genoa Township Hall on September 5, 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:

November 5, 2014

Date Prepared

OTHERS PRESENT AT MEETING | ADDRESS
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Joe Clase | Genoa Township Zoning and Development Office
Lawrence Alexander | 5385 Sunbury Road, Westerville OH 43082
Curt & Elaine Moody | 3681 Sunbury Road, Westerville OH 43082
David Pemberton | 5441 Sunbury Road, Westerville OH 43082