DATE: December 20, 2016  
TIME: 7:00 PM  
LOCATION: Genoa Township Hall, 5111 S. Old 3C Hwy., Westerville, Ohio 43082  

AGENDA ITEMS:  
BZA (2016-10) McGill – Variance, Fence Construction in “No Build Zone”  
BZA (2016-11) Lenker – Variance, Encroachment into Required Front Yard Setback  
BZA (2016-12) Mosier – Variance, Excess Building Coverage  

CALL TO ORDER  
Mark Harmon 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>Mark Harmon, Chair</td>
<td>David Buhn, Alt.</td>
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<td>Mark Phillips</td>
<td>Dorothy Driskell, Alt.</td>
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<td>Cybele Smith</td>
<td>Teresa Yu</td>
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<td>Sara Walsh, Vice-Chair</td>
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MINUTES  
The board reviewed meeting minutes presented by the Genoa Township Development and Zoning Department for the hearing held on October 25, 2016.  

MOTION: Sara Walsh moved to approve the October 25, 2016 meeting minutes, as presented:  
Motion was seconded by Sarah Walsh. Roll call: David Buhn, yes; Mark Phillips, yes; Cybele Smith, yes; Sara Walsh, yes; Mark Harmon, yes. Motion carried.  

PUBLIC HEARING  
Mark Harmon 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.  

CHARLES D. AND SHARON A MCGILL, REQUESTING A VARIANCE FROM ARTICLE 4, DEFINITIONS (‘NO BUILD ZONE’) TO ALLOW A FENCE TO BE CONSTRUCTED WITHIN A NO BUILD ZONE AT THE REAR OF LOT 3856 IN THE HIGHLAND LAKES NORTH SUBDIVISION, 5581 ST. GEORGE AVENUE, ZONED PLANNED RESIDENTIAL DISTRICT (PRD) (BZA 2016-10).  
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 December 20, 2016  

STAFF REPORT: Joe Shafer, on behalf of the Genoa Township Development and Zoning Department, gave an overview of the staff report. He indicated the property is about .3 acre in a Planned Residential District (PRD), adding that at the time this neighborhood was approved, a “No Build” zone was established at the rear of this lot. Mr. Shafer read through his memorandum, addressing
each point the applicant noted in their application to construct a fence in the “No Build” zone. Mr. Shafer referred to Article 4 where a “No Build” zone is referenced; fences are specifically called out as a structure. In the opinion of staff, the relief the applicant is requesting is more closely related to Article 4 as that is where the specific prohibition is listed. Mr. Shafer noted his memorandum summarized the statements of the applicant regarding the impact of the fence upon the surrounding area. He then illustrated on the overhead the placement of the proposed fence. The applicant had suggested there was neighborhood support, however, the office has not received anything supporting this statement; a letter from the HOA was included showing their support. The applicant further stated neither they, nor their realtor, were not aware of this restriction when they purchased the property and it was an item they insisted on having as without it there is no meaningful play area (too small). Additionally, they prefer not to have an electric fence as they consider it potentially harmful to pets. The applicant stated they felt the intent of the “No Build” zone was to protect surrounding properties from unsightly structures. They further stated the fence would be setback approximately two (2) feet from the eastern, western, and southern property boundaries. Overall, staff has no objections to this request, noting that some of these “No Build” zones have been problematic in the way they were initially created. It was believed the initial intent was to preserve natural features; however, most of these are now gone on private properties.

APPLICANTS’ PRESENTATION: Charles McGill, applicant, stated they moved to Columbus five (5) years ago, and soon found their home and lawn layout was not conducive for their dog. When they looked for a home, it was a requirement that the home either have a fence or be “fence-eligible”. They even put into the contract for this home that a fence was allowed or the buyer could terminate the contract within seventy-two (72) hours; the homeowner provided a copy of the covenant showing a fence was allowed and all specific criteria for a fence. Additionally, they saw several other homes nearby with fences and only learned of this when their fence builder filed for a permit with Genoa Township Development and Zoning. The applicant has spoken with the neighbors to the rear and no concerns were expressed. The applicant stated he felt the definition of a “No Build” zone in the Code does not seem to fit this situation as there is nothing there to protect except for a grassy area. Mr. McGill stated he would mow the two (2) foot area on the outside of the fence resulting from the setback required by the HOA. He also stated the “No Build” zone comes up to the rear of the sunroom so there is really no space without this variance; utilities are in the front of the home and would not be impacted. Mr. McGill noted this home was built in 1999.

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

BOARD DISCUSSION/FINDINGS OF FACT: The Board clarified that they agreed they would base their decision on the definition in Article 4. There was no additional discussion beyond the points clarified during the staff and applicant presentations.

The Board reviewed Duncan v. Middlefield, in regards to the variance requested from Article 4, Definitions, to allow for construction of a fence within a No Build Zone in a Planned Residential (PRD) 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.
(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. Although the restriction was in place when the property was purchased, the owner stated they had no knowledge of the restriction.

(f) Whether the property owner's predicament feasibly be obviated through a method other than the variance. Yes, if they built a smaller fence.

(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: Cybele Smith moved, incorporating Exhibits A through D into evidence, to approve a Variance from Article 4, Definitions of the Genoa Township Zoning Resolution for BZA 2016-11, application received December 2, 2016, to allow for a fence to be constructed within a No Build Zone at the rear of property known as lot 3856 in Highland Lakes North Subdivision, 5581 St. George Avenue, zoned Planned Residential Zoning District (PRD) 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 to be erected in an area defined as a No Build Zone per the Zoning Resolution.

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 Sarah Walsh. Roll call: David Buhn, yes; Mark Phillips, yes; Cybele Smith, yes; Sara Walsh, yes; Mark Harmon, yes. Motion carried.

Mark Harmon announced the hearing closed at 7:34 p.m.

Mark Harmon called the following hearing to order at 7:35 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.


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 December 20, 2016
STAFF REPORT: Joe Shafer, on behalf of the Genoa Township Development and Zoning Department, gave an overview of the staff report. He indicated this is a different situation than what is normally seen by the BZA since the subdivision is not yet built and the lot has not yet been created. The applicant is drawing seventeen (17) lots for the Britonwoods Subdivision. This was discovered during the initial planning process; many other issues were resolved. This, however, could not be resolved and a variance request was needed. A new road will be created and as a result, the subject property’s garage will encroach into the front yard setback (previously the side yard). Until this is resolved, the applicant cannot move forward with the subdivision. The options are to completely redesign the subdivision (not the most viable of the solutions), request the variance as presented this evening, or to demolish that portion of the garage and possibly build it somewhere else on the property. They are seeking a twenty-five (25) foot reduction from seventy-five (75) down to fifty (50) feet in the front yard so it is substantial; it is, however, less than one (1) percent of the lot. It will have no impact on governmental services, and may provide better service with the new road. Staff has no objections to this request.

APPLICANTS’ PRESENTATION: Steve Lenker, manager of ELTI Development Group, dba as the Briton Development Group, presented their case. Initially, this was about a one hundred (100) acre property and about forty (40) acres remain to be subdivided and platted. They are doing 17 lots on the acreage, resulting in very low density housing. They are building 5180 feet of new roadway, twenty-four (24) feet wide, with the intention of going further east in the future with more development. This home was built by Ed Hatch, who then added a new garage and laundry room. If this needed to be torn down, there would also be the cost of rearranging the interior of the home which would be costly. The current home is about 3200 square feet on the first floor with a finished walkout basement making the total approximately 4000 square feet. They intend to include screening from the newly created road, Witham Way. This is the only remaining structure as other existing homes have been demolished. There is a jurisdictional waterway to the rear, so the proposed location is the best design for the roadway.

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

BOARD DISCUSSION/FINDINGS OF FACT:

The Board reviewed Duncan v. Middlefield, in regards to the variance requested from Section 606.06, to allow for a reduced front yard setback in a Rural Residential (RR) 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. No, without the variance there may not be a street built.

(b) Whether the variance is substantial. Yes, it is substantial at twenty-five (25) feet, but it is only one percent (1) of the total area.

(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, in fact there may be an improvement.

(e) Whether the property owner purchased the property with knowledge of the zoning restriction. The creation of the street created the question, not the purchase of the property.

(f) Whether the property owner’s predicament feasibly be obviated through a method other than the variance. No.
Whether the spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance. Yes.

MOTION: Sara Walsh moved, incorporating Exhibits A through D into evidence, to approve a Variance from Section 606.06 of the Genoa Township Zoning Resolution for BZA 2016-11, application received December 2, 2016, to allow a portion of the existing residence, currently known as 5485 Red Bank Road, to encroach twenty-five (25) feet into the required seventy-five (75) foot front yard setback when Lot 16 is created during the platting of Section 2 of the Britonwoods Subdivision, zoned Rural Residential Zoning District (RR) based on the following findings of fact:

a. The property in question would not yield a reasonable return and there cannot be beneficial use of the property without the variance.

b. The variance is substantial since it is twenty-five (25) feet, approximately 33 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 Cybele Smith. Roll call: David Buhn, yes; Mark Phillips, no; Cybele Smith, yes; Sara Walsh, yes; Mark Harmon, yes. Motion carried.

Mark Harmon announced the hearing closed at 7:57 p.m.

Mark Harmon called the following hearing to order at 7:57 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.

TIM CARR, ON BEHALF OF BRUCE AND CHRIS MOSIER, REQUESTING A VARIANCE FROM SECTION 606.10 OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW FOR BUILDING COVERAGE IN EXCESS OF TEN PERCENT (10%) FOR A SINGLE-FAMILY RESIDENCE TO BE CONSTRUCTED ON PARCEL #317-413-03-005-000, LOT 245 IN THE SCOFIELD SUBDIVISION, 6572 WALNUT VALLEY DRIVE, GALENA, ZONED RURAL RESIDENTIAL DISTRICT (RR) (BZA 2016-12).

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 December 20, 2016
Exhibit "E" – Letter from Jim and Joy Hale
Exhibit "F" – Rendering of Lake Elevation side of proposed structure

STAFF REPORT: Joe Shafer, on behalf of the Genoa Township Development and Zoning Department, gave an overview of the staff report. The subject property is approximately 1.04 acres and is located in the Scofield Subdivision that was created in 1956. This home was built in 1956 and remodeled in 2005. The Mosier's purchased the property in 2015 and had previously applied for a variance to reduce the side yard setback, however rescinded that request in January 2016. As a point of
clarification, this request is not the same as the prior request. The applicant is asking to be allowed to construct a new home that will increase the lot coverage to approximately eleven (11) percent from the ten (10) percent allowed; the existing home will be demolished. The Butler's live one lot south of the property and have provided a letter of support. The applicant's architect has noted the total lot coverage has been reduced from what was originally submitted on the Zoning Permit Application. Staff sees the one (1) percent increase in lot coverage as de minimis. Staff does not agree with the applicant's assertion that the screened porch metal roof is not part of the calculation as by Code definition this qualifies as a structure and is thus counted in the total calculation. Since it would still have walls even as a pergola, it would still be considered a building and thus part of the overall calculation per the Zoning Resolution. There is no issue with the total impervious surface coverage on the lot. Staff has no objection to this application.

APPLICANTS' PRESENTATION: Tim Carr, architect for the applicant, noted the need for a three (3) car garage and a first-floor master suite have added to the overall coverage of this structure. The applicant prefers to have coverage for the west facing porch to allow for some shade. Mr. Carr did not feel the Code was clear on what items constituted lot coverage. Building coverage is at issue, not impervious surface coverage. The overage is actually 0.9 percent, less that one (1) percent.

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

- Joy Hale (6546 Walnut Valley Drive) stated the Mosier's are very nice neighbors, but she is concerned that she purchased her home for the green space and this addition will impact her view of the reservoir, as well as for other neighbors abutting the side of the Mosier property. She stated that when someone is building from scratch, they should be able to stay within the Zoning Code, unlike when working with an existing structure. She also questioned the size of the shed and the discrepancy from what is noted on the submitted plan vs. the County Auditor's site. Ms. Hale noted there is a porch and an overhang on the shed and that could be part of the size discrepancy. Her preference would be a pergola, rather than an enclosed porch, as this would give a more “open look and have less of a visual impact. Ms. Hale gave the Board a letter (Exhibit E) that will be added to the record.

APPLICANT'S RESPONSE: Mr. Carr stated another neighbor had provided a letter of support to Mr. Mosier just prior to this hearing. Chris Mosier stated that the slab area would remain the same size, even if the enclosed porch is not approved, and all of the furniture they purchased would still be there, just outside.

BOARD DISCUSSION/FINDINGS OF FACT:

The Board reviewed Duncan v. Middlefield, in regards to the variance requested from Section 606.10 to allow for building coverage in excess of ten percent (10%) for a single-family residence in a Rural Residential (RR) 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, nothing substantial, however, Ms. Hale noted her concerns in public comment.
(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, the zoning restriction was in place and this is a new build.

(f) Whether the property owner's predicament feasibly be obviated through a method other than the variance. Yes, a smaller screened in porch can be built.

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

Board Discussion: The Board noted the adjacent property owner had raised valid points, stating that the overall percentage is small but there is an impact due to the layout. Mr. Carr clarified this is a completely different request from the previous one that was withdrawn, as they found this better met the needs of the applicant. The Board noted the screened in porch seemed very large and asked if it could be reduced. Mr. Carr responded that due to the size of the furniture his client had already purchased, the porch needed to be this large. The Board questioned if the location justified the size of the porch being requested. Furthermore, the addition of the three-car garage was questioned to which Mr. Carr responded a two-car garage could be built, but additional cars would be stored outside. Chris Mosier stated that if this is not approved, they will not change anything and the patio surface/footprint will remain (with the furniture), possibly without a roof over it. Bruce Mosier shared a concern that this seems rather small compared to a prior case where there was a substantial variance that would be seen by ones passing by.

MOTION: Sara Walsh moved, incorporating Exhibits A through F into evidence, to approve a Variance from Section 606.10 of the Genoa Township Zoning Resolution for BZA 2016-12, application received December 2, 2016, to allow for building coverage in excess of ten percent (10%) for a single-family residence to be constructed on Parcel 317-413-03-005-000, Lot 245 in the Scofield Subdivision, 6572 Walnut Valley Drive, Galena, 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 not substantial since it is less than one (1) percent more 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 Phillips.

Discussion on Motion: The Board expressed concern that the applicant was coming to the table with a plan that did not meet the Zoning Code. They further noted the immediate willingness of the applicant to remove the roof over the structure to be compliant should this not be approved. Following discussion, Ms. Walsh amended her motion to change Item "f" of Duncan Middlefield to the property owner’s predicament “can” be obviated by reducing the size of the structure.

MOTION AS AMENDED: Sara Walsh moved, incorporating Exhibits A through F into evidence, to approve a Variance from Section 606.10 of the Genoa Township Zoning Resolution for BZA 2016-12, application received December 2, 2016, to allow for building coverage in excess of ten percent (10%)
for a single-family residence to be constructed on Parcel 317-413-03-005-000, Lot 245 in the Scofield Subdivision, 6572 Walnut Valley Drive, Galena, 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 not substantial since it is less than one (1) percent more than the Zoning Resolution 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.

m. The property owner's predicament can 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.

Motion was seconded by Mark Phillips.

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

Mark Harmon announced the hearing closed at 8:32 p.m.

ADJOURNMENT

Mark Phillips moved to adjourn this meeting. Motion was seconded by Sara Walsh. All voted yes. Motion carried.

Mark Harmon announced the hearing closed at 8:32 p.m.

PUBLICATION OF LEGAL NOTICE:
The legal notice for this meeting was printed and published on December 7, 2016, in the Delaware Gazette and posted at the Genoa Township Hall on December 6, 2016. Notice of this meeting was also mailed to the adjacent property owners.

PREPARED BY:

Connie Goodman

BOARD OF ZONING APPEALS APPROVED:

Mark Harmon, Chair

Date Approved by the Board of Zoning Appeals

December 27, 2016

Date Prepared

OTHERS PRESENT AT MEETING

Joe Shafer
Jim Hale
Joy Hale
Steve Lenker

ADDRESS
Genoa Township Development and Zoning Office
6546 Walnut Valley Drive, Galena 43021
6546 Walnut Valley Drive, Galena 43021
8195 Avery Road, Dublin 43017

Genoa Township Board of Zoning Appeals Meeting Minutes – December 20, 2016
Audio of this meeting is available at www.genoatwp.com.