DATE: April 23, 2019
TIME: 7:00 PM
LOCATION: Genoa Township Hall, 5111 S. Old 3C Hwy., Westerville, Ohio 43082

AGENDA ITEMS:
- BZA (2019-05) Daniel and Britt Mickley – Variance, lot frontage
- BZA (2019-06) Christopher and Jamie Stevens – Conditional Use Permit, human occupancy accessory building
- BZA (2019-07) Elizabeth Coy – Variance, improvement in no build/no disturb zone

STAFF PRESENT: Susan Dorsch, Permit and Compliance Inspector

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

ROLL CALL (00:00:30)

<table>
<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>
</tr>
<tr>
<td>Mark Phillips, Vice chair</td>
<td>David Buhn</td>
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<tr>
<td>Dorothy Driskell</td>
<td>Geoffrey Bishop, Alt.</td>
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MINUTES (00:00:53)
The board reviewed meeting minutes presented by the Genoa Township Development and Zoning Department for the hearings held on March 26, 2019.

MOTION: Ms. Driskell moved to approve the March 26, 2019 meeting minutes, with the following amendments: Mr. Harmon removed the “or failed” from page one of the minutes.

Motion was seconded by Mr. Buhn.

VOTE: 4 For, 0 Opposed, 1 Abstained (Mr. Phillips). Motion carried.

PUBLIC HEARING (00:01:57)
Mr. Harmon 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.

DANIEL L. AND BRITT L. MICKLEY, REQUESTING A VARIANCE FROM SECTION 606.02 OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW FOR THE CREATION OF A NEW PARCEL WITH LESS THAN THE REQUIRED ONE HUNDRED FIFTY (150) FEET OF LOT FRONTAGE FOR PROPERTY LOCATED AT 5055 RED BANK ROAD, GALENA, OHIO 43021, CURRENTLY ZONED RURAL RESIDENTIAL (RR) (BZA 2019-05).

Mr. Harmon noted that the legal notice for this hearing was printed and published on April 6, 2019, in the Delaware Gazette and posted at the Genoa Township Hall on April 5, 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
- Exhibit “C” – Application
- Exhibit “D” – Staff Report, dated April 23, 2019

STAFF REPORT (00:03:53): Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, gave an overview of Exhibit D.

APPLICANTS’ PRESENTATION (00:08:23): Dan Mickley (applicant) and Courtney Wade (Plan4Land) presented. Mr. Mickley stated they plan on selling the newly created lot. Ms. Driskell asked about access for the new lot. Mr. Mickley replied that there is currently a shared access point that will remain. Ms. Wade stated that they will work with the applicant moving forward with the lot split. Mr. Buhn asked Mr. Mickley if he was the applicant on record. Mr. Mickley testified that his attorney, Denis King, signed and submitted the application for the variance with his, Mr. Mickley’s, full knowledge.

PUBLIC COMMENTS (00:13:24): Mr. Harmon asked any individuals who were properly sworn-in to share their comments. No one requested to speak on this hearing.

BOARD DISCUSSION/FINDINGS OF FACT (00:13:45):

The Board reviewed *Duncan v. Middlefield*, in regards to the variance requested from Section 606.02 to allow for the creation of a new parcel with less than the required one hundred and fifty (150) feet of lot frontage in a Rural Residential (RR) Zoning District 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. The property has been used as a residence for a substantial amount of time.

b. The variance is not substantial.

   Yes. The variance is only 4.7%

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 was no testimony to state that the variance would be a detriment to another property.

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

   Yes. Police, Fire, and Maintenance did not provide any negative comments regarding the proposal.

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

   Yes.

f. The property owner’s predicament cannot be feasibly obviated through a method other than the variance.
Yes. The variance is necessary to be able to split the lot according to the Zoning Resolution regulations on lot frontage.

g. The spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance.

Yes. Splitting the lot will provide a higher and better use for the property.

**MOTION (00:18:48):** Mr. Phillips moved, incorporating Exhibits A through D into evidence, to approve a Variance from Section 606.02 of the Genoa Township Zoning Resolution for BZA 2019-05, application received March 14, 2019, to allow for the creation of a lot with 7.1 feet less than the required one hundred fifty (150) feet on property located at, 5055 Red Bank Road Galena, OH 43021, zoned Rural Residential (RR).

This motion is based on the following Findings of Fact:

1. The variance is not substantial.

2. This would provide for a higher and better use of the property and it will benefit the community.

3. There would be no adverse effect on neighboring properties or governmental services.

Motion was seconded by Ms. Driskell.

Roll call: David Buhn, Yes; Dorothy Driskell, Yes; Mark Phillips, Yes; Teresa Yu, Yes; Mark Harmon, Yes. Motion carried.

Mr. Harmon announced the hearing closed at 7:23 p.m.

Mr. Harmon called the following hearing to order at 7:25 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.

CHRISTOPHER J. AND JAMIE J. STEVENS, REQUESTING APPROVAL OF A CONDITIONAL USE IN ACCORDANCE WITH SECTION 1609.01.F OF THE GENOA TOWNSHIP ZONING RESOLUTION TO ALLOW FOR HUMAN OCCUPANCY IN AN ACCESSORY BUILDING TO BE CONSTRUCTED AT 10518 SAGE CREEK DRIVE, GALENA, OHIO 43021, CURRENTLY ZONED RURAL RESIDENTIAL (RR) (BZA 2019-06).

Mr. Harmon noted that the legal notice for this hearing was printed and published on April 6, 2019, in the Delaware Gazette and posted at the Genoa Township Hall on April 5, 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
Exhibit “C” – Application
Exhibit “D” – Staff Report, dated April 23, 2019
STAFF REPORT (00:23:23): Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, gave an overview of exhibit D.

APPLICANTS' PRESENTATION (00:25:57): Christopher Stevens (applicant) and Steve Strawser (contractor) presented. Mr. Stevens stated that they would like to build a garage with a living area for his recently widowed father. He added that they will follow all the Sage Creek HOA deed restrictions and all building codes. Ms. Driskell asked what the interior plans of the living area would be. Mr. Stevens stated they have not started the full design phase, as they were waiting for the outcome of the hearing. Mr. Harmon asked if there are other accessory buildings in Sage Creek. Mr. Stevens replied yes, but not to the extent that they plan on constructing. Ms. Driskell asked what the square footage of the accessory building will be. Mr. Stevens stated about 900 square feet of living space and a two-car garage. Mr. Buhn asked why they are making the proposed building detached. Mr. Stevens stated it was cost prohibitive to construct an addition. Mr. Strawser stated the submitted site plan is not to scale and it was only included to show location of the proposed accessory building. Mr. Buhn asked if there were HOA landscape buffering requirements. Mr. Stevens stated that there are, and they will comply with the requirements.

PUBLIC COMMENTS (00:41:20): Mr. Harmon asked any individuals who were properly sworn-in to share their comments.

1. Chuck Bunting (10514 Sage Creek) stated he is on the Sage Creek HOA and design board. He testified that Sage Creek deed restrictions allow for an out building with living space.

BOARD DISCUSSION (00:45:40):

The Genoa Township Zoning Resolution Section 1609.01.F (No Accessory Building within any district shall be used for human occupancy except as a permitted Conditional Use if specified within a district). 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 proposed accessory building is on their lot, it is close to the house, and there were no objections from Police or Fire.

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

Yes. Per the testimony of the applicant.

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. Any new construction in Sage Creek is regulated by an HOA and design board.

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. There are other properties in the subdivision that have similar buildings.

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. It will utilize the same services as the principle structure.

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. It is a small improvement and Fire and Police did not have any issues.

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

Yes. The Sage Creek HOA and deed restrictions require landscaping and screening.

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 structure will have an attached garage.

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

Yes.

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

Yes. It is an accessory use to a residential structure.

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. It is meant as an in-law suite.

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

No.

Mr. Harmon stated that the HOA will be active in the planning and design process to ensure the accessory building will not be a detriment to surrounding properties and therefore does not have an issue with the proposal.
MOTION (00:52:00): Mr. Harmon moved, incorporating Exhibits A through D into evidence, to approve a Conditional Use in accordance with Section 1609.01.F of the Genoa Township Zoning Resolution for BZA (2019-06), application received March 27, 20:19, to allow for human occupancy of an accessory building on property at 10518 Sage Creek Drive, 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. Buhn.

Roll call: David Buhn, Yes; Dorothy Driskell, Yes; Mark Phillips, Yes; Teresa Yu, Yes; Mark Harmon, Yes. Motion carried.

Mr. Harmon announced the hearing closed at 7:55 p.m.

PUBLIC HEARING (00:54:04)
Mr. Harmon called the following hearing to order at 7:56 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.

ELIZABETH E. COY, REQUESTING APPROVAL OF A VARIANCE TO ALLOW A FENCE TO BE INSTALLED WITHIN A NO BUILD/NO DISTURB ZONE AT 7143 UPPER CAMBRIDGE WAY, WESTERVILLE, OHIO 43082, IN THE CAMBRIDGE CROSSING SUBDIVISION, CURRENTLY ZONED PLANNED RESIDENTIAL (PRD) (BZA 2019-07).

Mr. Harmon noted that the legal notice for this hearing was printed and published on April 6, 2019, in the Delaware Gazette and posted at the Genoa Township Hall on April 5, 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
  Exhibit “C” – Application
  Exhibit “D” – Staff Report, dated April 23, 2019

STAFF REPORT (00:55:38): Susan Dorsch, on behalf of the Genoa Township Development and Zoning Department, gave an overview of Exhibit D.

APPLICANTS’ PRESENTATION (00:57:43): Liz and Stephen Coy (applicants) presented. Ms. Coy stated that they were informed by the previous owners and realtors that they could install a fence when they purchased the home. She added that they received permission from the Cambridge Crossing HOA to build a fence before submitting for a zoning permit. Mr. Coy stated that there is a nearby home that currently has a fence in the no build zone. He continued and testified that Ms. Dorsch explained to him that the other homeowner had applied for a permit and were denied, but the fence was still installed. Mr. Coy stated that there are no trees on his property in the back yard. Ms. Driskell asked for clarification on the other house with a fence. Ms. Coy stated it is about four houses down and is located in the no build zone. Ms. Driskell asked if the applicants were aware that the other home owners had been denied a permit. Ms. Coy replied that the neighbor’s fence was there when they, the Coy’s, purchased their home and they did not know that the neighbor’s request to install a fence was denied.
PUBLIC COMMENTS (01:02:21): Mr. Harmon asked any individuals who were properly sworn-in to share their comments.

1. Eric Miller (5771 Chiddingstone Ln.) stated he was there representing the Cambridge Crossing HOA. He added that the HOA does not have a stance on the application, he was there in case there were any questions for them. Mr. Buhn asked if there were any other fences in the subdivision. Mr. Miller replied there are other compliant fences in the subdivision. He added that the HOA was not aware of the fence in the no build zone being non-compliant until two weeks prior to this meeting. Mr. Buhn asked if he was familiar with the no build zone. Mr. Miller stated he is now familiar with it. Ms. Yu stated that there is not enough room for the applicant to build anything in their rear yard due to the no build zone.

APPLICANT’S RESPONSE (01:04:52): Ms. Coy stated that their existing patio extends into the no build zone.

BOARD DISCUSSION/FINDINGS OF FACT (01:05:00): Mr. Harmon stated that he is frustrated that the applicant did their due diligence, but they received bad information.
Ms. Yu asked what the purpose of the no build zone is. Ms. Dorsch stated it varies for each subdivision and that some no build zones allow fences or certain types of fences. Mr. Harmon asked why the no build zone is located there. The Board discussed the reasons for no build zones. Ms. Dorsch stated that the no build zone is located on the owner’s private lot. Mr. Harmon stated it does not make sense on the subject lot because there are no homes near the rear of it. Ms. Dorsch replied that sometimes no build zones are utilized to protect trees, but she did some research and was not able to locate any trees on the subject lot in the past.
Mr. Harmon asked the Board if a fence at the subject property would change the character of the neighborhood, and then provided his opinion that it would not. Mr. Buhn stated that it would if all the houses along that no build zone would build a fence.
The Board discussed the repercussions of approval of the variance, including if it would make the nearby non-compliant fence compliant or would lead to other properties constructing fences in a no build zone. Mr. Buhn stated that the title surveys typically show easements. Mr. Harmon stated that the plot plan the applicants submitted as part of their application showed the no build zone.

The Board reviewed Duncan v. Middlefield, in regards to the variance requested from Section 919 to allow for installation of a fence in a no build/no disturb zone in a Planned Residential Development (PRD) Zoning District 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. They still have a rear yard, it is not preventing them from utilizing their rear yard.

b. The variance is substantial.

Yes. They are requesting to build a structure, as defined by the Zoning Resolution, in a no build zone.

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.

No. Ms. Driskell stated everyone else would then build a fence. Mr. Harmcmn replied that is not the criteria to make a Board of Zoning Appeals decision. He stated the criteria is whether the issue can
be resolved in another matter other than the variance. Mr. Harmon added that you can not base a
decision on future undetermined factors. Ms. Yu added that the reason for the variance is to keep
the dogs in the yard and provide an opportunity for a wheelchair bound individual to safely watch
their grandchildren without fear of the children leaving the yard. Mr. Phillips stated that the
property to the rear of the subject property may have purchased their home because of the no build
zone being in place. Mr. Buhn added that some people may have purchased their nearby properties
because of the no build zone providing an open view. Mr. Coy testified they have spoken with one
of the adjacent neighbors who stated they were also unaware of the no build zone and did not have
an issue with the proposed fence. Mr. Buhn asked if a no build zone means they can not put
landscaping in as a fence alternative. Ms. Dorsch stated they are allowed to plant landscaping in the
no build zone.

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

Yes. There were no comments from Police, Fire, and Maintenance.

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

Yes. The restrictions were in place at the time they purchased the home, however they were given
bad information by others that stated there were no restrictions for a fence in the rear yard.

f. The property owner’s predicament cannot be feasibly obviated through a method other than the
variance.

No. The property owners can still utilize the yard, just not in the manner in which they prefer.

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

Yes. There is a no build zone for the purpose of no structures being located in that area to preserve
the greenspace.

**MOTION (01:24:27):** Mr. Phillips moved, incorporating Exhibits A through D into evidence, to approve a
Variance from Section 919 of the Genoa Township Zoning Resolution for BZA 2019-07, application
received March 29, 2019, to allow for installation of a fence in a no build/no disturb zone on property
known as lot #6663 of the Cambridge Crossing Subdivision, 7143 Upper Cambridge Way, Westerville OH,
43082, zoned Planned Residential Development (PRD).

Motion was seconded by Ms. Driskell.

Discussion: Ms. Driskell stated she believes some of the property owners bought their properties
knowing that the no build zone was there and that there would be no structures in that area. Ms.
Dorsch clarified that the purpose for a no build zone is to preserve the natural features of an area and
that the applicants testified that there are no trees or other natural features in their rear yard. Mr.
Harmon stated that the applicant’s options are very limited in their rear yard due to the no build zone.

Roll call: David Buhn, No; Dorothy Driskell, No; Mark Phillips, No; Teresa Yu, Yes; Mark Harmon, Yes.
Motion failed.

Mr. Harmon announced the hearing closed at 8:30 p.m.
ELECTION OF OFFICERS:
Mr. Harmon opened nominations for officers.

CHAIR NOMINATION: Mr. Phillips moved to nominate Mr. Harmon as chair of the Board of Zoning Appeals for 2019-2020.

Motion was seconded by Ms. Driskell.

Roll call: David Buhn, Yes; Dorothy Driskell, Yes; Mark Phillips, Yes; Teresa Yu, Yes; Mark Harmon, Abstain. Motion carried.

CLOSE NOMINATIONS: Mr. Harmon moved to close nominations for Chair.

Motion was seconded by Ms. Yu.

Roll call: David Buhn, Yes; Dorothy Driskell, Yes; Mark Phillips, Yes; Teresa Yu, Yes; Mark Harmon, Abstain. Motion carried.

ELECTIONS: Mr. Harmon moved to elect chair as nominated for 2019-2020.

Motion was seconded by Ms. Driskell.

Roll call: David Buhn, Yes; Dorothy Driskell, Yes; Mark Phillips, Yes; Teresa Yu, Yes; Mark Harmon, Abstain. Motion carried.

VICE CHAIR NOMINATION: Mr. Harmon moved to nominate Mr. Phillips as vice chair of the Board of Zoning Appeals for 2019-2020.

Motion was seconded by Mr. Buhn.

Roll call: David Buhn, Yes; Dorothy Driskell, Yes; Mark Phillips, Abstain; Teresa Yu, Yes; Mark Harmon, Yes. Motion carried.

CLOSE NOMINATIONS: Mr. Harmon moved to close nominations for vice chair.

Motion was seconded by Ms. Yu.

Roll call: David Buhn, Yes; Dorothy Driskell, Yes; Mark Phillips, Abstain; Teresa Yu, Yes; Mark Harmon, Yes. Motion carried.

ELECTIONS: Mr. Harmon moved to elect vice chair as nominated for 2019-2020.

Motion was seconded by Ms. Driskell.

Roll call: David Buhn, Yes; Dorothy Driskell, Yes; Mark Phillips, Abstain; Teresa Yu, Yes; Mark Harmon, Yes. Motion carried.
ADJOURNMENT
Mr. Harmon moved to adjourn this meeting at 8:34 p.m. Motion was seconded by Mr. Phillips. All voted yes. Motion carried.

Meeting was adjourned at 8:34 p.m.

PREPARED BY:

Paul Benson, Zoning Secretary

6/14/2019
Date Prepared

BOARD OF ZONING APPEALS APPROVED:

Mark Harmon, Chair
6/25/19
Date Approved by the Board of Zoning Appeals

OTHERS PRESENT AT MEETING

Christopher Stevens
Daniel Mickley
Eric Miller
Stephen and Liz Coy
Courtney Wade
Steve Strawser
Craig Bolster
Chuck Bunting

10518 Sage Creek Dr.
5055 Red Bank Rd.
5771 Chiddingstone Ln.
7143 Upper Cambridge Way
10 Northwest St. Ostrander
4093 Patrick Rd. Sunbury
7109 Upper Cambridge Way
10514 Sage Creek Dr.

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