

**MEDINA TOWNSHIP
ZONING BOARD OF APPEALS
PUBLIC HEARING
AUGUST 21, 2019**

PUBLIC HEARING

Vice Chairperson Blakemore called the public hearing of the Medina Township Zoning Board of Appeals to order at 7:00 p.m. Permanent Board members West, Blakemore and Basilone were present. Morel and Watts were absent. Alternate member Gray sat in on the Board. Vice Chair Blakemore then explained the procedures of the hearing. He also offered the applicant to be heard in front of a full 5-member Board. The applicant stated she wanted to move forward with her appeal this evening.

Payne variance request-4170 Ivory Rose Ct.

Zoning Inspector Ridgely read the application into the record. The applicant is Wendy Payne. Address of the property requiring the variance-4170 Ivory Rose Ct. Present Zoning-UR-PUD. Previous variance request(s)-No.

Variance being requested & Explanation of Requested Variances:

Section 403.4.D.4- 10' minimum accessory use rear yard setback. Shed will be located 5' from property line. Requesting a 5' variance. Section 403.4.D.5- 10' minimum side yard setback. Shed will be 5' from the line. Requesting a 5 ft. variance.

One half of back yard has significant sloping due to the wetlands. The slope and wetness of the wetlands conservation side of the yard is not feasible for a shed. The remaining dryer and flat/level section of the yard is left and allowing us the 5' variance will leave us with more usable yard.

ZI Ridgely stated also attached was a letter from the HOA. (See file).

The applicant, Ms. Wendy Payne was sworn in. She stated she was desperate to have a shed however to be in compliance with the setback requirements would place the shed in the middle of the yard and very close to the existing stamped, concrete patio. Therefore she would like to put it back to the corner of the yard as far back as possible, The result would be more usable flat land for the use of a yard then having the shed right in the middle of the property.

Vice Chair Blakemore stated if the 10 ft. setbacks were upheld how far that would put the shed to the stamped concrete patio? Mr. Derrick Payne (4170 Ivory Rose Ct.) was sworn in. Mr. Payne stated that did not know how close it would be; he took the ten foot measurement from the fence which was right on the property line. The shed would really be in the middle of their yard. Ms. Payne interjected if the setbacks were upheld the shed would be 5 ft. from the stamped patio.

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Mr. West asked the size of the shed? Ms. Payne answered the largest shed they could build was 12x12. She added she and her husband don't know if they will build a 10x12 or 12x12 shed at this time. Mr. Payne added it was the requirement of the homeowners association that the shed has to match the look/materials of the home. Mr. Payne stated the neighbors next to them and behind them were here this evening on behalf of their variance request.

Mr. Payne continued that there was a drainage easement on the property but the fence was there and he would have to remove sections of his fence in order for one to work on the drain. The shed would be built on a wooden foundation that could be moved if access was required.

Mr. Basilone asked if Mr. Payne was building the shed himself. Mr. Payne said no, he was hiring someone to build it i.e. Alpine Structures. Mr. Basilone stated if the shed is built on skids so to speak and it can be moved so it is not a permanent structure...is that within the intent of the variances, because the shed can be moved? Do you even need a variance if it can be moved?

Ms. Stogin, Chair of the Zoning Commission was sworn in. She stated there are a lot of things that supposedly can be moved and are never moved. You have to have a permit to put the shed on the property. The shed has to meet the setbacks. Even the letter from the HOA...Mr. Basilone asked, just answer my question. If the shed can be moved does it need a variance? Ms. Stogin answered yes because it does not comply with the zoning code requirements. The reason for the setback requirements is so that people do not shove...Mr. Basilone stated he understood the setback requirements. If it is a moveable shed does it need a variance and your answer was yes. Mr. West stated if it needs a building permit it must comply with the zoning code. ZI Ridgely added anything with electricity needs a building permit.

Mr. Basilone stated Exhibit A states that lot 10 is vacant. Is it still vacant? Ms. Payne stated no it is not anymore.

Mr. Joshua Jones (4162 Ivory Rose Ct.) was sworn in. He stated that he was the neighbor right next door. Mr. Jones stated he had no problem with the variance request.

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 it is 50%.

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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?

Mr. Basilone stated this was a fairly new development no? Mr. Payne said yes. If you grant a variance in a brand new development; how in the future could you deny a request of any other house in that development? Mr. West stated every case stands on its own merit. Mr. West stated he would like to look at the unique feature of a particular piece of property i.e. the topography and what we have is topography that slides down to the south...Mr. Basilone stated then one variance granted does not set a precedent for the entire development. Mr. West stated that was correct.

Mr. Payne stated the reason we are requesting a variance is because of the wetlands on that side.

Vice Chair Blakemore stated then it appears the answer to Duncan Factor #7 was yes. Mr. West stated that was his opinion based on the topography of the land.

Ms. Strogan stated if the applicants built a 10x12 shed and move it this way they would save 2 ft. and moving it up to the 10 ft. setback requirement would then only require a 3 ft. variance. She added that the Township already substantially decreased the setbacks in the UR-PUD zoning district so she found it hard to believe a variance should be warranted given the new setback requirements.

Mr. West made a motion to grant a 5 ft. rear yard setback variance and a 5 ft. side yard setback variance to erect a 10x12 or 12x12 shed for the property at 4170 Ivory Rose Ct. as presented. It was seconded by Ms. Gray.

ROLL CALL- West-yes, Gray-yes, Basilone -yes, Blakemore-yes.

The variance request was approved.


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The minutes to the Boards to the July 17, 2019 hearing were approved as amended.

Having no further business before the Board, the hearing was officially adjourned at 7:26 p.m.

Respectfully Submitted,

Kim Ferencz, Zoning Secretary



Carey Blakemore, Vice Chairperson

Ed Morel, Chairperson