

**MEDINA TOWNSHIP
BOARD OF ZONING APPEALS
PUBLIC HEARING
July 15, 2015**

REGULAR MEETING

Bill West sat in for Chairman Morel and called the meeting of the Board of Zoning Appeals to order at 7:30pm. Board member Robin Gray and alternate Matt Payne were present. The Board members were introduced and Bill West explained the procedure to all those present. He also explained to the applicants there was only three board members present and technically that constitutes a quorum, and that requires a majority vote of 2 to 1 to pass the variance. He gave them the option to go before the quorum or wait until there is a five member board. The applicant chose to go before the quorum.

Nick and Cassie Lesti, 4184 Mallard Bay, Medina OH 44256

Bill West reviewed the application. Bill West asked Secretary Shoemaker to read the request into the record.

Applicant: Nick and Cassie Lesti

Owner of property: Same

Present Zoning: UR

Previous Variances requested: none

Variance requested: Section 403.3F – Minimum rear yard depth 30'. Proposed deck will intrude on the minimum 30' rear yard depth. Deck will be located 19' from rear property line. Requesting 11' variance.

The Reason: If this variance is not approved we will have no outdoor space to enjoy. We unknowingly bought this land that backs up against the 100 yr. flood plain. This being said, we cannot build anything on the ground level of our property without fear it will be washed away by a flood. Also, our builder knew we needed to build a deck in the future to be able to walk out the back door of our kitchen. We didn't understand why our house was not zoned for this. Granting this variance will make our home more marketable and valuable. We have had nothing but issues since buying this land. Please grant this variance so we can try to make this house a true home.

Summary:

- Bought land without knowing it was close to flood plain
- Major land issues building
- Flooded May 12, 2014
- 2015 trying to build deck, more issues
- Builder failed to zone house correctly

Bill West swore in Mr. Nicholas Lesti. Mr. Lesti explained that Modern Home Concepts was the builder and seems like every time they wanted to do something, there have been problems. Mr. West asked how long they have lived there and Mr. Lesti said a little over a year. Ms. Gray asked if the deck was going to be one level and will it have railings. Mr. Lesti said yes to both. Ms. Gray asked how high off the ground the deck will be.

Bill West then swore in the Lesti's contractor, Russell Pay, 16154 York Rd., North Royalton. Mr. Pay said he believed the deck will be 12 feet high but due to the property slope, at one point it will be 13 feet high. Mr. West asked why the stairs are on the side as opposed to the opposite side of the deck. Mr. Lesti said that's where the hill comes down so eventually they will put natural stair casing so it meets the stairs around that side of the house.

Ms. Strogan, ZC Chair, was sworn in. She wanted to clarify that zoning is not the issue. She stated that builders make a very small legal lot and put a very small house on it which leaves very little room to add anything. Homeowners need to be sure to build smaller homes so they have the room to add on. Ms. Strogan also inquired about the stairs. Mr. Lesti stated that everything the builder did has been a surprise to them. Ms. Strogan stated as long as we keep giving variances for this, the builders will keep doing it. Mr. Pay commented that on the Lesti's behalf, the builder they had did not do his job and Mr. Lesti is now suffering for that.

Ms. Gray put forth a motion to approve an 11' rear setback variance located at 4184 Mallard Bay, for the addition of a deck.

The Board then discussed 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 agreed 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? Mr. West stated the property owner is deemed to have knowledge of the zoning restrictions by the purchase but the property owners themselves did not have knowledge at the time the house was built that this setback was going to prevent building a deck.
6. Whether the problem can be solved by some other manner other than the granting of the variance? Mr. West stated it would be possible to create an elevated deck but would look very strange.
7. Whether the granting of the variance upholds the spirit and intent of the Zoning Resolution? The Board agreed yes.

Secretary Shoemaker re-read the Ms. Grays motion to approve an 11' rear setback variance located at 4184 Mallard Bay, for the addition of a deck. Matt Payne so moved and Bill West seconded the motion.

ROLL CALL: Gray – yes, Payne– yes, West– yes

Approved plans were signed by Bill West and a copy was given to the applicant.

Bill West made a motion to approve the minutes from June 17, 2015 Medina Township Board of Zoning Appeals meeting minutes as presented.

ROLL CALL: West– yes, Payne – yes, Gray – yes

With nothing further before the Board, the meeting of the Board of Zoning Appeals was officially adjourned at 7:50 pm.

Respectfully Submitted,

Laurie Shoemaker
Zoning Secretary



Bill West (sat in for Chairman Morel)



Date