

**MEDINA TOWNSHIP  
ZONING BOARD OF APPEALS  
ORGANIZATIONAL/PUBLIC HEARING  
February 17, 2021**

The acting Chairperson, Ed Morel called the organizational meeting of the Medina Township Board of Zoning Board of Appeals to order at 7:00 p.m. Permanent members Blakemore, Morel and Watts were in attendance. The election of officers, and other organizational business was tabled due to only 3 members in attendance.

**PUBLIC HEARING**

**Modwash Car Wash variance request-4160 Pearl Rd.**

The public hearing was opened at 7:03 p.m. Permanent members Blakemore, Watts and Morel were in attendance. Mr. Morel stated there are three board members present, in order for these variance requests to pass, there must be a unanimous vote of all 3 members present this evening. It is the applicant's decision if he wanted to move forward this evening or wait for a full 5-member Board. The applicant, Mr. Ryan Slattery representing Hutton ST 17 LLC stated he flew in from Tennessee and there is a purchase of sale agreement pending on this project so he would like to proceed this evening. He stated he would like to wait for a few minutes to see if more board members show up. He asked if the board members could be contacted. Mr. Morel stated a recess would be taken to see if any more board members would be present. The recording was paused at 7:08.

The following letter was submitted by Berry Engineers LLC as the reason for the variances being requested.

The proposed project is an automated car wash located at 4160 Pearl Rd in Medina Township. The property will be subdivided into two lots with the car wash on the north parcel (lot 1) and the existing buildings to the south will remain (lot 2). We are requesting a variance for the following items; Minimum front yard depth (Article IV, Section 406.3.C), Minimum side yard width and rear yard depth (Article IV, Section 406.3.D).

**Minimum front yard depth**

The minimum front yard depth is 80'. While the proposed Modwash on lot 1 will meet the minimum front yard depth, the existing building on lot 2 is non-conforming and has a provided front yard depth of 69' prior to the Right-of-way dedication the existing building had a front yard depth of 107'. We are requesting that the existing building remain as non-conforming. Any future buildings on lot 2 will be required to meet the 80' minimum front yard requirement, unless a variance is requested and approved by the applicant.

**Minimum side yard with and rear yard depth**

The minimum side and rear yards are 20'. The proposed Modwash building and the existing building on Lot 2 have 21' of separation between them. In order for the properties be split into two lots and for the existing building to remain, a side setback variance is needed. We are requesting that the southern side setback for lot 1 be reduced to 11' and the north side setback for lot 2 be reduced to 9'.

## Page 2 BZA February 17, 2021

While the proposed principle Modwash building on lot 1 will meet the minimum rear yard depth, there is a gate arm for the pay station that will overhang into the rear building setback approximately 7 feet. We are requesting that this be allowed. The existing building on lot 2 is non-conforming and has a provided rear yard depth of 13'. We are requesting that the existing building remain as non-conforming. Any future buildings on Lot 2 will be required to meet the minimum rear yard requirement, unless a variance is requested and approved by the applicant.

The meeting was resumed at 7:15. No additional board members were in attendance. Mr. Slattery the applicant was sworn in as well as Mr. Troy Gerspacher who was representing WMD Real Estate, the owners of the property.

One of the alternates, Karen Wirtz was in the audience. She addressed the board that she was recently appointed by the Trustees to sit on the BZA. Mr. Morel stated Ms. Wirtz is to come up and serve as a member of the BZA this evening.

Mr. Morel stated now that there were 4 board members a 2 to 2 vote is a denial so there must be an affirmative vote of three to approve the request. Chair Morel explained then procedures of the hearing.

The applicant Mr. Ryan Slattery from representing Hutton ST 17 LLC addressed the board. He stated he has been before this board three times. The reason is because ODOT has not been kind to them. Mr. Slattery stated he was before this board on August 19, 2020 to request 2 variances. One was for lot frontage. The property had over 300 ft. of frontage before ODOT took some of the road right of way for the widening project on Pearl Rd. (St. Rt. 42). **This property is proposed to be split and one of the lots (south) would be remain non-conforming (frontage under 150 ft.) but were are now conforming per the variance granted on August 19, 2020. Article 4 Section 406 3A & Article 4 Section 4063B.** This whole property line used to be angled before the taking and the frontage was over 300 ft. With the taking we are unable to have the 150 ft. of frontage on each lot. We now have one conforming lot and are now asking for relief on the south lot, which we were granted a variance for previously.

Mr. Slattery then gave the Board a little bit of history. The carwash was originally proposed on the south lot. The proposed chicken restaurant (Slim Chickens) was to locate on the north lot. Slim Chickens was concerned about the stacking of cars for their drive-thru. We did a traffic study, which stated if we (Modwash Car Wash) did not get a second egress that Slim Chickens was going to pull out. We had the support of the Township Trustees but ODOT has denied our request. We filed several appeals with ODOT to no avail. The reason we are before the Board this evening is we have a purchase agreement with WMD for the north property. WMD will retain the south property. We are doing the one driveway that we received approval for by this board. We are here this evening to request variances for side yard setbacks because the existing building is remaining and the seller is going to retain the south lot. Instead of having a setback on the exterior

borders we will have a joint driveway agreement. We consolidated that new side yard setback to the shared lot line between the two adjacent property owners. Through the purchase agreement therefore we will have a joint drive, which will be recorded in the deed.

Mr. Slattery continued that there would be no impact on any of the properties around them. He stated that the property behind them actually has a 2 ft. side yard setback. The ancillary building already has a 2 ft. setback. If the variance requests are denied nothing will be developed. The rear-setback is a pre-existing; non-conforming for the ancillary building that currently exists. Nothing proposed will encroach on the front or the rear only the joint lot line between the two lots.

Mr. Blakemore asked if they were purchasing the entire property. Mr. Slattery stated no, just the top half (north). We need a variance to do a lot split.

Mr. Morel stated to split the lots roughly with 150 ft. of frontage each; there are no side yard setbacks on either of the buildings. Mr. Morel asked about the existing building. Mr. Slattery interjected it was a 10,000 sq. ft. building that has a showroom and warehouse in the back. It has a beneficial and financial use. Mr. Morel asked why not sell the whole property and lease the one side. Mr. Slattery stated ODOT has caused these issues. Any retail use that would go on to the site; its access in and out was the hurdle. There were grade issues so one could not do retail across the property.

Mr. Slattery stated they were trying to buy the whole lot and lease the south portion the property really requires two uses to develop it. Mr. Morel stated if they sold the whole lot the variances would be basically what was asked for previously when you were before this board but now you are asking for a lot split which means throwing the required 20 ft. sideyard setbacks out the door.

Ms. Strogan, Chair of the Zoning Commission was sworn in. She stated that at the last BZA hearing on this property, the Board granted a 5 ft. minimum front yard width and frontage variance for the accommodation of a lot split. The frontages on the drawings showed 145 ft. frontage on each lot. Now the way the property is configured the frontage on the south lot has 137 ft. and frontage and the north lot has 153 ft. This is not in compliance with the variance you granted them on August 19, 2020. The Zoning Commission brought that up to the applicant last night. In the list of variances that are requesting this evening, they did not ask for a variance to split the lot. At the last hearing the Mr. Slattery stated both lots were going to be non-conforming. This application before the Board states one lot would be non-conforming and the other conforming.

Mr. Blakemore then read from the application, "lot 1 will meet the minimum front yard depth, the existing building on lot 2 is non-conforming and has a provided front yard depth of 69' prior to the Right-of-way dedication the existing building had a front yard depth of 107'. We are requesting that the existing building remain as non-conforming. Any future buildings on lot 2 will be required to meet the 80' minimum front yard requirement, unless a variance is

requested and approved by the applicant.”

Chair Strogin interjected the building is non-conforming not the lot. Mr. Slattery stated he specifically asked his engineer and nothing stated here today was untruthful.

Mr. Blakemore stated the application states, “We are requesting a variance for the following items; Minimum front yard depth (Article IV, Section 406.3.C), Minimum side yard width and rear yard depth (Article IV, Section 406.3.D).”

Chair Strogin stated the rear yard depth is not the lot frontage. The rear yard depth the applicant is referring to is the 80 ft. from the building. Ms. Strogin stated on the original drawing when the variances were granted it showed the proposed carwash on the south lot and a proposed fast food restaurant on the north lot. With that configuration, those two buildings would have been torn down, the ground leveled and two brand new buildings constructed. What they are proposing now is to purchasing the “good lot,” scraping the old and leaving the Township stuck with two huge buildings 9 to 10 ft. away from the property line. That’s going to make the sale of the other piece of property nearly impossible. She added she specifically asked the applicant at the Zoning Commission meeting last night if their toll arm was in the side yard setback and he said no. Mr. Slattery stated he still felt that was the case. Ms. Strogin stated on the application it states, arm is 7 ft. into the side yard setback.

Mr. Slattery stated he did not consider the arm a structure. He understood structure as something that comes out of the ground not something that is floating over the ground that way but if the Township wants us to get rid of it we will. Ms. Strogin continued that the applicant also needs a frontage variance. When you do a lot split both lots have to be legal. They made the one lot 153 ft. and the other 137 ft. The lot with 137 ft. of frontage is not legal and has a lot of problems especially with the two buildings on it. Ms. Strogin stated because of the new position of the proposed lots; she believed letting the applicant do a lot split and leaving the non-conforming buildings that are practically on the property line, was not in the Township’s best interest.

Mr. Slattery stated he would like to comment on Ms. Strogin’s interpretation. One, there are not two huge buildings. There is a 9,000 sq. ft. building and 2,000 sq. ft. building. The building in the rear is really small. He added that Ms. Strogin also stated that the existing building would be in the front yard setback. The building sits 70 ft. off the road and the current requirement is 80 ft. The owners spent \$300,00-\$400,000 on the upgrading of the building. The major thing we are asking for is the setback between the buildings where the lot split is occurring. All the access to use that building will be on the south side. In the previous plan we had a driveway that spilled out in the front with the shared driveway so we were able to confine ourselves a little bit better. When we did the traffic study we saw the stacking lanes where going to be an issue with cars spilling out of the lot. Therefore we had to contain the cars on our lot and not negatively impact the other lot or surrounding properties.

Mr. Morel stated he read the previous variance requests and yes a lot had to do with the taking by ODOT but in the new setback request the requirement is 20 ft. and you will be only 9 ft. That variance request is huge. So now we have 2 properties with two huge variances being requested to split the lot. Mr. Morel asked why they didn't put the carwash on the other side. Mr. Slattery responded, we would still have the same issues. We would have stacking issues and the same width issue. It has been agreed by the two joint property owners to have a joint access driveway.

Mr. Morel asked about the vacuum stations and that it appears there were a lot of them. Mr. Slattery stated no; 20 is the minimum number with such a facility. We can fit 6 vehicles in a 3-minute cycle time.

Mr. Watts stated he agreed with the comments of Mr. Morel and the significance of the side yard setbacks.

Mr. Slattery stated they have put forth tremendous effort and time in trying to come up with the best scenario for this small development. We got government officials involved at various levels trying to get this approved. We even had a letter of support from the Township Trustees in our battle with ODOT. If the driveway were in the center we would not have these stacking issues. We have exhausted every option with ODOT for over a year. There are pre-existing, non-conforming lots all around this property.

Mr. Morel stated the big building is only non-conforming in the front and you want to also make it non-conforming on the sides as well. Mr. Slattery stated it should have been two lots. The frontage was over 300 ft.

Having 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? Mr. Blakemore stated that property has been vacant for 4-5 years and looks terrible.
2. Is the variance substantial? Mr. Morel stated yes. He stated the request basically throws the 20 ft. side yard setback requirement between the two buildings out the window. Mr. Blakemore stated if those two buildings were torn down and something else built it may be built within those limits so in the future we could potentially only looking at one that would be close.

Mr. Gerspacher stated he has tried to sell this property to no avail. This property has been very hard to market.

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 that is why they are here.
6. Whether the problem can be solved by some other manner other than the granting of the variances. Mr. Blakemore asked how wide the entrance was. Mr. Slattery stated 24 ft. It is a two-way driveway (in and out). Mr. Morel added this is not the first time this property has tried to be developed. There has been a lot of avenues exhausted; therefore I feel due diligence has been done for this property.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? Chair Morel stated it doesn't solve the problem of the building being where it is. Mr. Blakemore stated the granting of the variance would afford someone the opportunity not to have to purchase the entire lot and to maybe have a smaller use such as a storefront. Chair Morel stated with ODOT only allowing one curb cut.

Ms. Strogin interjected the reason why the driveway is where it is and why the existing driveway was closed was because ODOT wanted the applicants driveway to line up with Wal-Mart's driveway. That is not a secret. The buildings are pre-existing, non-conforming. The whole lot is not pre-existing, non-conforming. When the car wash was going on the south side of the lot; they were going to tear those existing buildings down. Each building is to have a 20 ft. side yard setback with 5 ft. of it to be landscaped. Now we have a 9 and 11 ft. side yard setbacks with no landscaping. The lot is difficult to split because of those existing buildings. The frontage of the two lots also need a variance.

Mr. Gerspacher stated every time he got a potential use for the property, ODOT does a traffic study.

Chair Morel asked if there was a driveway there currently. Mr. Gerspacher stated yes, right in the middle. ODOT closed it and wants the driveway to line up directly with Wal-Mart. Ms. Strogin interjected the letter from the Trustees supporting was for an additional driveway to be put in but ODOT said no.

Mr. Blakemore stated he does not like the amount of the variances but it is easier to accept that then continue to have that area full of trash and debris and then to make it easier to sell the other lot. In the Township we seem to approve way too much

construction of new buildings and let vacant buildings sit and become unsightly and unused. Mr. Watts agreed with Mr. Blakemore's comments.

Ms. Stogin suggested since the frontage was not addressed in the application, the BZA should table this application so it can be amended to reflect all the variances that need to be addressed.

The Board went back and forth with discussing how to move forward this evening. The Board stated the applicant would need to come back to request the frontage width variance but would move forward with the other variances.

Mr. Blakemore made a motion to approve a minimum front yard depth variance on lot two of 11 ft.; a minimum side yard width of 11 ft. on lot 2 and 9 ft. on lot 1; and a rear yard depth of 7 ft. on lot 2. The arm of the pay station to be removed for the property located 4160 Pearl Rd. per the application/drawing submitted. It was seconded by Mr. Watts.

ROLL CALL-Blakemore-yes, Watts-yes, Wirtz-yes, Morel-yes.

The minutes to the August 19, 2020 BZA hearing were approved as written.

Having no other business before the Board the hearing was adjourned at 8:18 p.m.

Respectfully Submitted,

Kim Ferencz  
Zoning Secretary

  
Ed Morel, Chairman