GENOA TOWNSHIP BOARD OF ZONING APPEALS MEETING MINUTES

DATE: February 26, 2019
TIME: 7:00 PM
LOCATION: Genoa Township Hall, 5111 S. Old 3C Hwy., Westerville, Ohio 43082

AGENDA ITEMS: BZA 2019-01 Kimberly Wiley – Conditional Use, human occupancy accessory building
BZA 2019-02 Mark and Lisa Peters – Variance, side yard setback
BZA 2019-03.A Joshua and Jessica Gilbert – Variance, house to remain temporary
BZA 2019-03.B Joshua and Jessica Gilbert - Variance, build house w/out garage

STAFF PRESENT: Susan Dorsch, Permit and Compliance Inspector

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

ROLL CALL (00:00:26)

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<thead>
<tr>
<th>MEMBERS PRESENT</th>
<th>MEMBERS ABSENT</th>
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<tbody>
<tr>
<td>Mark Harmon, Chair</td>
<td>Teresa Yu</td>
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<tr>
<td>Dorothy Driskell</td>
<td>Geoffrey Bishop, Alt.</td>
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<td>Mark Phillips, Vice chair</td>
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<td>David Buhn</td>
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The Chair noted that Mr. Bishop was sitting on the Board this evening as a voting member.

MINUTES (00:01:32)
The board reviewed meeting minutes presented by the Genoa Township Development and Zoning Department for the hearings held on December 18, 2018.

MOTION: Ms. Yu moved to approve the December 18, 2018 meeting minutes, as presented:

Motion was seconded by Ms. Driskell.

VOTE:  4 For, 0 Opposed, 0 Abstained. Motion carried.

PUBLIC HEARING (00:02:58)
Chair 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.

KIMBERLY A. WILEY REQUESTING APPROVAL OF A CONDITIONAL USE IN ACCORDANCE WITH SECTION 1609.01.F OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW FOR HUMAN OCCUPANCY OF AN EXISTING ACCESSORY BUILDING AT 7626 LANETTA LANE, WESTERVILLE, OHIO 43082, CURRENTLY ZONED RURAL RESIDENTIAL (RR) (BZA 2019-01).

The legal notice for this hearing was printed and published on February 9, 2019, in the Delaware Gazette and posted at the Genoa Township Hall on February 6, 2019. An attempt to mail notice of this hearing to property owners contiguous to and across the street from the subject property was also made.

The following were marked as exhibits “A” – “E”.

  Exhibit “A” – Legal Notice
  Exhibit “B” – Sign-in Sheet
  Exhibit “C” – Application
STAFF REPORT (00:03:56): Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, gave an overview of Exhibit D.

APPLICANTS’ PRESENTATION (00:06:36): Lyle and Kim Wiley (7626 Lanetta Lane) provided the board with photographs of the accessory building (exhibit “E”).

Mr. Wiley described the proposed interior layout of the living space and that it will be used by aging parents. He stated that there is plenty of parking space without the use of the accessory structure as a garage. Mr. Wiley added that the applicants are asking for a condition that the property will not be used as a rental or commercial property.

Mr. Wiley provided answers to the questions in Section 303 of the Genoa Township Zoning Resolution. He stated that he met with all the neighboring property owners and there were no concerns raised.

BOARD DISCUSSION (00:13:20):

The Genoa Township Zoning Resolution Section 1609.01.F prohibits human occupancy in an accessory building unless a Conditional Use is approved. 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.

Yes. The building is existing, and the applicant has met with all safety service providers.

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

Yes. The footprint of the existing building is not changing.

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 building is already constructed.

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 structure is compatible with the primary residence and 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. Applicant testified that he has approval from all public utilities

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. Applicant testified that he met with Fire and Police and received approval.
303.07 Adequate Landscaping and screening are provided, as required under Article 20.
Yes. Photos provided by applicant show existing landscaping.

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. There is adequate off-street parking.

303.09 The Use conforms to all applicable regulations governing the District in which it is located.
Yes. The accessory building is properly permitted.

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

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 living space will be occupied by family members.

303.12 Any other supplementary requirements as prescribed by the Board of Zoning Appeals.
None.

**MOTION (00:17:48):** Ms. Yu moved, incorporating Exhibits A through E into evidence, to approve a Conditional Use in accordance with Section 1609.01.F of the Genoa Township Zoning Resolution for BZA (2019-01), application received January 21, 2019, to allow for human occupancy of an accessory building on property at 7626 Lanetta Lane, Westerville, Ohio 43082, zoned Rural Residential (RR) based on the standards listed in Section 303 of the Genoa Township Zoning Resolution and the aforementioned findings.

Motion was seconded by Mr. Harmon.

Roll call: Dorothy Driskell, Yes; Geoff Bishop, Yes; Teresa Yu, Yes; Mark Harmon, Yes. Motion carried.

Chair announced the hearing closed at 7:20 p.m.

Chair called the following hearing to order at 7:21 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.

**MARK E. AND LISA D. PETERS REQUESTING APPROVAL OF A VARIANCE FROM SECTION 606.07 OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW CONSTRUCTION OF A NEW SINGLE-FAMILY RESIDENCE TO ENCROACH INTO THE REQUIRED TWENTY-FIVE (25) FOOT SIDE YARD SETBACK, AT 4756 S. OLD 3C HIGHWAY, GALENA, OHIO 43021, CURRENTLY ZONED RURAL RESIDENTIAL (RR) (BZA 2019-02).**

The legal notice for this hearing was printed and published on February 9, 2019, in the Delaware Gazette and posted at the Genoa Township Hall on February 6, 2019. An attempt to mail notice of this hearing to property owners contiguous to and across the street from the subject property was also made.

The following were marked as exhibits “A” – “D”.

Exhibit “A” – Legal Notice
Exhibit “B” – Sign-in Sheet

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*Genoa Township Board of Zoning Appeals Meeting Script – February 26, 2019*
STAFF REPORT (00:21:25): Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, gave an overview of exhibit D.

APPLICANTS’ PRESENTATION (00:25:41): Mark and Lisa Peters (applicants) and Ed Snodgrass (P&D Builders) presented. Mr. Peters stated they have resided in Genoa for 20 years. He stated they purchased the lot without giving much thought to the width of the lot.
Mr. Peters stated that the lot is 92 feet wide and with the side setbacks, it would provide only 42 feet width for a house. He clarified that they are requesting a 17-foot infringement in case the construction of the house differs slightly from the plans.
Mr. Snodgrass stated that he requested a variance to an eight-foot setback in case of the foundation being adjusted in final engineering. He added that they wanted some wiggle room, so they won’t need to come back and ask for additional variance in case the foundation is built within the setback. 
Mr. Peters stated they made some concessions in their plans to make the home as narrow as possible. He added they moved the garage to the rear of the home, which he stated is a concession because it blocks the view of their rear yard.
Mr. Peters noted that the property to the south has a garage that is on the property line and this forced them to move the house further to the north. He stated that the property to the north is greenspace and the infringement would be on open space and not a residential property.
Mr. Peters stated that the home will be a ranch and will be low profile from the street.
Ms. Yu asked about the turning pad for the garage. Ms. Dorsch provided the requirements for a side load garage. Mr. Peters stated the proposed garage is in a compliant location.
Mr. Harmon stated that there are challenges with building on this lot, but ignorance of the code is not a reason for a variance. He added that the zoning on S. Old 3C is different than the zoning for Vinmar Farms, so they are not a fair comparison.

PUBLIC COMMENTS (00:44:33): Chair asked any individuals who were properly sworn-in to share their comments.

1. Wendy Willis (7835 Vinmar Way (representing Vinmar Farms HOA)) asked if the variance is approved, will it set a precedent for the other properties in the area. Mr. Harmon replied that the decisions are determined on a case-by-case basis and are only applicable to the subject property. Ms. Willis stated that the Vinmar Farms HOA is concerned about how close the house will be to the Vinmar Farms open space. Mr. Bishop asked if the HOA is concerned or if they are opposed to the variance. Ms. Willis replied that she can’t answer for everyone in the HOA and reiterated that the HOA is concerned about the proximity to their open space. Mr. Harmon asked Ms. Willis what amount of setback would provide her comfort. She replied that she cannot speak for the full HOA. She again stated that the HOA is concerned with the proximity.

2. Catherine Nelson (4000 S. Old 3C Hwy) stated that the applicants have done a nice job with the property. She asked how much the proposed house is setback from S. Old 3C. Mr. Snodgrass replied 75 feet. Ms. Nelson asked how far off the rear lot line the proposed house will be located. She also asked if anything could be built on the Vinmar Farms open space. Mr. Harmon stated that nothing will be built there, it will remain open space. Ms. Nelson stated that she is in favor of the proposed house.

APPLICANT’S RESPONSE (00:52:55): Ms. Yu asked about the fence around the property. Mr. Peters replied that the plan is to replace the existing chain link fence with a wood fence.
Mr. Harmon stated that a 42-foot wide structure could be built on the property without a variance. The board discussed whether a one-story house could be built without the variance. Mr. Harmon stated it is a substantial variance at 68 percent encroachment.

Mr. Bishop stated that a 68 percent encroachment is substantial, but the encroachment borders open space. He added that a concern by the Vinmar Farms HOA is less of a cause of concern than an objection. Mr. Bishop stated that encroachment to a green space does not infringe on someone’s lives. Ms. Driskell replied that eight feet is very close to the property line.

Ms. Yu asked if the open space is used for kids playing or if it is just a walking path. She added that there will be a fence to buffer the house from the open space. Ms. Yu stated that the open space is used for passive activity.

Ms. Yu stated that it is difficult for a 92-foot wide lot to be held to the same standards as a two-acre lot. Mr. Bishop added that the applicant should not be punished because the neighboring property did not have to follow the same rules when constructing their buildings.

Mr. Harmon stated they are not requesting a 4,000 square foot house. He stated their proposed house size is average for the Township.

The Board reviewed *Duncan v. Middlefield*, in regards to the variance requested from Section 606.07 to allow for construction of a new single-family residence to encroach into the required twenty-five (25) ft. side yard setback at 4756 South Old 3C Highway, Galena, Ohio 43021, currently zoned Rural Residential (RR) as follows:

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

   Yes. A house with a different design could be built without a variance.

b. The variance is substantial.

   Yes. A 68 percent encroachment is substantial.

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.

   Yes. The street is very diverse with older and newer homes.

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

   Yes. As per the applicant’s testimony and no comments from police and fire.

e. The property owner did purchase the property with knowledge of the zoning restriction.

   Yes. As per staff report.

f. The property owner’s predicament can be feasibly obviated through a method other than the variance.

   Yes. A 42-foot wide house could be built but may not be the best use of the property.
g. The spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance.

Yes.

**MOTION (01:06:52):** Mr. Harmon moved, incorporating Exhibits A through D into evidence, to approve a Variance from Section 606.07 of the Genoa Township Zoning Resolution for BZA (2019-02), application received January 31, 2019, to allow construction of a new single-family residence to encroach no more than seventeen (17) ft. into the required twenty-five (25) ft. side yard setback on the north side of the parcel at 4756 South Old 3C Highway, Galena, Ohio 43021, zoned Rural Residential (RR).

This motion is based on the following Findings of Fact:

1. It is a unique non-conforming lot in a Rural Residential district.

2. The proposed house is not atypical.

3. It is not reasonable to ask the applicant to shift the proposed house to the south due to the southern property containing a garage on the property line.

Motion was seconded by Mr. Bishop.

Roll call: Dorothy Driskell, No; Geoff Bishop, Yes; Teresa Yu, Yes; Mark Harmon, Yes. Motion carried.

Chair announced the hearing closed at 8:10 p.m.

Chair called the following hearing to order at 8:13 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.

**JOSHUA A. AND JESSICA L. GILBERT REQUESTING APPROVAL OF TWO (2) VARIANCES FROM THE GENOA TOWNSHIP ZONING RESOLUTION; A) FROM SECTION 1606, TO ALLOW AN EXISTING HOUSE TO REMAIN DURING THE CONSTRUCTION OF A NEW SINGLE FAMILY RESIDENCE, AND B) FROM SECTION 808, TO ALLOW THE NEW SINGLE FAMILY RESIDENCE TO BE CONSTRUCTED WITHOUT AN ATTACHED TWO CAR GARAGE, ON PROPERTY LOCATED AT 6482 FREEMAN ROAD, WESTERVILLE, OHIO 43082, CURRENTLY ZONED SUBURBAN RESIDENTIAL (SR) (BZA 2019-03 A & B).**

**CHAIR NOTED THAT THIS HEARING CONTAINS TWO PARTS; APPLICATION A, A VARIANCE REQUEST FROM SECTION 1606 WILL BE HEARD FIRST AND APPLICATION B, A VARIANCE REQUEST FROM SECTION 808 WILL BE HEARD SECOND.**

The legal notice for both variance requests was printed and published on February 9, 2019, in the Delaware Gazette and posted at the Genoa Township Hall on February 6, 2019. An attempt to mail notice of this hearing to property owners contiguous to and across the street from the subject property was also made.

**VARIANCE REQUEST A**

The following were marked as exhibits “A” – “D”.

- Exhibit “A” – Legal Notice
- Exhibit “B” – Sign-in Sheet
- Exhibit “C” – Application
STAFF REPORT (01:13:45): Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, gave an overview of exhibit D.

APPLICANTS’ PRESENTATION (01:16:53): Josh and Jessica Gilbert (6482 Freeman Rd) presented. Mr. Gilbert stated they are asking for two principle structures on a lot. He clarified the plans for the proposed house. Mr. Gilbert provided some history of the property and the reason for the need of two principle buildings. Ms. Gilbert added some more reasons why the applicants require a new house. Mr. Harmon asked what the timeline is for construction of the new house. Mr. Gilbert replied that they have meetings with the home builder next week and hope to be moved into the new house by August. Mr. Gilbert stated that they have approval from all public utilities.

BOARD DISCUSSION/FINDINGS OF FACT (01:26:20):
Mr. Harmon stated he does not have any issues with this proposal. He added that the applicant should be held to a 60-day timeframe for demolition of the existing house. Mr. Bishop added that a timeframe for demolition should be determined. Ms. Yu asked if any hazardous materials in the existing house will cause delays in demolition. Mr. Gilbert stated that he discussed the asbestos issues with an abatement company and it should not cause any delays.

The Board reviewed Duncan v. Middlefield, in regards to the variance requested from Section 1606 to allow an existing house to remain during construction of a new single-family residence at 6482 Freeman Road, Westerville, Ohio 43082, currently zoned Suburban Residential (SR) as follows:

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

   Yes. There is an existing house on the property that is in livable condition.

b. The variance is substantial.

   Yes.

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.

   Yes. There will only be two houses on the site temporarily.

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

   Yes.

e. The property owner did purchase the property with knowledge of the zoning restriction.

   Yes. The zoning regulations have not changed.

f. The property owner’s predicament can be feasibly obviated through a method other than the variance.

   Yes. However, it is unreasonable for the board to require them to leave the property while the new house is being built.
g. The spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance.

Yes. The zoning code is meant to prohibit people from having two houses on one lot. A condition that the existing house be removed within 60 days would uphold the intent of the Zoning Resolution.

MOTION (01:35:00): Mr. Harmon moved, incorporating Exhibits A through D into evidence, to approve a Variance from Section 1606 of the Genoa Township Zoning Resolution for BZA (2019-03.A), application received February 1, 2019, to allow for an existing house to remain during construction of a new single-family residence at 6482 Freeman Road, Westerville, Ohio 43082, currently zoned Suburban Residential (SR).

This motion is based on the following Findings of Fact:

1. It is a reasonable request.

2. Having a new house in a compliant location will improve the property.

Approval of the Variance is subject to the owner’s agreement to the following conditions:

1. The existing single-family residence will be removed within sixty (60) days of occupancy of the new single-family residence.

Motion was seconded by Ms. Driskell.

Roll call: Dorothy Driskell, Yes; Geoff Bishop, Yes; Teresa Yu, Yes; Mark Harmon, Yes. Motion carried.

Chair announced the hearing for BZA 2019-03.A closed at 8:39 p.m.

Chair called the second part, BZA 2019-03.B open at 8:40 p.m.

THE CHAIR NOTED THAT THEY WOULD NOW HEAR THE SECOND PART OF THE APPLICATION BZA 2019-03.B, FOR A VARIANCE FROM SECTION 808. THE CHAIR ASKED EVERYONE WHO WISHED TO SPEAK TO THIS MATTER THAT WASN’T SWORN-IN FOR PART A TO STAND. THOSE STANDING WERE SWORN-IN.

VARIANCE REQUEST B

The following were marked as exhibits “A” – “F”.

Exhibit “A” – Legal Notice
Exhibit “B” – Sign-in Sheet
Exhibit “C” – Application
Exhibit “D” – Staff Report, dated February 26, 2019
Exhibit “E” – Architectural drawings of proposed house
Exhibit “F” – Architectural drawings of proposed house

STAFF REPORT (01:39:45): Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, gave an overview of exhibit D.
APPLICANTS’ PRESENTATION (01:41:00): Josh Gilbert (6482 Freeman Rd) presented a drawing of the proposed new house. He discussed the placement of the proposed house in relation to the existing accessory building. Mr. Gilbert provided some plans to update the existing accessory building to make it usable as a garage, including adding windows and changing the door.

BOARD DISCUSSION/FINDINGS OF FACT (01:45:22):
Mr. Harmon stated that the accessory building is old and does not look serviceable as a garage. He added that the new house will upgrade the property, but the existing accessory building does not look very nice. Mr. Harmon asked what material is on the floor of the barn. Mr. Gilbert replied gravel, but they plan on replacing it with concrete where they will park vehicles. Mr. Bishop asked the age of the barn. Mr. Gilbert replied that he did not know. Mr. Bishop asked the applicant if they plan on rehabbing the barn. Mr. Gilbert stated they do not plan on rehabbing it right away, but he provided some plans for rehab in the future. Mr. Harmon stated that most of the homes in the township have attached garages and the nearby houses all have attached garages. Mr. Bishop stated that the applicant’s plans will improve the lot and the existing house does not have an attached garage. He added that a barn is not a garage, is a subjective statement. Mr. Harmon reiterated that it looks as if the barn can not be used as a garage right now. Ms. Yu stated that the placement of the proposed house next to the barn shows that they plan on using the barn for a garage. Mr. Harmon stated that the driveway does not currently go all the way to the barn. Mr. Gilbert clarified that he can park his vehicle in the barn currently. He added that their other vehicle is too large for a typical garage and that is another reason for the variance request.

The Board reviewed *Duncan v. Middlefield*, in regards to the variance requested from Section 808 to allow construction of a new single-family residence without an attached two (2) car garage, on property at 6482 Freeman Road, Westerville, Ohio 43082, currently zoned Suburban Residential (SR) as follows:

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

   Yes. A house with a garage could be built on the property.

b. The variance is substantial.

   Yes. The code requires a garage in a Suburban Residential district.

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.

   Yes. The proposed house will upgrade the lot.

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

   Yes.

e. The property owner did purchase the property with knowledge of the zoning restriction.

   Yes. The zoning regulations have not changed.
f. The property owner’s predicament can be feasibly obviated through a method other than the variance.

Yes. A house with an attached garage can be built on the property.

g. The spirit and intent behind the zoning requirement would not be observed and substantial justice would be done by granting the variance.

Yes.

MOTION (02:03:25): Ms. Driskell moved, incorporating Exhibits A through F into evidence, to approve a Variance from Section 808 of the Genoa Township Zoning Resolution for BZA (2019-03.B), application received February 1, 2015, to allow for construction of a new single-family residence without an attached two (2) car garage at 6482 Freeman Road, Westerville, Ohio 43082, currently zoned Suburban Residential (SR).

This motion is based on the following Findings of Fact:
1. Existing house does not have an attached garage.

Motion was seconded by Mr. Bishop.

Discussion: None

Roll call: Dorothy Driskell, Yes; Geoff Bishop, Yes; Teresa Yu, Yes; Mark Harmon, No. Motion carried.

Chair announced the hearing closed at 9:06 p.m.

OTHER BUSINESS (02:06:30):
- Note correction to BZA Schedule, January 29, 2020 date should be January 28, 2020
- Next meeting will be held on March 26, 2019 (if applications are received)

ADJOURNMENT
Mr. Harmon moved to adjourn this meeting at 9:08 p.m. Motion was seconded by Ms. Yu. All voted yes. Motion carried.

Meeting was adjourned at 9:08 p.m.

PREPARED BY:

Paul Benson, Zoning Secretary

3/11/2019
Date Prepared

BOARD OF ZONING APPEALS APPROVED:

Mark Harmon, Chair

3/26/2019
Date Approved by the Board of Zoning Appeals

OTHERS PRESENT AT MEETING

Lyle and Kimberly Wiley
Ed Snodgrass

7626 Lanetta Ln.
59 Greif Parkway, Delaware
Josh and Jessica Gilbert  
Mark and Lisa Peters  
Wendy Willis  
Catherine Nelson  

6482 Freeman Rd.  
6627 Montchanin Ct.  
7835 Vinmar Way  
4000 S. Old 3C Hwy  

Audio of this meeting is available at www.genaatwp.com