

**MEDINA TOWNSHIP  
ZONING BOARD OF APPEALS  
PUBLIC HEARING  
DECEMBER 18, 2019**

**PUBLIC HEARING**

Chairperson Morel called the public hearing of the Medina Township Zoning Board of Appeals to order at 7:00 p.m. Permanent Board members West, Watts, Blakemore, and Morel were present. Mr. Basilone was absent. Ms. Gray sat in for a full 5-member board. Mr. Morel then explained the procedures of the hearing.

**Botsick variance request – 5101 Crimson King Ct.**

Secretary Ferencz read the application into the record. The applicant is Michael Botsick. Address of the property requiring the variance – 5010 Crimson King Ct. Zoning - RR. Previous variance request(s) - No.

Variance being requested & Explanation of Requested Variances:

Section 403.4.D.4. Minimum Side Yard Setback-10 ft. Requesting a variance for garage addition to be 2'-9" from side property line.

Over the years we have inherited historical vehicles, these vehicles have been in the family for generations and require inside storage. It is our desire to house these vehicles at our residence. We currently rent off-site storage to house and protect these vehicles from the elements. We also have concerns over reports of occasional theft and vandalism of vehicles in the driveway. We are also considering the purchase of an electrical vehicle that ideally requires inside parking to provide electrical services.

The requested variance does infringe into the 10' minimum side yard setback but does not affect any governmental services to surrounding properties. Natural gas, water, and sewer are not in the location of the requested addition. Electrical service is currently routed under the existing garage. The addition does not created any additional hardship. Granting of this variance will be transparent once completed, as the new construction will match the current architecture and present as part of the original construction. The adjoining property owners will not suffer a detriment, concerning the East side of the home where the requested addition will be, there remains 2'-3" of yard to the property line plus the standard 13' of the East residents property between homes. The structures will not create any additional noise or hardship to the residents in access around the homes.

The applicant, Mr. Michael Botsick was sworn in. He stated he currently rents a building in Olmsted Falls.

Chairman Morel stated this was a large variance. Mr. Botsick stated the pictures don't really depict the true concept but the intent was to look as if it was an existing double and single door construction. When it is finished it will look like it was part of the original construction. Mr. Botsick added the neighbors are not present this evening but he did talk to them and they have no issues with the proposal.

Mr. Blakemore asked how wide the addition would be? Mr. Botsick answered 10'-3". Mr. Blakemore asked how deep the addition would be? Mr. Botsick responded 41 ft. total, which is the depth of the right side of the garage currently.

Chair Morel stated it was his opinion that the addition would be way too close to the property line. He commented, "if your neighbor did the same thing the houses would be 5 ft. apart." Mr. Botsick stated his neighbor's house is currently 13 ft. from the property line and ours is 13 ft. so there is 26 ft. between the two properties.

Mr. Blakemore asked if there were any trees or bushes in between the properties or on or near the property line? Mr. Botsick stated no there is not. He added he did consider putting a separate building in the rear of the property and putting a drive along the side but chose not to for consideration of the neighbors and resale value in the future.

Chair Morel asked, what about taking the existing garage and extending it straight back? Mr. Botsick stated the garage was two-car deep on the left side. That's the reason for the variance request so he could make both sides of the garage two-car deep. He added he also had a small pond with a waterfall behind the garage now and he didn't want to have to pull three cars deep out. Chair Morel interjected that something had to give being the lot was only 90' x 200'.

Mr. Watts and Ms. Gray stated they agreed with Chair Morel's opinion that the variance request was huge and would not meet the character of the neighborhood.

Mr. West stated that he understood there was a change to the rear yard setback in the UR District to 10 ft. He added he understood why Mr. Botsick wanted to build an addition to get his vehicles under cover but if we grant this variance we might as well get rid of the side yard setback provisions in the zoning code. There is no justification for the variance based on the Duncan Factors.

Ms. Strogan, Chair of the Commission was sworn in. She stated for the record that the rear yard setback in the UR District was changed to 10 ft. only for accessory uses i.e. sheds, pools etc. The principal structure has a 40 ft. rear yard setback requirement and this is an attached garage; it also had to have a 40 ft. setback. The reason for the 40 ft. setback was to make sure emergency services could have access as well as not to make the neighborhood look like Parma.

**Page 3 BZA 12/18/19**

Ms. Strogin commented that she too felt there was no justification for the variance request. The vehicles are being stored off-site now so there is no need for the variance.

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 yes.
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 the yes.
6. Whether the problem can be solved by some other manner other than the granting of the variance? The Board stated the garage maybe could be extended out the back but other "items" in the back yard may have to be removed.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board stated no.

Mr. West made a motion to deny a 7'-3" side yard setback variance for the construction of a garage addition for the property located at 5101 Crimson King Ct. It was seconded by Mr. Watts.

ROLL CALL-West-yes, Watts-yes. Blakemore-yes, Gray-yes, Morel-yes.

The variance was denied.

**Potopsky variance request – 4193 Grande Blvd.**

Secretary Ferencz read the application into the record. The applicant is Pat Potopsky. The address of the property requiring the variance is 4193 Grande Blvd. Zoning - Previous variance request(s) - No.

Variance being requested & Explanation of Requested Variances:

Section 406.3.D.1.c.2 Minimum Rear Yard Setback-30 ft. Requesting 9 ft. variance to be at 21 ft. from rear line.

Section 406.23c2. Requesting a 9' depth of wall fence made of Hardy-Board that will match the exterior building. The wall fence will be blocking the view of coolers. The wall will be approximately 7'9" in height. This will still leave 21' of distance to the back property line. The wall fence will actually still be 6' inside the parking setback of 15' from the property line. Landscaping of tall arborvitaes will be planted along the back of the property (north side) to block the view of the back of the building. Indicated on site plan.

The 30' rear setback makes it difficult to put anything behind the building as all tenants in every business do as a common practice. Rather than just set items behind the building deemed for takeaway/trash/coolers/kegs/boxes/oil bins etc. I would prefer to block all of this with a wall that matches the exterior of the building. The actual location of the building and full 360 degree surrounding of streets and building make it impossible to have any types of the above mentioned items to be set aside. I believe granting this variance will clean up the back of the building, look cleaner, and the addition of the landscaping will really spruce it up. Indicated on site plan.

The Board stated they would like to treat each variance request separately.

The applicant, Mr. Pat Potopsky was sworn in. Mr. West asked for clarification if the variance request was for a 9 ft. rear yard setback? Mr. Potopsky stated that was a clerical error. It should be 10 ft. The building is approximately 31.6 ft. off the property line. Therefore we would be infringing 9 ft. in off of 31 ft. with a fence.

Mr. Blakemore stated for clarification there is 10 ft. between the building and the fence? Mr. Potopsky answered yes. Mr. Blakemore stated the variance then is for 9 ft. Mr. Potopsky stated yes, that is correct. Mr. West stated the rear yard setback requirement is 30 ft. His building is 31 ft. back and he is going to require a 10 ft. depth back on the fence so therefore a 9 ft. variance.

Mr. Blakemore stated the fence is the entire length of the building? Mr. Potopsky yes, except where there is means for egress. I believe there are 3 means of egress.

Ms. Strogan interjected that any fence height over 6 ft. needs to get approval from the County.

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 the yes.
6. Whether the problem can be solved by some other manner other than the granting of the variance? The Board stated no not really. Would leave about 1 ft. for storage, which is not practical.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board stated yes. The request was very reasonable.

Mr. Blakemore made a motion to approve a 9' rear yard setback variance for a proposed wall fence along the length of the building and not to block any egress for the property located at 4193 Grande Blvd. It was seconded by Ms. Gray.

ROLL CALL-Blakemore-yes, Gray-yes, Watts-yes, West-yes, Morel.

The variance request was granted.

Ms. Gray asked more specifics about the nature of the establishment. Mr. Potopsky stated there would be a kitchen and the main focus would be wine with a smaller beer area like that at the other two Brew Garden's he operated.

The next variance request is of Section 502.A-Off Street Parking Space Minimum width-10 ft.

**Potopsky variance request – 4193 Grande Blvd.**

Secretary Ferencz read the application into the record. The applicant is Pat Potopsky. The address of the property requiring the variance is 4193 Grande Blvd. Zoning - Previous variance request(s) - No.

Parking Width request for variance. Section 503.01.d

Requesting a variance on the width of the parking spots from 10' to width below. This will maintain the minimum of 156 spots required.

Row 1 (21) spots will be 9'-0" wide

Row 2 (14) spots will be 9'-4" wide

Row 4 (12) spots will be 9'-2 ¾" wide

Row 8 (21) spots will be 9'-7/8" wide

Located in a shopping mall area, it is difficult to be successful if you cannot maximize your parking spots to accommodate the millennial changes in the restaurant/bar industry. A 10' wide space in shopping area is very difficult. This property is crunched in between businesses on every side, which makes parking design extremely difficult. In granting this variance it will allow the addition of an outdoor patio wine bar with an iron-gated fence. This outdoor patio wine bar will be second to none, especially in appearance inside and out.

Mr. Blakemore asked what was the average width of a car? Mr. Potopsky stated he did not know.

Chair Morel asked Ms. Strogin the width of the current parking space requirement. Ms. Strogin stated it is 10' x 19' but you have to take into consideration the opening of car doors. Chair Morel stated there are 150 spaces at 10' wide and you get 7 more by going with Mr. Potopsky proposal. Mr. Blakemore interjected there would be a reduction in parking spaces due to the outside patio.

Chair Morel asked what was the requirement for this establishment. Ms. Strogin stated when Golden Corral went in they had 378 seats; and the requirement is 1 parking space per every two seats so they required 186 parking spaces. In April of 2003, they were before the BZA and requested a variance for 156 parking spaces, which was granted, but the size of the spaces were 10 x 19. She added last evening the Zoning Commission tabled the site plan approval for Mr. Potopsky because of a lack of information as well as the variance requests before the Board this evening.

Mr. West asked what was the number of parking spaces Mr. Potopsky would have. Mr. Potopsky stated 150 spaces at 10 ft. wide.

Secretary Ferencz interjected the seating capacity is what dictates the parking space requirements per the zoning code.

Ms. Strogin stated the drawing before the Zoning Commission last evening did not indicate the number of seats there would be for this establishment. Mr. Potopsky stated he was proposing 157 spaces with the irregular parking space sizes. The previous business (Golden Corral) had 378 seats and we have 374 seats. We also show outdoor seating. In other communities they have such an establishment, they considered the "outdoor" seating seasonal. Therefore the community did not consider that count when considering seating and parking requirements.

Ms. Strogin stated there is already a variance for 156 parking spaces at 10 x 19. She added it was her opinion that even with 150 spaces at 10 x 19 that would be adequate; and added there is a ton of parking next door that is technically not Mr. Potopsky's but...

Chair Morel interrupted that the BZA is only to consider the size of the parking spaces not being met and not that there is other parking nearby that may or may not be available.

Mr. Blakemore asked Mr. Potopsky why he was asking for a variance. Mr. Potopsky stated because he wanted the 156 parking spaces, which was the variance that was granted. There are 4 rows that would have irregular size parking spaces. He added the seats he would have were 4 less than the previous business i.e. 374. There would be 90 seats that were seasonal so he would be clearly under the 374.

Mr. Blakemore stated there were 112 outdoor seats. The inside seating would be 374 minus the 112. Therefore the requirement would be 131 parking spaces at 10 x 19 and the proposed 150 at that same size would be more than enough.

Mr. Potopsky asked the Board if they were comfortable with the parking spots they pulled into today at the Township. He stated those spots were 9 ft. wide not 10 ft. wide. I am asking for 68 irregular parking spot spaces out of 156.

Mr. Blakemore stated he looked up and the average width of a car is 8'-2". That would leave 10 inches; 5 inches on each side to open a door. Mr. Potopsky stated the standard in communities is 9 ft. When you consider Strongsville Mall the spaces are 8'-9".

Chair Morel stated the code is 10 x 19 and he is ok with the code and did not see a reason for it to be modified. The rest of the Board agreed.

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 the yes.
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 no.

Ms. Gray stated the parking requirement should be held.

Mr. West made a motion to deny the variance request for parking space width variations from the required 10 ft. width. It was seconded by Mr. Blakemore.

ROLL CALL-West-yes, Blakemore-yes, Watts-yes, Gray-yes, Morel.

The variance request was denied.

The minutes to the Boards March 2019 and August 2019 public hearing were approved as written.

Having no further business before the Board, the hearing was officially adjourned at 8:00 p.m.

Respectfully Submitted,

Kim Ferencz, Zoning Secretary

  
\_\_\_\_\_  
Ed Morel, Chairperson