

**MEDINA TOWNSHIP
BOARD OF ZONING APPEALS
PUBLIC HEARING
JULY 18, 2007**

PUBLIC HEARING

Vice Chair West called the public hearing of the Medina Township Board of Zoning Appeals to order at 7:38 p.m. All Board members were present except for Horst Becker, Ed Morel and John Bostwick. Alternate member Steve Euse sat in on the Board. Vice Chair West introduced the Board members and explained the public hearing procedure to those present. He also offered anyone who had a variance request before the Board this evening to have their request tabled until the Board's next regularly scheduled public hearing due to the fact there was not a full 5 member Board.

VARIANCE REQUESTS

Usher variance request-5311 Chaucer Dr.

Vice Chair West reviewed the file. Vice Chair West stated he would be abstaining from the discussion and vote on this request but would orchestrate the procedures for this hearing. Secretary Ferencz read the application. The applicant/ property owner is Lee Usher. The Present Zoning is R-2. Previous Variance Requests-None. The variation requested this evening: No number o.k. per Bill Thorne. R-2 District-General Regulations F. Requesting fence in the open space.

The reason for the variance request stated, "Privacy location of the home, asking for 2 sections 8'x6'L-shaped fence.

Attached was a letter dated May 29, 2006 from the Canterbury Pointe Homeowner's Association, which read:

Dear Mr. Usher:

The Canterbury Pointe Board of Trustees has received your request...that you be allowed to install a fence in your yard. On the advice of the lawyer for the Association, we cannot consider your request to construct a fence until you have received written permission from both the Medina Township Zoning Commission and the Township Trustees and those permits are presented to us for review. We recommend (and this is only a recommendation) that if you make an application to the Township, you limit the length of your fence to 12' and the height to 6', as we believe this will have a better chance of passing through Township regulations...I realize this sounds complicated given the fact that we recently reached a settlement with the Township. Please understand this settlement was specifically limited to currently existing fences and decks and we have no way of knowing whether or not the Township will permit additional fences and decks unless and until applications are made on a case by case basis."

The applicant, Lee Usher was sworn in. He stated he would go forward with his variance request this evening. He added he really did not have any further comments to make other than what was written on the application.

Mrs. Strogin, Chair of the Zoning Commission was sworn in. She stated that there was a lawsuit dealing with Canterbury Pointe, because many of the property owners were putting up fences and decks into the open space. The surveyor who calculated the open space had given wrong figures. The result of the suit was that existing i.e. decks, fences could remain, but any new structures would need to come before the Township to seek approval.

Mrs. Strogin suggested a blanket variance for those living in this development. She added that such a variance was granted for sheds in Forestview Estates to be placed 10 ft. off the side and rear property lines. Unless the Board wants to hear variance requests for relatively small sections of fencing to be put up to provide privacy for those residents who request them, a blanket variance for those living in Canterbury Pointe would probably be the best way to handle this situation.

Mr. Dufala agreed and added that all the property around these cluster units is commonly owned by the Association. The Board agreed.

Mr. Dufala made a motion to grant a blanket variance for two privacy fence sections not to exceed 6 ft. in height and the length not to exceed 1 ft. from the concrete of the existing patio for the property owners in Canterbury Pointe. It was seconded by Mrs. Karson.

The Board then reviewed the Duncan Factors.

1. Will the property yield a reasonable return or a beneficial use without the variance request? The Board stated yes.
2. Is the variance substantial? The Board stated yes.
3. Whether the essential character of the neighborhood would be substantially altered or adjoining property owners suffer a substantial detriment if the variance is granted? The Board stated no.
4. Will the granting of the variance adversely affect the delivery of governmental services? The Board stated no.
5. Did the property owner purchase the property with the knowledge of the zoning restrictions? The Board stated probably.
6. Whether the problem can be solved by some other manner other than the granting of the variance? The Board stated no.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board stated yes.

ROLL CALL-Dufala-yes, Karson-yes, Euse-yes, West-abstain

Jirka variance request (5289 Windchime Dr.)

Vice Chair West reviewed the file. Secretary Ferencz read the application. The application read as follows: The applicant/property owners are John and Andrea Jirka. The address of the property requesting the variance is 5289 Windchime Dr. Present Zoning-SR. Previous variance requests-None. The variation requested is of Section 402.3 F. Rear Yard Setback-35 ft. Needs a 25-ft. variance.

The reason for the variance stated, "The desired shed location will be integrated into the landscape design and it is the least intrusive into the sight lines for all the neighbors. (It is screened from the view of all neighbors) If it were to be located according to the required setbacks, it will be in full view of adjacent neighbors and the street. Was told by a neighbor that no permit was needed.

As part of the application there was an e-mail to the Morning Song Farms Architectural Review Board, Mr. John Hershberger from Hershberger homes which read,

John:

I spoke with you recently regarding a request for your approval for a shed that we are building. I am attaching a copy of the dimensional drawing and a site plan that shows the proposed relocation.

The new location will be 35' from the back property line and 20' from the side property line

It is a saltbox style. The front roof pitch is 8/12

The vinyl siding is an exact match to our house

The roof shingles will match our house also

Please let me know if you need any additional information.

Along with this email were attached drawings and documents by the applicant and Mr. Hershberger (Architectural Review Board for Morning Song Farms) approving the shed and its location on 6/29/07. There was a revision to the location of the shed on 7/2/07 showing the shed 10-ft. from the rear property line and that too was approved and signed off on by Mr. Hershberger.

The applicants, John and Andrea Jirka were sworn in. They stated they would like to go forward with their variance request before the Board this evening. Ms. Jirka began by stating that they were unaware of any Association for their development or the required setbacks. Ms. Jirka stated that they chose the location because the shed could be incorporated into the landscaping and no one would have to look at it except them. It was out of the sight line the neighbor's next door and behind the garage to the neighbors behind them. There is landscaping all around it.

Mr. Euse asked how far the structure was from the rear property line. Ms. Jirka stated a little over 10 ft.

Ms. Cecelia Goe (Marks Rd.) was sworn in. She stated that she and her husband lived behind the Jirka's and the shed and landscaping were beautiful. She added that applicants

did not know about the setback requirements. Ms. Goe continued that it would be a shame to have them move the shed as it was an aesthetically pleasing structure and enhances the area.

Vice Chair West stated he wanted to go on the record as not rejecting or accepting that Mr. Hershberger has the authority to be the Architectural Review Board of this particular subdivision. He added however, that this shed does meet the requirements and restrictions of the homeowner's association.

Mrs. Karson made a motion to approve a 25-ft. rear yard setback variance for the existing 10' x 14' shed located at 5289 Windchime Dr. It was second by Mr. Euse.

The Board then reviewed the Duncan Factors.

1. Will the property yield a reasonable return or a beneficial use without the variance request? The Board stated yes.
2. Is the variance substantial? The Board stated yes.
3. Whether the essential character of the neighborhood would be substantially altered or adjoining property owners suffer a substantial detriment if the variance is granted? The Board stated no.
4. Will the granting of the variance adversely affect the delivery of governmental services? The Board stated no.
5. Did the property owner purchase the property with the knowledge of the zoning restrictions? The Board stated yes.
6. Whether the problem can be solved by some other manner other than the granting of the variance? The Board stated possibly.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board stated yes.

ROLL CALL-Karson-yes, Euse-yes, Dufala-yes, West-yes.

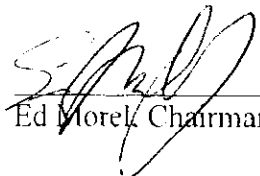
Minutes

The minutes to the BZA's June 20, 2007 were tabled for approval as they were just passed out this evening.

Having no further business before the Board, the hearing of Board of Zoning Appeals was officially adjourned at 8:35 p.m.

Respectfully Submitted,

Kim Ferencz
Zoning Secretary


Ed Morek, Chairman

