CALL TO ORDER  
Cybele Smith called the meeting to order at 7:03 p.m.

ROLL CALL  
MEMBERS PRESENT:  
Cybele Smith  
Mark Harmon  

MEMBERS ABSENT:  
Teresa Yu, Alt.  
Harry Goussetis, Chair  
David Dunn, Vice-Chair  
Sara Walsh

PUBLIC HEARING  
Cybele Smith called the following hearing to order at 7:05 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. Ms. Smith informed the applicant that since there were only three (3) members of the Board present for this meeting, all three (3) must vote in favor for the variance to be approved.

RICHARD M. AND SANDRA R. LAUER, REQUESTING A VARIANCE FROM SECTION 1609.01 B OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW FOR CONSTRUCTION OF AN ACCESSORY BUILDING TO ENCROACH INTO THE REQUIRED FIFTEEN (15) FOOT SIDE YARD SETBACK ON PROPERTY KNOWN AS LOT 256 IN THE LAKE OF THE WOODS SUBDIVISION #2, 6555 LAKE OF THE WOODS POINT, WESTERVILLE, ZONED RURAL RESIDENTIAL (RR) ZONING DISTRICT (BZA 2015-03).

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 3/24/2015

APPLICANTS’ PRESENTATION: Contractor Shawn McNeil, on behalf of the applicant, stated this request was based on this being a waterfront property with basically two (2) front yards; thus there is only one location to construct a detached garage. The slope of this lot creates unusual challenges and limits where a structure can be located, to which the Board asked for clarification of the proposed location. Mr. McNeil indicated no trees would be removed and that the architecture and materials of the existing house will be matched; the garage will be built into the hill and will not obstruct the view of neighbors. The applicant and his contractor have spoken to neighbors about specifics of the garage.

STAFF REPORT: Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, reviewed the staff report. She indicated this is a one (1) acre property located in a Lake of the Woods, Section 2, and is zoned Rural Residential. It is surrounded by single family homes with the Hoover Reservoir to the south. The Delaware County Auditor’s Website indicates the house was
built in 1965; the house appears to be compliant with today’s Code requirements. The variance request is to allow an accessory structure to encroach 6.7 inches into the required fifteen (15) foot side yard setback or forty-three (43) percent. It appears other homes in the neighborhood also have detached accessory buildings so this is not an uncommon request. The neighbors on each adjacent side have emailed the Zoning Office and indicated they have no objections to the proposed location of the accessory building; no other comments were received. Ms. Dorsch stated that during the site visit a definite slope to the driveway was noticed. She then reviewed the Code requirements for Rural Residential properties, specifically addressing the separation distances between accessory structures; she felt it was unlikely the neighboring property would build anything on the side of their property near this structure due to the topography of their lot. The Board indicated this is a typical request for this area and noted the fire marshal had no comment.

PUBLIC COMMENTS: Cybele Smith asked any individuals who were properly sworn-in to share their comments. There was no public comment.

APPLICANT’S RESPONSE: Mr. Lauer indicated they had spoken with the surrounding neighbors and that two (2) had emailed the Zoning Office that they had no objections. The same drawings and elevations as presented this evening were shown to the neighbors. The neighbor across the street did not email but had no objections when they spoke with him. He indicated he and his contractor are very interested in ensuring this fits with the neighborhood.

The Board reviewed Duncan v. Middlefield, for the variance from Section 1609.01B 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 43% encroachment into the front yard setback 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.
(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. Yes.
(f) Whether the property owner’s predicament feasibly be obviated through a method other than the variance. No, the only other option is to not build the structure.
(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 discussion.

MOTION: Mark Harmon moved, incorporating Exhibits A through D into evidence, to approve a variance from Section 1609.01B of the Genoa Township Zoning Resolution for BZA 2015-03, application received February 28, 2015, to allow for construction of an accessory building to encroach into the required fifteen (15) foot side yard setback, on property known as Lot 256 in the Lake of the
Woods Subdivision #2, 6555 Lake of the Woods Point, Westerville, 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 43% 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 Teresa Yu.

Discussion on Motion: The Board felt the placement of the structure, specifically that is will be partially below grade, aided in minimizing the impact of the variance. They were also pleased that the applicant had spoken with neighbors regarding their plans so any concerns could be addressed.

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

Cybele Smith announced the hearing closed at 7:20 p.m.

ADJOURNMENT
Mark Harmon moved to adjourn the meeting at 7:21 p.m. Motion was seconded by Teresa Yu. All voted yes. Motion carried.

Meeting was adjourned at 7:21 p.m.

PUBLICATION OF LEGAL NOTICE:
The legal notice for this meeting was printed and published on March 11, 2015 in the Delaware Gazette and posted at the Genoa Township Hall on March 9, 2015. 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,

April 5, 2015
Date Prepared

BOARD OF ZONING APPEALS APPROVED:

Harry Goussetis, Chair

7/24/15
Date Approved by the Board of Zoning Appeals

OTHERS PRESENT AT MEETING

ADDRESS

Susan Dorsch
Genoa Township Zoning and Development Office