

**MEDINA TOWNSHIP  
ZONING BOARD OF APPEALS  
PUBLIC HEARING  
MAY 15, 2019**

**PUBLIC HEARING**

Acting Chairperson West called the public hearing of the Medina Township Zoning Board of Appeals to order at 7:00 p.m. Permanent Board members West and Basilone were in attendance. Alternate member Gray sat in for a quorum. Mr. West asked for the record if the applicants were willing to move forward with a 3 member Board. If not the hearing could be tabled until there would be a full Board present. Both applicants stated they would like to move forward with the hearing. Mr. West then explained the procedures of the hearing.

**Franceseangeli variance request-2990 Plum Creek Parkway**

Secretary Ferencz read the application into the record. The applicant is Michael Franceseangeli. Address of the property requiring the variance - 2990 Plum Creek Parkway. Present Zoning - UR. Previous variance request(s) - No.

Variance being requested & Explanation of Requested Variances:

Section 401.3D. Minimum Front Yard Depth 100 ft. exclusive of road right-of-way. Accessory building will be 28' from the right-of-way. Requesting a 72' variance.

5A. How the strict application of the provision of the Resolution will result in practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the Resolution?

My wife and I purchased this home in October 2018. We are asking for a 72' variance as we do not have a blank slate to build this 32'x36' accessory building. The majority of our property is wooded and wet, descending and has a creek running through the middle of it. We have an existing access driveway with a shed that is rotting as it was built in 1989. Please see attached Photos A, B, showing the heavily wooded lot with the creek running through the property. Photos C,D,E,F show the topography of the property. Photo G shows the buildable, flat, land with existing shed.

5B. What exceptional circumstances or conditions apply to this property that do not generally apply to others in the same district?

As you move from north to south on Plum Creek towards Hamilton, you will notice the houses start to sit closer and closer to the road right-of-way. This is a result of the topography, the creek gradually ascending further and further east, and the heavily wooded wetland. Our property was surveyed back in 2001 and the nearest corner of our garage sits 94' from the right-of-way. As soon as you walk next to the garage, you notice

a drastic decline that is not buildable. Our neighbor to the right (north of us) sits almost double that away from the right-of-way and our neighbor to the south of us sits even closer to the right-of-way. Please see Photos B, H, I, J.

5C. Why the granting of the variance will not be detrimental to the public interest or to property or improvements in such district and will not materially impair the purpose of the Resolution.

We bought this house knowing it was rented for four years and that certain aspects were neglected along the way. When you come out and see the property, you'll notice the shed and why they ended up placing it in that location. It is the only remaining flat, buildable piece of land. We want to maintain the integrity of the property as much as we can and add an accessory building that will not interfere with any governmental services or neighbors and that will be aesthetically pleasing to passersby. Please see Photos G, K, L and M. Orange snowplow makers will be in the yard to show the dimensions of the building 34x36 with 8' lean-to.

Secretary Ferencz stated she received a letter that was in support of granting the variance for Mr. Francesangeli.

The applicant, Mr. Francesangeli was sworn in. Mr. West asked the size of the existing shed. Mr. Francesangeli stated it was a 10'x12' accessory building and it sits 53 ft. from the road right of way. Mr. West stated it appears the proposed shed will be closer to the street than the existing shed. Mr. West then asked why the shed could not be moved back behind where the existing shed is located. Mr. Francesangeli stated there is a drastic drop in the property behind the existing shed. It would require ten's of thousands of dollars in grading and would change the flow of the creek on the property. Mr. West asked how far the existing shed was from the garage. Mr. Francesangeli responded, roughly 34 ft. from the garage.

Mr. Basilone stated he went out at the property and did not feel the drop in the terrain was that drastic though trees would need to be removed. Mr. Basilone then asked if the existing shed was going to remain. Mr. Francesangeli stated no, the existing shed would be removed. The plan was to align the shed with the driveway. Mr. Basilone stated the shed could be moved back 20 ft. to the west. A few trees would need to be removed without a substantial financial burden. Mr. Francesangeli stated the removal of trees would be a financial burden for him.

The neighbor, Paul Hamm (3006 Plumcreek Parkway) was sworn in. He stated he was the neighbor to the south and would be the most affected. Mr. Hamm stated the proposal Mr. Francesangeli has submitted would actually increase his property value because the new structure is designed to have a better architectural flow with the Francesangeli's house as well as ours. Due to the severe slope of the Francesangeli property, the location

of the proposed building not only makes sense for its location but it would be replacing an older aging structure thereby beautifying the property.

Mr. Basilone stated he appreciated Mr. Hamm's comments especially because he was the neighbor who would be directly affected. However the shed could be moved back and a lesser variance requested; but in order to build the shed a variance would still be needed. Mr. Basilone continued that some trees would need to be removed but it should not be that great of an expense as the trees were not that large. Mr. Francesangeli responded adding \$3000-\$5000 more on top of the cost of the building would be a financial burden for him.

Mr. Hamm commented that where those trees are that would need to be removed; the ground is very, very wet. To remove them would then even cause more water issues because the trees would no longer be taking up the moisture. Mr. Basilone stated drain tile could be put in. Mr. Hamm stated that would be an additional expense to the Francesangeli's.

Mr. Basilone asked if the front yard setback was always 100 ft. Ms. Strogan, Chair of the Zoning Commission was sworn in. She stated in the 1980's the front yard setback was 80 ft. In 2002 it was changed to 100 ft. when the size of the lots were increased. Mr. Basilone stated there were many houses in that area that did not meet the 100 ft. setback.

Mr. Francesangeli stated there was no variance for the existing shed. He added the existing shed is in poor shape and not large enough to store the equipment needed to take care of almost 2.5 acres. Mr. Francesangeli then stated to move the barn back is where the property drops and would also require the removal of trees; bringing in a ton of fill dirt and several thousands of dollars.

Mr. West stated that looking at the topography where the existing shed is and the area behind it...Mr. Francesangeli interjected he did not know the date of when the topography of the land was shot by the County; but over time the water has eaten away at the property and the property drops lower and lower.

Mr. Basilone stated the proposed shed could be moved over to the west. A few trees would need to be removed but then it would be aligned with the location of the existing shed. Mr. Francesangeli stated 6 trees would need to be removed. Mr. Basilone stated the other idea is to reduce the size of the proposed shed if the cost of removing the trees would be too restrictive. Mr. Francesangeli stated he was trying to increase his property value and build a structure the Township could be proud of. Mr. Francesangeli added they also have a culvert that separates his property from the center of the street so its not like traffic is going to be close to the building.

Ms. Strogin stated she checked the file on this property and there is no permit for any shed. It was built without any permits issued. She commented it was a small shed and now the owner wants to put up something 3 times larger that close to the road.

Mr. Hamm stated he would be the adjoining property owner most affected and he did not have an issue with the variance request. It would be an improvement.

Hearing no further comments by the Board members, the Board considered the Duncan Factors:

1. Will the property yield a reasonable return or whether there is a beneficial use without the variance? The Board stated yes.
2. Is the variance substantial? The Board stated yes, very.
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 the adjoining neighbor said he had no issue with the variance and even said it would be an improvement to the area.
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 the evidence would indicate that the proposed building could be moved back; so perhaps a smaller variance could be considered. However, to do that would require additional cost and additional work in the side yard but in the end a variance would still be required.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board stated what was being proposed was a significant improvement to what presently exists but whether it would uphold the spirit and intent of the Zoning Resolution of 100 ft. setback was questionable.

Mr. Basilone stated regarding the spirit and intent of the Resolution; the first three properties did not meet the setback requirement. Mr. West stated yes, but those properties were existing.

Ms. Gray stated she thought the request was substantial. Mr. Basilone stated the facts that the shed could never be built without a variance, the issue of the existing homes not being in compliance within the setback; and the neighbor supporting the variance he could consider granting the variance request.

Mr. Basilone made a motion to grant a 72 ft. front yard setback variance for the construction of a 32'x36' accessory building at the property located at 2990 Plum Creek Parkway as presented. It was seconded by Mr. West for the purpose of a vote.

ROLL CALL- Basilone-yes, Gray-yes, West-no.

The variance request was granted.

**Paintiff variance request-4650 Foote Rd.**

Secretary Ferencz read the application into the record. The applicant is Richard E. Paintiff. Address of the property requiring the variance - 4650 Foote Rd. Present Zoning - UR. Previous variance request(s) - Yes.

Variance being requested & Explanation of Requested Variances:

We applied previously for a variance for our existing garage to add on to the back of it. Request was accepted. Section 403.3.E. Minimum Side Yard Setback-15ft. Barn will be 4' from property line. Requesting an 11 ft. variance.

The barn is being built as future use for animals (mini donkeys) but will also be used as storage. The location of the building is at the peak of the property in our back, wooded lot. The location requested would be 4 ft. off the property line. This location butts up to a wooded area on the north side of the property line. This location also helps in the needing to clear more trees.

The applicant, Mr. Paintiff was sworn in. Mr. West asked if there was a topography map? Mr. Paintiff stated he did not provide one. Mr. Paintiff stated the reason for the location of the barn is so that it would sit back in the wooded area. The property is divided in the middle between the lawn and the woods. We would like the building to be in the woods and not the lawn area so it would not be visible to anybody. At the wood line is the high point of the property, which is where he would like to lay out the barn. At this location the property then tapers down to a very wet area and is not suitable to build on in his opinion. Mr. Paintiff stated he took pictures of the property. Mr. West asked if they were in a format that could be made part of the record. Mr. Paintiff stated no, they were on his phone. Mr. West remarked if that is the case the Board would not look at them.

Mr. Basilone stated he walked the property. He commented that Mr. Paintiff apparently is in the construction business with the heavy equipment that was on the property but he felt the barn could be moved farther away from the property line. He added he saw the area

that Mr. Paintiff cleared to put the barn. Mr. Paintiff stated he had already poured a pad where he wanted the barn to be located. Mr. Basilone stated if the barn were moved it would be more in line with the existing accessory building. Mr. Paintiff said it was his intention to tear that building down.

Mr. Basilone then asked how far the existing building was to the property line. Mr. Paintiff stated he did not know but believed it was closer to the property line than what was permitted. Mr. Basilone stated the new building could be built to meet the zoning requirement of 15 ft. from the side property line. The building could be tucked in the woods and Mr. Paintiff would still be able to do what he wanted to do with his property.

Mr. West asked the applicant why he could not move further from the property line. Mr. Paintiff responded because he would lose valuable real estate. I have an alleyway that goes through the tree line; which veers off to the north where I want to build the building. If I move that up then I lose that space in front of the building where I would be able to turn equipment around. Also at that point the property does taper down into a wet area. He continued the building is the same size as the pad that was built. From the west side there is no access because the property tapers off so much you can't get to the other side. The building would be built where it is level but from that point on it was probably a 3 to 1 slope to the west. If I were to build it at the 15 ft. setback there would be no way to access to the back of the building.

Mr. West asked why would one need access to the back of the building. Mr. Paintiff stated it would be dead space. I would have to cut the tree line out and make accessibility through the woods on the backside of the building to get to it. He added he put the road in to the area where he wants to put the building,

Hearing no further comments by the Board members, the Board considered the Duncan Factors:

1. Will the property yield a reasonable return or whether there is a beneficial use without the variance? 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 yes.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board stated yes this was a large variance request for a building that could be placed further to the south and meet the code.

Mr. Basilone made a motion to grant an 11 ft. side yard setback variance to construct a 20'x40' barn 4 ft. from the property line for the property located at 4650 Foote Rd. as presented. It was seconded by Mr. West for the purpose of calling for a vote.

ROLL CALL- Basilone-yes, Gray-yes, West-no.

The variance request was granted.

Having no further business before the Board, the hearing was officially adjourned at 7:58 p.m.

Respectfully Submitted,

Kim Ferencz, Zoning Secretary



William West, Acting Chairman