

**MEDINA TOWNSHIP
ZONING BOARD OF APPEALS
PUBLIC HEARING
AUGUST 19, 2020**

Chair Morel called the public hearing of the Medina Township Board of Zoning Board of Appeals to order at 7:02 p.m. Permanent Board members Blakemore, Watts, Gray and Morel were present. Alternate member Payne was present to create a full 5-member board.

Modwash Carwash & Quick Serve Restaurant variance request-4160 Pearl Rd.
The application was read into the record. The applicant is Mr. Ryan Slattery from Hutton ST 17, LLC representing the owner, WMD Real Estate, LLC. Address of the property requiring the variance-4160 Pearl Rd. Present Zoning-BI. Previous variance request(s)-Yes.

Variance being requested & Explanation of Requested Variances:

Minimum lot width and frontage (Article IV, Section 406.3.A & 406.3.B),
Minimum parking spaces required for quick serve restaurants (Article V, Section 503.D.d)
Access drive location (Article V, Section 506.B)

Minimum Lot Width and Frontage

The code requirement for minimum lot width and frontage for the B-I zoning district is 150' at the building setback line and 150' at the ROW line. Prior to ODOT ROW dedication, the lot frontage was 300.93' and could have been split. After ROW dedication, the existing lot width at the building setback line is 298.92' and the lot frontage is 298.45'. The lot cannot be subdivided and still meet the minimum lot width from 150' to 145'.

Minimum Parking Spaces Required

The most applicable parking requirement listed for a quick serve restaurant is that listed under shopping center, retail stores and services; places primarily serving food and drink. The requirement is for the greater of 1 space per 75 sf of customer service area or 1 space per 2 seats. The quick serve restaurant has a customer service area of 1,850 sq. ft. (25 spaces) and a total of 95 seats (48 spaces). The requirement based upon the number of seats is more applicable to a sit down restaurant where customers are waited on rather than a quick serve restaurant where customer turn over is very quick. We are requesting that a variance be granted to reduce the minimum required number of parking spaces to 38 spaces for the quick serve restaurant. From past experience, this franchise only requires 30 parking spaces.

Access Drive Locations

The code states that, "access drives to parking areas shall be provided for all uses." This would imply that each business must have their own access. We are proposing a

single shared access drive that will serve both businesses. We have already submitted a driveway variance package to ODOT and they have approved a single access drive located across from the Walmart access drive. A shared access agreement will be in place. We are requesting that a variance be granted to allow for a single shared access drive serving both properties.

The applicant, Mr. Ryan Slattery was sworn in. He stated he would like to give some background on this property and the actions that have taken place to where they are today with this project. To begin, ODOT had a road-widening project on Pearl Rd. (Rt. 42). The right of way used to follow the frontage so the right of way on Pearl Rd. is actually at an angle to the property. Originally the frontage was 300.93'. After the taking, it was reduced to 298.92'; therefore we are requesting a 5 ft. variance for one of the lots.

Mr. Blakemore stated there were 3 variances being requested and asked the applicant, do you want us to vote on each one separately or as a whole? Mr. Slattery stated basically the variances need to be considered as a whole for the project to work. He commented that in a perfect world we would prefer not to be in front of this Board, however we feel there are valid hardships on the site that are unique to this property. Before the taking by ODOT we had the required frontage and now we don't as one of the parcels is deficient in frontage to complete a lot split.

Regarding the shared access driveway, Mr. Slattery reiterated that ODOT has jurisdiction over Pearl Rd. We have a center turn lane that goes through the middle of the site. We have Wal-Mart directly across the street. We have the Five Guys development to the south and they put their driveway right at our property line to the south. This driveway location dictates ours as well. There is another driveway further to the north. We talked with ODOT and we got a ruling back that our "waiver request" was approved. Our only full access will be directly across from Wal-Mart because of truck deliveries to the site and we need a full access. This site is unique because there are existing driveways that are dictating where our driveway and access points are.

Mr. Slattery continued they have been working with the Township and they originally had a potential 5-6 variances that needed to be requested. We eliminated a variance for signs and moved the dumpsters around on the site to be in compliance. We asked ourselves how could we conform to the best of our ability. We do have a joint use restriction on the site for a cross access. It is a deed restriction for both property owners. We looked at how we could best serve both businesses especially regarding access concerns with a quick serve restaurant. Regarding the parking, this community is unique. There is a requirement for square footage and a parking requirement based on the number of seats. The proposed tenant is a restaurant that heavily relies on drive-thru business though there are seats inside the restaurants.

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Mr. David Geisler was sworn in. He stated he was the operator of Slim Chickens which was the quick serve restaurant in question. This is a new 'name' up here but it is a well-known name in the south. The nature of this business is a quick serve restaurant specializing in chicken fingers/tenders and wings. Approximately 70% of our business is drive-thru. Typically 30 spaces is what is needed for this restaurant. Our primary concern is the flow for the drive thru and speed of service.

Mr. Blakemore asked the number of parking spaces required per the code. Mr. Slattery interjected by the two parking requirements stated previously the number is 48 parking spaces.

Mr. Slattery then asked if the parking variance could be considered separately from the other two variance requests.

Hearing no further comments by the Board members, the Board considered the Duncan Factors for the request for minimum lot width/frontage:

1. Will the property yield a reasonable return or whether there is a beneficial use without the variance? The Board stated no.
2. Is the variance substantial? The Board stated no.
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 no.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board stated yes. The Township knew that variance were going to be needed in order for businesses to accommodate the taking by ODOT.

The Board then considered the Duncan Factors for the request for a single access drive.

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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. The less curb cuts off of Pearl Rd. the better.
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; they could put in two driveways.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board stated yes.

Lastly the Board considered the variance request for the minimum amount of parking spaces required.

1. Will the property yield a reasonable return or whether there is a beneficial use without the variance? The Board stated yes but a different type of business would need to be considered.
2. Is the variance substantial? The Board stated no.
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.

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6. Whether the problem can be solved by some other manner other than the granting of the variance? The Board stated the building size would need to be reduced.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board stated yes.

Mr. Blakemore made a motion to approve the following variances for the property located at 4160 Pearl Rd. (Modwash Car Wash & Quick Serve Restaurant):

1. A 5 ft. minimum front yard width and frontage variance for the accommodation of a lot split (Article IV, Section 406.3A & 406.3.B)
2. A reduction in the number of parking spaces required from 48 to 38 spaces for a quick serve restaurant (Article V, Section 503.D.d)
3. To permit a single access drive (Article V, Section 506.B).

It was seconded by Ms. Gray.

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

The variance requests were granted.

Stacho variance request-3964 Nichols Rd.

The applicant is Amy Stacho. Address of the property requesting the variance is 3964 Nichols Rd. Present zoning is RR. Previous variance requests-none.

Section 401.3.C Minimum Lot Frontage-200 ft. except 160 ft. on outside curve of public street and 100 ft. on cul-de-sac turn around.

Reasons and Explanation for the variance request:

Amy is gifting Taylor and Kody 4.28 acres. This generous gift will allow Taylor and Kody to build a home for their growing family and stay close to Amy to take care of current property. Amy is a widow and cannot maintain the large property alone. Current land values are ranging from 20k-30k an acre so this gift allows Taylor and Kody to build quicker and more practically due to the fact they would save a substantial amount of money in lot costs.

The property offers 7.28 acres allowing the back to be well over the 3 acre minimum lot requirement. The back half of the property is wooded and building a home would be the best use of the property. The property has 317 ft. of frontage allowing a 60 ft. easement along the south property line. We want to do exactly what the homeowner to the north of us did.

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Our variance request is equivalent to our neighbors to the north. Larger property has a home in the woods behind neighbor out front. Only difference is we would still leave current property at the 3 acre minimum lot requirement.

The representative for the applicant, Mr. Kody Salarsky (3964 Nichols Rd.) was sworn in. Chair Morel stated this request is for a flag lot, which has never been granted in the Township except for a 52 acre parcel. He then asked, do you know when your neighbors split their lot? It was in 1926. Mr. Blakemore interjected the Board did grant a flag lot on Hood Road last year. He then asked, what exactly is the request? Mr. Salarsky stated to reduce the frontage requirement from 200 ft. to 60 ft. The property is a 1,000 ft. deep. Mr. Blakemore asked if 60 ft. was the maximum width you could go? Mr. Salarsky stated yes in order to keep the driveway 10 ft. away from the property to the south and to keep the driveway far enough from the barn that is on the property. The property in the rear would be 4.28 acres. Mr. Blakemore stated though flag lots are frowned upon what else could be done with the property? Chair Morel stated he had 11 acres and he could not subdivide his property. That is the purpose of the zoning so we don't have houses behind houses especially in the RR district. It is a density issue. Everybody would try to do that. Chair Morel stated in his opinion it really is against the core of the zoning for the RR district. Mr. Blakemore stated he understood that but the problem he had is that the Township is not consistent in preserving rural properties in his opinion.

Mr. Payne stated he agreed with Chair Morel's comments. Ms. Gray stated she too felt that this request went against the core of the zoning code. Mr. Watts agreed and state if one is going to buy that much acreage...people will be carving it out left and right.

Chair Morel stated the only time he was present for such a request was regarding the 52 acres and technically that property owner could have put a driveway in and created 15 lots. We thought 2 houses on that much property was a better outcome than 15 houses because it was a substantial amount of land that abutted the highway.

Allis Strogan Chair of the Zoning Commission was sworn in. She stated that she wanted to comment on the two houses to the north. That was John Burke's property and the lot has 150 ft. frontage. When the house was built the 150 ft. frontage was legal. The Township later changed the frontage to 200 ft. He chose to build his home in the back but that does not mean it was in the back of other homes. The two lots north of him; one has 60 ft. of frontage and the other lot has 311 ft. which are owned by the same person and that house was built in 1939 and there was not a requirement for the two lots to be combined. You cannot build a house on an easement or a driveway. If you cut off 60 ft. that would make the existing house non-compliant with the zoning code. Chair Morel stated that was not correct. The existing house would have over the 200 ft. frontage requirement. It would be a compliant lot.

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. Currently it is a single family home on 7 acres.
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? Mr. Blakemore responded there are 4-6 lots that met the 200 lot ft. frontage. Chair Morel stated the frontage at that time was 150 ft.
4. Will the granting of the variance adversely affect the delivery of governmental services? The Board stated that was questionable for ambulance/fire services.
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 no; you cannot create another lot.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board stated no.

Mr. Watts made a motion to deny the variance request for a reduction in the lot frontage to construct a home at the property located at 3964 Nichols Rd. as presented.

It was seconded by Mr. Payne.

ROLL CALL- Watts-yes, Payne-yes, Gray-yes, Blakemore-no, Morel-yes.

The variance request was denied.

The minutes to the Boards public hearing for May 20, 202 public hearing were approved. Having no further business before the Board, the meeting was adjourned at 7:51 p.m.

Respectfully Submitted,

Kim Ferencz, Zoning Secretary


Ed Morel, Chairperson