DATE: March 27, 2018  
TIME: 7:00 PM  
LOCATION: Genoa Township Hall, 5111 S. Old 3C Hwy., Westerville, Ohio 43082  
AGENDA ITEMS: BZA 2018-02, Bryant – Conditional Use (human occupancy of accessory building)  
STAFF PRESENT: Susan Dorsch, Permit and Compliance Inspector

CALL TO ORDER  
Mark Harmon called the meeting to order at 7:01 p.m.

ROLL CALL (00:00:12)  

<table>
<thead>
<tr>
<th>MEMBERS PRESENT</th>
<th>MEMBERS ABSENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mark Harmon, Chair</td>
<td>David Buhn, Alt.</td>
</tr>
<tr>
<td>Mark Phillips, Vice-Chair</td>
<td>Dorothy Driskell, Alt.</td>
</tr>
<tr>
<td>Cybele Smith</td>
<td>Teresa Yu</td>
</tr>
</tbody>
</table>

MINUTES (00:01:05)  
The board reviewed meeting minutes presented by the Genoa Township Development and Zoning Department for the hearing held on February 27, 2018.

MOTION: Mrs. Driskell moved to approve the February 27, 2018 meeting minutes.

Motion was seconded by Mr. Buhn.

Roll call: David Buhn, yes; Dorothy Driskell, yes; Mark Phillips, abstained; Cybele Smith, abstained; Mark Harmon, yes. Motion carried.

PUBLIC HEARING (00:02:18)  
Mark Harmon called the following hearing to order at 7:04 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.

"Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?"

JOHN A. BRYANT AND MICHELLE M. GRIEVES REQUESTING APPROVAL OF A CONDITIONAL USE PERMIT PER SECTION 1609.01 F, TO ALLOW FOR LIVING SPACE IN AN EXISTING ACCESSORY BUILDING LOCATED AT 7564 PLUMB ROAD, GALENA, OHIO, 43021, PARCEL #317-210-04-008-000, CURRENTLY ZONED RURAL RESIDENTIAL (RR) (BZA 2018-02).

The following were marked as exhibits “A” – “I”.
  - Exhibit “A” – Legal Notice
  - Exhibit “B” – Sign-in Sheet
  - Exhibit “C” – Application
  - Exhibit “D” – Staff Report, dated March 27, 2018.
  - Exhibit “E-I” – Photos submitted by applicant at hearing.
STAFF REPORT (00:03:40): Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, gave an overview of the staff report. Mrs. Dorsch stated that the subject parcel was created by the subdivision of a three (3) acre parcel into a 1.3 acre and a 1.4 acre parcel. The subdivision was platted as Green’s Pond in August 1986. At the time the property was subdivided, the subject property, lot 1412, contained a house and a barn. Lot 1413 contained a pond but not structures. According to the Delaware County Auditors site the house was built in 1860. The previous owner, Jeff Bory obtained a Variance in March 1996 to allow for an addition to an existing barn. At the time of the variance request, the maximum square footage of an accessory building was 1200 square feet. Mr. Bory requested the variance stated that the purpose of the addition to the barn was to provide space for his motorhome, additional storage for personal items (because the house did not have a basement), and a space to exercise. A Conditional Use Permit to establish a dwelling in the barn was not part of the Variance request granted in 1996. The barn on the property was renovated in 1996, Zoning Permit #96425. The plan provided as part of the application shows a bathroom and heated area. According to the auditor site the subject parcel purchase was by Mr. Bryant in 2005. Mr. Bryant contacted staff in February 2018 concerning the need for approval of the living space within the barn. Mr. Bryant’s property is up for sale and the lender won’t approve lending for the buyer until he has obtained approval of the living space within the barn. The Zoning Department did receive a few phone calls about the property. Mrs. Dorsch stated that she was not aware of any negative comments from the residents who called and the callers all knew the barn had living space.

The Board asked if the property was zoned single family dwelling. Mrs. Dorsch stated it was zoned Rural Residential single family. Currently the parcel has a house and living space in the accessory building. The Board asked if the property meet the credentials for Rural Residential in every other way except for the living space within the accessory building. Mrs. Dorsch stated that she did not know if the parcel was compliant in regards to all other zoning regulations. Mrs. Dorsch indicated that the existing lot is less than the required two acres, but when subdivided the criteria was one acre. The Board stated that the property would be a legal non-conforming lot since it was built in 1860.

The Board asked if the square footage of the accessory structure would be an issue if this conditional use was granted. Mrs. Dorsch stated that it appears that the square footage of the buildings on the lot do not exceed the 10% lot coverage maximum for a Rural Residential zoned property.

APPLICANTS’ PRESENTATION (00:10:35): The applicant, John Bryant, presented his application. He stated that the barn has had living space for the past 21 years. To his knowledge and that of the previous owner, there have been no complaints about the occupancy of the barn. Mr. Bryant stated that he did not know that the living space in the barn had not been properly approved. Mr. Bryant told the Board that he has been asked why this issue did not come up when he purchased the property. Mr. Bryant stated that he does not have an answer to the question; he does not know why.

Mr. Bryant told the Board that the property is in contract and he would like the prospective owners to have the same use of the barn that he and his family has enjoyed. Mr. Bryant testified that the sale of the property cannot move forward without the conditional use approval. Mr. Bryant submitted additional pictures into evidence that show the current living space inside the barn.

The Board questioned what portion of the barn was used as living space and how much was used for storage. The applicant estimated that half of the barn is use as living space and half barn is used for storage.
The Board asked if it stated in the original application for a variance for parking motorhome only in the extension. Mr. Bryant stated that he considers the whole barn as one structure. The Board asked how the barn is currently used. Mr. Bryant stated it is an upscale living area and parking. The Board asked if the barn was only used for personal use or if there was commercial use such as an Airbnb or other similar use. Mr. Bryant stated that the barn is only used for personal use; typically for family functions such as Thanksgiving. Mr. Bryant stated that the barn has not been rented out commercially.

**BOARD DISCUSSION (00:27:20):** The board asked the applicant questions to determine when the use of the barn changed from what was proposed in 1996 and when the application bought the property in 2005. The Board asked if the living area in the barn was furnished and if it had heat and air conditioning when Mr. Bryant purchased the property. Mr. Bryant stated that it was furnished and it appeared that it was being living in; the space was heated. Mr. Bryant stated that he added the air conditioning. The board asked if he saw the improvements to be of value. Mr. Bryant said yes it did add value; “it is a nice living space”. Given Mr. Bryant’s testimony that the living space, kitchen, living area, sleeping area, and bathroom, existed when he purchased the property, the Board concluded that the improvements were made by the previous owner beyond what was approved in 1996.

The Board asked Mr. Bryant if he knew the intention of the new owners. Mr. Bryant testified that the prospective buyers plan to use the space in the barn the same as he was using it; for extra living and storage.

The Board asked Mrs. Dorsch if the conditional permit would be for a specified period of time and owner or if it transferred with the property. She stated that a Conditional Use would run with the property not the property owner. The Board discussed Section 305 of the Genoa Township Zoning Resolution which states that “The Conditional Use Permit shall automatically expire if, for any reason, the Conditional Use shall cease for more than six (6) months”.

**PUBLIC COMMENTS (00:24:50):** Mark Harmon asked any individuals who were properly sworn-in to share their comments.

1. Dave Klince, 7940 Plumb Rd. Galena, OH 43021. Mr. Klince stated that he is a next door neighbor. He also stated that he had no issues with the barn being used as living space. He told the Board that he was in favor of the Conditional Use. He stated that he would rather have the barn used as it is currently than have it used to keep animals. The area outside of the barn is very well kept, the inside of the barn is very nice, and it is a benefit to the property around it.

2. Doug Staysniak, 7590 Plumb Rd. Galena, OH 43021. He stated that he is also a next door neighbor. He stated that he agrees with the statements made by Mr. Klince and he has no issues with the Conditional Use. Mr. Staysniak stated that the barn is very beautiful, it is kept nice and he is in favor of approval of the application.

**APPLICANT’S RESPONSE (00:27:11):** The Board asked Mr. Bryant if his intent was for the Conditional Use be only for the existing living space or for the entire barn. Could the next purchaser use the barn for agricultural purposes, such as keeping of animals? Mr. Bryant stated that the barn is not currently designed for housing animals. The floor of the barn is concrete and was originally intended for the storage of an RV. Because of the living area, it would not be very conducive for keeping animals.

Mrs. Dorsch stated that it was her understanding that future owners of the property could use the barn for agriculture. In most circumstances, the Ohio Revised Code, exempts agricultural uses from
zoning regulations. The Board indicated that approval of the Conditional Use provided for a more specific use but doesn't erase any currently permitted uses.

BOARD DISCUSSION/FINDING OF FACT (00:31:40):
The Board stated that Section 1609.01 (F) of the Genoa Township Zoning Resolution prohibits human occupancy in an accessory building unless a Conditional Use Permit is approved by the Board of Zoning Appeals. The Resolution also 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 standards and stated if the proposed requirements complied and why.

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.
Yes. Given the testimony of the next door neighbors, the Board determined that the proposed use would not affect the health, safety and welfare of the surrounding area.

303.02 The Use will not result in the destruction, loss or damage of natural, scenic, or historic features of major importance.
Yes. The Board stated that it had not heard any evidence that there would be any new construction that would affect these items.

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.
Yes. The Board stated that it did not hear any evidence that the Use would affect any of these items. The Board stated that according to statements from the neighbors the use adds value to the surrounding properties.

303.04 The Use shall be compatible with adjoining development and the proposed character of the zoning District where it is to be located.
Yes. The Board stated that there was no evidence provided that the Use will change the existing character of the neighborhood.

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.
Yes. The Board stated that it received no evidence that any services would be affected. Genoa Police and Fire have reviewed the application and provided no comments or concerns.

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.
Yes. The Board stated that it has not received evidence that the proposed Use will increase the need for services at an increased cost to the public.

303.07 Adequate Landscaping and screening are provided, as required under Article 20.
Yes. Given the statements by the next door neighbors the Board concluded that the existing landscaping is adequate.

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.*

Yes. The Board determined that there is no evidence of traffic issues.

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

Yes. The Board stated that it heard no evidence that it does not.

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

Yes. The Board stated that the Use does comply.

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.*

Yes. The Board stated that the Use already exists and they heard no evidence that it was a detriment to the area.

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

The Board did not prescribe any additional requirements.

**Board Discussion:**

The Board discussed the potential for the living space in the accessory building to be use as a commercial business such as an Airbnb or a Bed n Breakfast. They clarified that the current application was only for the Use of the structure as living space and not for approval as a commercial business. The Board determined that the motion should contain a condition that the structure cannot be used as a commercial business.

**MOTION (00:45:40): Ms. Smith moved, incorporating Exhibits “A” through “I” into evidence, to approve a Conditional Use in accordance with Section 1609.01 F of the Genoa Township Zoning Resolution for BZA 2018-02, application received March 1, 2018, to allow for human occupancy in an accessory building on property at 7564 Plumb Road, zoned Rural Residential (RR) based on the standards listed in Section 303 of the Genoa Township Zoning Resolution and the aforementioned findings.**

Approval of the Conditional Use is subject to the owner’s acknowledgement that any commercial use of the accessory building, such as a Bed n Breakfast is not part of this Conditional Use approval and would require a separate review by the Board of Zoning Appeals.

Motion was seconded by Dorothy Driskell.

The Board stated for clarification that any commercial use of the accessory building by any future owners of the property would require a separate application and review by the Genoa Township Board of Zoning Appeals.

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

Mark Harman announced the hearing closed at 7:48 p.m.
OTHER BUSINESS (00:47:30): There was no other business.

NEXT MEETING (00:47:35):
- April 24, 2018 – Regular Meeting, 7 P.M. – BZA Training and Re-Organization
  If more than one application is received the training will be postponed until the following month.

ADJOURNMENT
Mr. Phillips moved to adjourn this meeting at 7:51 p.m. Motion was seconded by Mr. Buhm. All voted yes. Motion carried.

Meeting was adjourned at 7:52 p.m.

PREPARED BY:  
Heather Weidenhamer, Zoning Secretary  
5/1/2018

BOARD OF ZONING APPEALS APPROVED:  
Mark Harmon, Chair  
5/22/2018

Date Prepared

Date Approved by the Board of Zoning Appeals

PUBLICATION OF LEGAL NOTICE:
The legal notice for this meeting was printed and published on March 13, 2018 in the Delaware Gazette and posted at the Genoa Township Hall on March 9, 2018. Notice of this meeting was also mailed to the adjacent property owners.

OTHERS PRESENT AT MEETING

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>John Bryant, applicant</td>
<td>7564 Plumb Rd. Galena, OH 43021</td>
</tr>
<tr>
<td>David Klein</td>
<td>7540 Plumb Rd. Galena, OH 43021</td>
</tr>
<tr>
<td>Randy Orr</td>
<td>2341 Pollock Rd. Delaware, OH 43015</td>
</tr>
<tr>
<td>Doug Staysniak</td>
<td>7590 Plumb Rd. Galena, OH 43021</td>
</tr>
<tr>
<td>David Tausch</td>
<td>6152 Peppergrass Ct. Westerville, OH 43082</td>
</tr>
</tbody>
</table>