

**MEDINA TOWNSHIP
BOARD OF ZONING APPEALS
PUBLIC HEARING
JUNE 19, 2013**

Chair Morel called the public hearing of the Board of Zoning Appeals to order at 7:30 p.m. Permanent Board members West, Dufala, Stopa, Blakemore and Morel were present. Alternate BZA members Gray and Williams were absent. All Board members were introduced and Chair Morel explained the hearing procedure to all those present.

VARIANCE REQUESTS

CONTINUANCE

This variance was requested to be continued until June 19, 2013 as the applicant wanted the opportunity to be heard by a full board.

Vene variance request-3783 Hamilton Rd.

Chair Morel reviewed the application. The applicant and property owner is Gary M. Vene. The address of the property is 3783 Hamilton Rd. Present Zoning: RR. Previous variance requests-No. Variance being requested of Section 401.3 E Side Yard Depth Required-25 ft. Requesting 10 ft. Reason for variance request:

- A. By following present zoning, I will have to destroy trees or put garage close to the house making it look like a city lot.
- B. When I built this house I was aware of the zoning restrictions and at that time you were not allowed to build an additional 2-car garage. This year they changed the rules of the deed restrictions to allow an additional garage. If these rules had been in force when I built, I would have changed house plans to accommodate the additional building.
- C. Granting the variance will not detrimentally impact the adjoining landowner or township due to the large pond and steep grade on the adjacent property, and will probably be hard to build house in this area. Also adding building will increase value of my property.

Secretary Ferencz stated she received a letter from a resident who was not present this evening, but wrote they were in favor of granting the variance request.

The applicant, Mr. Gary Vene was sworn in. Chair Morel asked him about the deed restrictions mentioned in the application. Mr. Vene responded the deed restrictions in 2005, only permitted a 200 sq. ft. accessory building. Mr. Vene stated he built a ranch home, which is 100 ft. in width. Therefore, with the side yard clearances, he would need a variance to construct the proposed building as he would be too close to one neighbor and to move the building closer to the house would make it look like a city lot.

Mr. Vene stated the property in question is located in Sutton Place, which was developed by Mr. Ken Cleveland. He added he owned three lots, 21 and 22 which were west of

where his house is located (Lot 23). Mr. Vene stated last year, Legacy Builders started to allow additional garages to be attached to the houses and now allow a detached, two-car garage to be built as well.

Mr. West asked the size of the proposed garage. Mr. Vene responded 26'x26'. Chair Morel asked about the height. Mr. Vene said a bit shorter than the roofline of the house; approximately 19 ft.

Chair Morel stated the lot is 200 ft. wide with a 100 ft. wide ranch house on it. Mr. Vene stated the property to the east of his house has such a steep grade and a large pond on it that he doubted it could be built on.

Mr. Dufala asked how far the pond was away from Mr. Vene's property line. He added that his driveway was 5 ft. from the property line. Regarding the property with the pond, Mr. Vene said he thought it was owned by the Hood's and if it ever was up for sale he would try to purchase it.

Mr. West said it seemed to him that Mr. Vene was trying to center the garage between the corner of the existing building and the property line. Mr. Vene said basically that was the idea. He added was going to push the garage back 10-15 ft. north from the edge of the driveway. His house is 140 ft. away from the street and there are trees that he did not want to have to remove. If the variance were not granted, then he would end up not building a garage.

Ms. Strogan, Chair of the Zoning Commission was sworn in. She asked about the changes in the deed restrictions Mr. Vene mentioned. Mr. Vene stated the deed restrictions have been very fluid, and he had 4 different plans drawn up for this building and the deed restrictions kept changing over the past 2 yrs. He added that Ken Cleveland allowed Legacy to have all these changes.

Ms. Strogan asked if Mr. Vene was talking about deed restrictions or the declarations and covenants (d&c) of the homeowners association? She added the d&c's could be changed. Mr. Vene stated there is no homeowner's association. That is the reason he bought the lots in this development because he did not want to belong to a homeowner's association.

Ms. Strogan asked if there was a true deed restriction on Mr. Vene's recorded deed that he can't build a larger accessory building than 200 ft. or was Mr. Vene talking about what Ken Cleveland and Legacy are allowing homeowners to do now? Mr. Vene stated he would need to look at his deed again but did not think it was a restriction that was recorded on the deed.

Chair Morel stated this sounded more like a restriction of the homeowner's association. He added even if this Board grants Mr. Vene a variance for this accessory building, if the homeowner's association does not permit it to be built it can't be built. Chair Strogan

stated that may be true, but Mr. Vene better make sure he can build a bigger building before he goes ahead and starts construction.

Mr. West stated that was correct. If the variance is granted, it is just for the setbacks it is not approval to construct the building if not permitted. Chair Strogan stated for Mr. Vene to do his homework because if he ever goes to sell his house and a title search is done and reveals the proposed building was put up illegally, there would be issues. Mr. Vene stated he would look into all these aspects before he began construction.

Mr. Bill Ostmann (3830 Hamilton Rd.) was sworn in. He stated he was representing HRW Medina Corp. dba Pleasant Valley Golf Course. Regarding Mr. Vene's comments about the property to the east, Mr. Ostmann said he used to hunt that property years ago and it would be very difficult to build a house there because the grade drops significantly into the pond. He continued that everything Mr. Vene has done across the street from the Golf Course has been aesthetically pleasing and added he was in favor of granting the variance request.

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 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 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? The Board stated yes there are special circumstances for this location.

When one looks at the topo, the location of the pond to the east and the grade drop, nothing is going to be built on the property. Mr. Vene's driveway is on this side. The

building will not be overly large. The Board felt the spirit and intent of the Resolution would be upheld by the granting of the variance.

Mr. Dufala made a motion to grant a 15 ft. east side yard setback variance for the construction of a 26'x26' outbuilding on the property located at 3783 Hamilton Rd. It was seconded by Mr. Stopa.

ROLL CALL-Dufala-yes, Stopa-yes, West-yes, Blakemore-yes, West-yes, Morel-yes.

Minutes

The April 17, 2013 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 7: 55 p.m.

Respectfully Submitted,

Kim Ferencz
Zoning Secretary


Ed Morel, Chairman

