DATE: September 27, 2016
TIME: 7:00 PM
LOCATION: Genoa Township Hall, 5111 S. Old 3C Hwy., Westerville, Ohio 43082

AGENDA ITEMS:
- BZA 2016-07 Harvest Wind VI & VII - Conditional Use Permit, (Identification Sign)
- BZA 2016-08 Paepegem Jr. - Variance, (Setbacks & Fence Height)

CALL TO ORDER
Mark Harmon called the meeting to order at 7:00 p.m.

ROLL CALL

<table>
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<tr>
<th>MEMBERS PRESENT</th>
<th>MEMBERS ABSENT</th>
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<tbody>
<tr>
<td>Mark Harmon, Chair</td>
<td>Sara Walsh, Vice-Chair</td>
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<tr>
<td>Mark Phillips</td>
<td>Dorothy Driskell, Alt</td>
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<td>David Buhn, Alt.</td>
<td>Cybele Smith</td>
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<td>Teresa Yu</td>
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David Buhn and Dorothy Driskell sat as voting members this evening due to the absence of Cybele Smith and Teresa Yu.

MINUTES
The board reviewed meeting minutes presented by the Genoa Township Development and Zoning Department for the hearing held on June 28, 2016.

MOTION: Sara Walsh moved to approve the June 28, 2016, meeting minutes, as presented.

Motion was seconded by Mark Phillips. Roll call: Sara Walsh, yes; Mark Phillips, yes; David Buhn, yes; Dorothy Driskell, yes; Mark Harmon, yes. Motion carried.

PUBLIC HEARINGS
Mark Harmon called the following hearing to order at 7:03 p.m., read the legal notice and asked anyone who wished to speak to this matter to sign-in and to stand.

HARVEST WIND VI AND VII HOA INC., REQUESTING A CONDITIONAL USE PERMIT PER SECTION 1804.02 OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW A PERMANENT FREESTANDING IDENTIFICATION SIGN TO BE LOCATED ON LOT 5566 AT THE PARK BEND DRIVE ENTRANCE TO THE HARVEST WIND SUBDIVISION, ZONED PLANNED RESIDENTIAL DISTRICT (PRD) (BZA 2016-07).

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 09/27/2016

APPLICANTS’ PRESENTATION: Jessica Mager and Edward Kint gave the applicant’s presentation. Ms. Mager stated she had received the Zoning Office Staff Report earlier in the day and understood their proposal would meet the Zoning Requirements and that the Genoa Township Fire Department
had no issues with this application. She stated her understanding of this Zoning Resolution Section was to preserve the Township's rural character and to provide safety for residents. She reviewed the composition of the sign, noting the sign will not be illuminated, it would be consistent with other Harvest Wind signs, and it will be landscaped. Ms. Mager stated that the reason the Harvest Wind HOA was requesting this sign was to provide a demarcation between the Park Bend Subdivision and Harvest Wind Subdivision along Park Bend Drive. Currently there is nothing to note this line. She also stated the HOA would be paying for the sign and there would be no additional assessment to residents. When asked by the Board about the timetable, Mr. Kint stated that he has a contractor ready to do the work, if the request is approved, he will apply for permits from the Township and Delaware County and work will begin as soon as the approvals are obtained.

STAFF REPORT: Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, gave an overview of the staff report. She stated that Harvest Wind has two separate homeowner associations; one for Sections I through V, and one for Sections VI and VII. This request is for an additional sign to identify the entrance into the Harvest Wind subdivision on Park Bend Drive; a visual for people leaving Park Bend and entering Harvest Wind.

PUBLIC COMMENTS: Mark Harmon asked any individuals who were properly sworn-in to share their comments.

- Toneita Burke (7575 Park Bend Drive) stated her house is directly across from the open space where the sign will be located. She has lived in her house for over ten years and purchased this lot due to the open space across the street. She stated that she does not feel this sign is in keeping with the Comprehensive Plan. She also expressed her feeling that the proposed sign did not comply with Article 18A of the Zoning Resolution, as Park Bend Drive is not listed as a major thoroughfare. As a resident of the Harvest Wind Subdivision, she felt this land was for the use of everyone and this sign would restrict her ability to use this property. She stated the sign was visible from anywhere in the front of her house. When asked by the Board if/how she uses this property now, she indicated when her sister visits her dogs run in this area.

APPLICANT'S RESPONSE: Ms. Mager noted that eighty-five (85) percent of the Harvest Wind HOA residents who were polled approved of the new sign, further stating this sign would not inhibit the ability to use this property. Mr. Kint stated the sign will be three (3) feet by three (3) feet in size and that they had adjusted the location of the sign so it was not directly across from Ms. Burke's property. Ms. Mager noted it is important for all dues-paying members of an HOA to have the area where they live defined, thus maintaining property values.

BOARD DISCUSSION/FINDINGS OF FACT:

The Genoa Township Zoning Resolution Section 1804.02 Permanent Identification Signs for Residential Subdivisions states that "Recorded residential subdivisions may be permitted Freestanding Identification Signs as a Conditional Use subject to the following:

(A) Such signs shall be limited to one (1) to two (2) entrances along major thoroughfares and shall not obstruct the visibility at any intersection;

(B) Such signs shall contain only the name of the subdivision that they identify, shall not exceed six (6) feet in height, and shall be landscaped;

(C) The applicant shall submit a plan for the perpetual maintenance of such Signs, identifying the responsibilities of the applicant, the public, the landowner, or other parties. Such plan shall be subject to approval by the Board of Zoning Appeals;
(D) The Board of Zoning Appeals may limit the size of such Signs so as to ensure the scale of such Signs is compatible with the residential character of the area. The maximum size of such a Sign shall not exceed twenty (20) square feet.

Section 303 states that “Conditional Uses may be permitted provided that such Uses shall be found to comply with the requirements listed in Section 303.” The Board reviewed the application based on the requirements listed as follows:

Section 303

303.01 The Use is so designed, located and proposed to be operated so that the public health safety, welfare and convenience will be protected.

303.02 The Use will not result in the destruction, loss or damage of natural, scenic, or historic features of major importance.

303.03 The Use will be designed, constructed, operated, and maintained so that it shall not cause substantial injury to the value of the property in the area or neighborhood where it is to be located.

303.04 The Use shall be compatible with adjoining development and the proposed character of the zoning District where it is to be located.

303.05 The Use will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools, or that the persons or agencies responsible for the establishment of the proposed Use shall be able to provide any such services adequately. (determined not applicable to this application)

303.06 The Use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community. Public facilities and services include but are not limited to: fire and police protection or other emergency services, roadways, intersections, traffic lights, and sanitary and storm sewers. (determined not applicable to this application)

303.07 Adequate Landscaping and screening are provided, as required under Article 20.

303.08 Adequate off street parking is provided, and ingress and egress is so designed as to cause minimal interference with traffic on abutting streets. (determined not applicable to this application)

303.09 The Use conforms to all applicable regulations governing the District in which it is located.

303.10 The Use is compatible with the standards, objectives, and policies of Genoa Township Comprehensive Plan as amended and any revisions thereof.

303.11 The Use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odors, or vibrations.

303.12 Any other supplementary requirements as prescribed by the Board of Zoning Appeals.

MOTION: Sara Walsh moved, incorporating Exhibits A through D into evidence, to approve a Conditional Use Permit in accordance with Section 1804.02 of the Genoa Township Zoning Resolution for BZA 2016-07, application received September 18, 2016, to allow a permanent freestanding identification sign to be located on Lot 5566 at the Park Bend Drive entrance to the Harvest Wind Subdivision, zoned Planned Residential District (PRD) based on the standards listed in Section 303 of the Genoa Township Zoning Resolution.
Motion was seconded by Dorothy Driskell.

Discussion on Motion: The Board noted this application complies with the standards of the Zoning Resolution and that the HOA has the right to use their property. Furthermore, it is consistent with the other signs in the community and does not interfere with the use of the property.

Motion was seconded by Mark Phillips. Roll call: Sara Walsh, yes; Mark Phillips, yes; David Buhn, yes; Dorothy Driskell, yes; Mark Harmon, yes. Motion carried.

Mark Harmon announced the hearing closed at 7:42 p.m.

Mark Harmon called the following hearing to order at 7:43 p.m., read the legal notice and asked anyone who wished to speak to this matter to sign-in and to stand.

<table>
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<tr>
<th>JOHN A VAN PAEPEGHEM JR., REQUESTING A VARIANCE FROM SECTIONS 1609.01 A, 1609.01B, AND 2002.03 OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW AN ACCESSORY BUILDING TO ENCROACH TWENTY (20) FEET INTO THE REQUIRED FIFTY FOOT FRONT YARD AND ONE AND ONE-HALF FEET INTO THE REQUIRED 12 FOOT SIDE YARD SETBACK AND A FENCE TO BE HIGHER THAN THIRTY (30) INCHES BETWEEN THE BUILDING SETBACK LINE AND THE STREET RIGHT-OF-WAY ON PROPERTY KNOWN AS LOT 1088 IN THE PLEASANT CORNERS SUBDIVISION, 6471 FOGLE COURT, WESTERVILLE, 43082, ZONED SUBURBAN RESIDENTIAL (SR) (BZA 2016-08)</th>
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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 September 27, 2016

Mr. Harmon noted a correction made to the legal notice: Section 1609.01B was mistakenly omitted from the original legal notice but is corrected now for the record.

APPLICANTS’ PRESENTATION: John Van Paepeghem Jr., applicant, stated that the placement of the shed on the southeast corner of his lot was due to the uniqueness of the parcel. The primary and secondary septic systems take up the entire north half of the lot and the backyard depth and drop-off does not allow sufficient distance from the house to the property line to place the shed. Furthermore, he asks to be allowed to keep the twenty-nine (29) foot long fence that is forty-eight (48) inches high and attached to the shed as it provides protection for his dog from the coyotes that roam in the area. The shed, which houses lawn equipment and tools, is ten and one-half feet from the east property line which is less than the required twelve (12) feet. He does not feel that the location of the shed will have any impact on the character and integrity of the neighborhood nor the delivery of services. He was aware of the zoning restriction when he purchased the property, but did not know where the septic system would be located. He assumed there would be sufficient space for placement of his shed on the north side of his house, similar to the adjoining neighbors. When asked by the Board, Mr. Van Paepeghem stated the fence was over the setback and that the shed was built without a zoning permit having been obtained. He stated his contractor told him they would get all permits and did not; a similar situation occurred with the fence where no permit was obtained even though the contractor said he would obtain one.
STAFF REPORT: Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, gave an overview of the staff report. She noted the located on the lot in the Pleasant Corners subdivision, a Suburban Residential (SR) development. The house was built in 2015, prior to construction the applicant appeared before the BZA and received approval for a reduced front yard setback on this corner lot. The Zoning Office had issued a temporary Certificate of Compliance, however, when they re-inspected for final compliance, they noticed the newly constructed shed and fence. No complaints have been received concerning the shed, fence or variance request. To be compliant, the shed would need to be at least fifty (50) feet off Fogle Court and at least twelve (12) feet from the east property line. The fence is allowed to be a maximum of thirty (30) inches in height in the front setback area.

PUBLIC COMMENTS: Mark Harmon asked any individuals who were properly sworn-in to share their comments.

- Sandra Noel-Carpenter (6040 Perkins Lane) is in favor of the Van Paepegham shed and fence as they are currently and verified the issues with the coyotes.
- Ron Carpenter (6040 Perkins Lane) stated this area has larger lots that are not crowded; he is in favor of this variance. Mr. Carpenter stated Mr. Paepegham has complied with all requirements and has put up nice looking structures.
- Debra Mayle (6491 Fogle Court) property abuts the applicant's property and stated that the shed and fence are very aesthetically pleasing.
- Jay Mayle (6491 Fogle Court) noted that he is OK with the location of the shed. He commented that another neighbor has a fence of varying heights and that looks odd; he is in favor of this variance.
- Clovis Crompton (6120 Fogle Court) urges the Board to approve the variance as it is tastefully done and enhances the neighborhood.
- Rebekah Burcham (6470 Fogle Court) lives directly across the street from the applicant and stated “this is one of the nicest sheds she has ever seen”. She also verified the issues of coyotes in the area.

Mr. Van Paepegham clarified it is only about ten (10) percent of the fence that is not compliant, not the entire fence.

BOARD DISCUSSION/FINDINGS OF FACT:

The Board reviewed Duncan v. Middlefield, in regards to the variance requested from Section 1609.01A to allow an accessory building to encroach twenty (20) feet into the required fifty (50) foot front yard setback in a Suburban Residential (SR) Zoning District 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 property still has value but there does not appear to be another place to locate the shed due to the location of the septic system.
(b) Whether the variance is substantial. Yes.
(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. No, we heard from the neighbors that they like the look of the shed.
(d) Whether the variance would adversely affect the delivery of governmental services. No.
(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.
(g) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance. Yes.

**MOTION:** Mark Phillips moved, incorporating Exhibits A through D into evidence, to approve a Variance from Section 1609.01A of the Genoa Township Zoning Resolution for BZA 2016-08, application received August 26, 2016, to allow an accessory building to encroach twenty (20) feet into the required fifty (50) foot setback on property known as lot 1088 in the Pleasant Corners Subdivision, 6471 Fogle Court, Westerville, zoned Suburban Residential (SR) 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 twenty (20) feet of the required fifty (50) foot setback, 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 Sara Walsh.

Discussion on Motion: The Board determined that no additional screening was needed since the shed was visually pleasing from the road and adjacent properties. The Board reminded the applicant that a zoning permit must be obtained prior to construction as required by the Zoning Resolution.

Roll call: Sara Walsh, yes; Mark Phillips, yes; David Buhn, yes; Dorothy Driskell, yes; Mark Harmon, yes. Motion carried.

The Board reviewed *Duncan v. Middlefield*, in regards to the variance requested from Section 1609.01B to allow an accessory building to encroach one and one-half (1 1/2) feet into the required twelve (12) foot side yard setback in a Suburban Residential (SR) Zoning District 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. Yes.
(b) Whether the variance is substantial. No.
(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. No.
(d) Whether the variance would adversely affect the delivery of governmental services. No.
(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. Yes the shed could be relocated.
(g) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance. Yes.

**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 2016-08,
application received August 26, 2016, to allow an accessory building to encroach one and one-half (1 1/2) feet into the required twelve (12) foot setback on property known as lot 1088 in the Pleasant Corners Subdivision, 6471 Fogle Court, Westerville, zoned Suburban Residential (SR) 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 the requested 10 3/4 foot side setback is 12 percent less than the twelve (12) foot setback 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 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.

Motion was seconded by David Buhn.

Discussion on Motion: None. The Board noted this discussion was covered within the prior motion.

Roll call: Sara Walsh, yes; Mark Phillips, yes; David Buhn, yes; Dorothy Driskell, yes; Mark Harmon, yes. Motion carried.

The Board reviewed Duncan v. Middlefield, in regards to the variance requested from Section 2002.03 to allow a fence to be higher than thirty (30) inches between the building setback line and the street Right-of-Way in a Suburban Residential (SR) Zoning District 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. Yes.

(b) Whether the variance is substantial. Yes, the fence is 18 inches higher or 60% greater than what the Zoning Resolution allows.

(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 heard testimony that it would not.

(d) Whether the variance would adversely affect the delivery of governmental services. No.

(e) Whether the property owner purchased the property with knowledge of the zoning restriction. The application stated that he was aware that there were restrictions.

(f) Whether the property owner's predicament feasibly be obviated through a method other than the variance. Yes, the fence could be augmented.

(g) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance. Yes.

MOTION: Mark Harmon moved, incorporating Exhibits A through D into evidence, to approve a Variance from Section 2002.03 of the Genoa Township Zoning Resolution for BZA 2016-08, application received August 26, 2016, to allow a fence to be eighteen (18) inches higher than the maximum thirty (30) inches allowed for a fence located between the building setback line and the street Right-of-Way on property known as lot 1088 in the Pleasant Corners Subdivision, 6471 Fogle Court, Westerville, zoned Suburban Residential (SR) based on the following findings of fact:

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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 eighteen (18) inches higher or sixty-two (62) percent greater 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.

Motion was seconded by Dorothy Driskell.

Discussion on Motion: The Board clarified that it was not the entire fence that was too high, only the portion from the house to the shed and from the shed to the property line to the east. The Board noted there is a uniqueness to this property; due to the location of the septic system and being a corner lot. The Board also noted that the fence does not surround the entire property, just a portion located on the eastern side of the property.

Roll call: Sara Walsh, yes; Mark Phillips, yes; David Buhn, yes; Dorothy Driskell, yes; Mark Harmon, yes. Motion carried.

Mark Harmon announced the hearing closed at 8:26 p.m.

ADJOURNMENT
Mark Phillips moved to adjourn this meeting at 8:27 p.m. Motion was seconded by Sara Walsh. All voted yes. Motion carried.

Meeting was adjourned at 8:27 p.m.

OTHERS PRESENT AT MEETING

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<tr>
<th>Name</th>
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<tr>
<td>Susan Dorsch</td>
<td>Genoa Township Zoning and Development Office</td>
</tr>
<tr>
<td>Bridget Quinn</td>
<td>6471 Fogle Court, Westerville 43082</td>
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<tr>
<td>John Van Paepeghem</td>
<td>6471 Fogle Court, Westerville 43082</td>
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<td>Debra Mayle</td>
<td>6491 Fogle Court, Westerville 43082</td>
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<td>Jay Mayle</td>
<td>6491 Fogle Court, Westerville 43082</td>
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<tr>
<td>Edward Kint</td>
<td>7716 Park Bend Drive, Westerville 43082</td>
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<tr>
<td>Rebekah Burcham</td>
<td>6470 Fogle Court, Westerville 43082</td>
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<tr>
<td>Dick Gray</td>
<td>7576 Park Bend Drive, Westerville 43082</td>
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<td>J. Mager</td>
<td>7580 Park Bend Drive, Westerville 43082</td>
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<tr>
<td>Clovis Crompton</td>
<td>6120 Perkins Lane, Westerville 43082</td>
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<tr>
<td>Sandra Noel-Carpenter</td>
<td>6040 Perkins Lane, Westerville 43082</td>
</tr>
<tr>
<td>Ronald Carpenter</td>
<td>6040 Perkins Lane, Westerville 43082</td>
</tr>
<tr>
<td>Kenneth Davis</td>
<td>8343 Oxbow Road, Westerville 43082</td>
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