

**MEDINA TOWNSHIP
BOARD OF ZONING APPEALS
HEARING
MAY 16, 2012**

Chair Morel called the hearing to order at 7:30 p.m. All Board members were introduced and Chair Morel explained the hearing procedure to all those present. Permanent Board member Ruppelli was absent. Alternate member Williams sat in for a full Board.

Bischof variance request-3904 Remsen Rd.

Chair Morel reviewed the application. The applicant is JMS Builders Inc. on behalf of the property owner Mike & Courtney Bischof. The property requiring the variance-3904 Remsen Rd. Present Zoning-RR. Previous variance requests-none. Variance Requested-Section 401.3E - Minimum Side Yard Width-25 ft. Requesting variance for the construction of a garage to be 8'9" from the side property line.

Attached was a letter from JMS Builders and Remodelers Inc. dated April 21, 2012, which stated, "Our clients Mr. and Mrs. Bischof are seeking a variance in regards to a side lot issue, they have a garage they wish to build. Unfortunately with the shape of their lot they don't have the required 20' to the closest edge to be with in the zoning regulations. After many measures and some research it has been determined that their 25'x25' garage would fit very well in the desired area of their yard and look as if it was meant to be there, however, this causes us to ask for a variance due to the fact that from the closest edge of the structure to the property line would be 8'9".

Unfortunately this has caused a fair amount of stress on these clients as there is really no where else they can fit this needed structure on their property. Their existing 1 ½ car garage can barely contain their larger vehicle let alone Mr. Bischof's truck.

As far as they/we can see the building of this garage would not impact anyone negatively. This project is necessary from their storage point of view and would add overall beauty and congruity to their property. Also the fact that this existing property is lower than all surrounding properties and far enough away from other dwellings that it will never create a watershed problem for anyone.

Mr. West stated the minimum side yard width in the RR District is 25 ft. not 20 ft. as stated in the application and the letter submitted. The request is consistent with the 25 ft. side yard setback requirement.

The applicant, Mr. Bischof was sworn in. Chair Morel stated the variance request was substantial. Mr. Bischof stated the lot was flag shaped and the geothermal system runs directly behind the house. There is a pond on the adjacent lot. To move the geothermal would be very costly to do as well as to the location of the septic tank which was on the southwest corner of the home. These factors would not make the location of the garage an appealing location. To go further back was going on a downward slope and one would have to cross the geothermal system which was underground.

The existing garage is a side entry garage.

Chair Morel asked if there was any thought to moving the proposed garage right up against the existing garage. Mr. Bischof stated that questioning would need to be asked to Jason who did the measurements.

Mr. Jason Scharton was sworn in. Mr. Morel asked about moving the proposed garage closer to the house or attaching it in some way. Mr. Scharton stated it was given consideration but aesthetically speaking their proposal seemed the best location. He added he did speak to his clients about a breezeway attaching the proposed garage to the house but it would be more costly and did not know if it would meet the 25 ft. requirement anyway per the survey submitted with the drawings.

Chair Morel stated the requirement was 25 ft. and the request is to be 9 ft. from the side property line. That was a 60% variance. That was a substantial variance. A gentleman owns the lot next door and the Township does not like to see a structure built that close to the property line. This is an RR District. To be 9 ft. was even closer than what was permitted in the Urban Residential District.

Mr. Scharton stated the reason for the request is the way the lot is shaped. The County Health Dept. would not allow the garage to locate across the geothermal system. Therefore it would need to be extricated which would be very, very costly. The homeowners want the garage to look like it ties in with the house. This is step one in a three-phase renovation/upgrading of the residence. The proposed location is the best aesthetically and does not impede on anybody's view or lines of sight. It is up to this Board to make this decision. The homeowners are new in the area and were not necessarily aware of the zoning requirements.

Chair Morel asked how tall the proposed garage would be. Mr. Scharton responded at its peak height it would be one-story with added storage on top. At its maximum height it would be 16 ½ -17 ft. in height. The pitch would be 10-12, which was much lower than the existing house. Mr. Scharton continued that with the existing side entry garage the homeowners could barely get one SUV in it let alone their trucks. The sheer cost to change the design, the homeowners would never recoup the cost of it and would not look as good as it good be.

Mr. Scharton stated he did discuss with his clients a breezeway or mudroom but they would still not meet the side yard setback requirement. To shift the structure westbound and still give the clients the size garage they want, the garage would be 15-16 ft. off the property line.

Chair Morel asked if there were drawings to reflect the alternative. Mr. Scharton stated no, as it would be an additional expense to the client for prints and not a reality until we knew from the Board what could be done. A breezeway was an alternative but the request before the Board is what they would like to be considered.

Mr. John Hudak was sworn in. He stated he owned the lot next door with the pond. Mr. Hudak stated he asked Mr. Bischof for a copy of the application to which Mr. Bischof stated he did not have one. Mr. Hudak stated he obtained a copy of the application and there were many discrepancies. First it states they only have a car and a half garage and they actually have a 2-½-car garage attached to the house. Second, they say the shed/barn they have is 9.8 ft. from the property line and it is actually 6 ft. The distance between the house and the property line is 26 ft. not 56 ft.

Chair Morel stated that was not correct. The drawing shows the existing shed is 6.2 ft. away from the property line and the proposed garage (25x25) would be 8.9 ft. from the property line. Mr. Hudak continued he owned the 3.5 acre lot next to the property in question with an existing pond and a 2-½ car garage on the lot and was planning on building his house on that lot. He stated that with the high point of this lot his proposed family room window would look directly at the proposed garage. Mr. Hudak stated he was not in favor of the proposed garage location, as this would devalue his property. Mr. Hudak continued that the property owner had 130 ft. of frontage and the lot went 350 ft. back. The property owner should be able to build a garage elsewhere on the property.

Mr. Scharton asked how many acres were required for Mr. Hudak to build a house? Ms. Strogina, Chair of the Zoning Commission was sworn in. She stated the current zoning is 200 ft. of frontage by 3 acres. Any time there is a zoning change there are lots that cannot conform. If it is a pre-existing lot of record then Mr. Hudak can still build on it as long as he meets the setback requirements without a variance. Mr. Hudak stated it was recorded in 1978.

Mr. West asked if the applicant was asking the Board to modify the request or vote on the request as submitted? Chair Morel interjected he would like to see the request modified.

Mr. Bischof stated the existing garage is in the front of the house with a side entrance. Mr. Stopa asked if the existing garage could be extended to accommodate a larger garage? Mr. Scharton stated the front of the house was brick with a flat fascia all the way across. The proposed garage would be more parallel. He continued it was not possible to come out to the front from a cost factor as well as the mechanicals involved. To do so would be to rebuild the existing residence.

Mr. West asked if the existing garage was 1 ½ or a 2 ½ car garage? Mr. Scharton responded you could fit two cars in there but with full-sized vehicles it was extremely difficult to nearly impossible. The plans are to turn the existing garage into a mudroom and 1 car garage.

Chair Morel asked about attaching the proposed garage directly to the house i.e. to the back side of the driveway. Mr. Scharton stated from a builders standpoint it was possible but the roof lines would create an issue as to what is known as a “bastard hip” and could create potential water issues.

A breezeway would be a better compromise to the request.

Chair Morel asked if a breezeway was built, could it be 20 ft. from the property line? Mr. Scharton stated yes it could and added he would propose to his client that the breezeway be 4 ft. but the client would probably not be able to build the mudroom they wanted. The intention is for the proposed garage to look like it has always been there.

Mr. Hudak stated he has built homes for 50 yrs. The back family room is a one-story room as well as the garage so there are no roof issues. There is plenty of room to build it properly to meet zoning and for him to have no issues to build his new home.

Mr. Scharton stated they wanted to build a garage with a simple gable going north and south so it ties in with the existing residence. The intention is to bring the third gable in so it mimics the original roof of the house to make it look like it has always been there.

Mr. Hudak stated any roof can be tied together and the request should not cause a hardship for the neighbors.

Mr. West again asked the applicant how he wanted the Board to proceed this evening? Mr. Scharton stated after speaking with his clients they are willing to compromise and build a breezeway therefore requesting a 5 ft. variance. Mr. Hudak interjected he did not care he wanted the property owner to meet the zoning requirement of 25 ft.

Mr. Becker stated he was not totally in favor of granting the request. Mr. Stopa, West and Williams felt the compromise of a 5 ft. variance was more amiable.

The Board then reviewed 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 it was still a 20% variance.
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? There is testimony from an adjacent property owner stating he would be affected negatively.
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? Mr. West stated with the geothermal located on the property and the cost to do match up directly with roof lines it seemed to be an expensive solution from the testimony given. Chair Morel stated he thought it was all one property and did not realize there was a

separate lot next door with a pond and 2-car garage. It would be difficult but there is enough room. There are other alternatives but they would be more costly. To go further back would be a better option. Mr. Scharon stated it would cost \$30-40,000 to move the geothermal system.

7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? Chair Morel stated that needed to be addressed for everyone in the Township.

Mr. Stopa made a motion to grant a 5 ft. side yard setback variance for the construction of a 25'x 25' garage for the property located at 3904 Remsen Rd. It was second by Mr. West.

ROLL CALL-Stopa-yes, West-yes, Williams-yes, Becker-no, Morel-no.

Earl S. Schindler Jr. variance request-2185 Medina Rd.

Chair Morel reviewed the application. The applicant is Earl S. Schindler Jr. The property owner is Earl S. Schindler Sr. The property requiring the variance-2185 Medina Rd. Present Zoning-RR. Previous variance requests-none. Variance Requested-Section 401.3 C "Minimum Lot Frontage: 200 ft. except 160 ft. on outside curve of public street and 100 ft. on the cul de sac turnaround. We are requesting a variance to have the minimum lot frontage be reduced to 100 ft. in order to build an additional residence on the property.

The reason for the variance request:

- A. Our general intent for the variance is to allow us to build an additional residence for our son in order to help us maintain the long term agricultural purpose of the land. The strict application of the provision prevents us from completing our request due to the limited amount of frontage available on the property. Our inability to obtain the variance will cause an unnecessary hardship for the family due to the lack of required labor and resources needed for the successful year round operation of the farm.
- B. We feel that the following exceptional circumstances apply to this property alone compared to others in the district: large amount of acreage, odd shaped lot, abundance of natural resources including: three acre lake, streams, springs; large amount of property bordered by major highway and Western Reserve Masonic Community
- C. Granting the variance will not be detrimental to the public interest or to the property for the following reasons: We plan to make a significant investment in a new home which will promote property values in the immediate area; the depth and seclusion of the property will not adversely affect the neighboring properties; A new home will provide additional tax revenue for Medina County and the local school system.

Our variance request is aimed at promoting a family operated farm while maintaining the use of the land and natural resources according to their character, adaptability and suitability for agricultural purposes.

The applicant, Mr. Earl S. Schindler Jr. was sworn in. He stated they have two lots that total 59 acres. The front lot is 38 acres and the second lot is behind it.

Mr. Earl Schindler Sr. was sworn in and testified that they purchased the property in 2008. He believes it was originally cut off by I-71. He stated that the second parcel is land locked and only has access through the first parcel.

Ms. Strogin testified that parcels were divided off and sold from the main parcel and that the resulting parcel did not have sufficient frontage and was not a legal lot because it only had 100 feet of frontage. She suggested that a public or private road be constructed in order to achieve frontage.

The Board noted that the request is a huge variance in the RR District.

Chair Morel stated that his goal is to preserve the density.

Ms. Strogin noted that there is a solution but the solution is expensive and probably is not a good one. Mr. Schindler stated they farm the property.

Ms. Marilyn Schindler was sworn in. She stated that do not intend to subdivide but if they can't get the variance they would not have a choice. They bought the property at auction and did not have a lot of time to research the zoning. She knows the variance is a lot to ask for, but the house will not really be visible.

The Board then reviewed the Duncan Factors.

1. Will the property yield a reasonable return or whether there is a beneficial use without the variance? The Board determined that there is.
2. Is the variance substantial? The Board determined that it is.
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 determined that it would not.
4. Will the granting of the variance adversely affect the delivery of governmental services? The Board determined that it would not.
5. Did the property owner purchase the property with the knowledge of the zoning restrictions? They did not have knowledge, but the Board determined that it did not matter.
6. Whether the problem can be solved by some other manner other than the granting of the variance? The Board heard testimony that it can.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board determined that it would because it would preserve the low-density spirit of the RR District.

Mr. West made a motion to grant a 100 ft. minimum lot frontage variance to construct a residence at 2890 Granger Rd. It was seconded by Mr. Stopa.

ROLL CALL-West-yes, Stopa-yes, Becker-yes, Williams-yes, Morel-yes.

Minutes

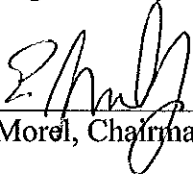
The April 18, 2012 meeting minutes of the BZA hearing were approved as written.

Misc.

Having no further business before the Board, the meeting of the Board of Zoning Appeals was officially adjourned at 8:55 p.m.

Respectfully Submitted,

Kim Ferencz
Zoning Secretary


Ed Morel, Chairman