

**MEDINA TOWNSHIP
BOARD OF ZONING APPEALS
PUBLIC HEARING
July 16, 2014**

Chairperson Ed Morel called the public hearing of the Board of Zoning Appeals to order at 7:31pm. The sitting Board this evening consisted of Cary Blakemore, Ed Morel, and William West. Secretary Laurie Shoemaker was also in attendance. Robin Gray, Mike Stopa and alternate Boris Williams were absent. The Board members were introduced and Chair Morel reminded those on the agenda that they normally have a board of 5 people. For a variance to be approved or denied, they have to have a vote of three people. Because there were only three, Chair Morel gave them the option if they did not want their variance heard they could wait for a full board. Chair Morel explained the procedure to all those present. Chair Morel swore in Mr. Dave DiBello and asked if he wanted to proceed at this meeting. Mr. DiBello agreed.

VARIANCE REQUESTS

Dave DiBello – Section 403.3 E – 4' Variance for Garage at 4324 Huffman Rd.

Chair Morel reviewed the application and asked Secretary Shoemaker to read the request into the record.

Applicant and owner of property is Dave DiBello, 4324 Huffman Road, Medina, OH 44256. Present Zoning: Urban Residential. Previous Variances requested: none. Variance requested: Section 403.3 E – 15' required minimum side yard setback. Garage will be 11' from south property line. Requesting a 4' variance. Zoning says 15 ft. to the property line. The Reason: I would like to build a garage and it will be 11ft. to the property line. The reason: Because of topography of my lot (steep hill in the back of the house) and the current placement/size of the garage, I can really only expand my home and garage in this manner. To build a nice size garage to fit our 2 cars and the kids' stuff, I just need a couple of feet towards the property line with the existing concrete pad that is there. We love this property, we have done a tremendous amount of work. We plan to raise all of our young children there. Attached to the application is a set of plans and a view of his parcel to show where his property is.

Chair Morel then swore in Alliss Strogan, Medina Twp. Zoning Commission Chairman. Chair Morel wanted confirmation this property was Urban Residential and Ms. Strogan said yes. Chair Morel stated the applicant wanted to put a garage with an upstairs in it.

Mr. West asked if this was on the South East side of the property and Mr. DiBello confirmed. Chair Morel gave a description of the property stating there is a lot next door and it definitely slopes off and there is not a lot of room.

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's not huge but it's there.
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? Chair Morel and Mr. West thought just the opposite and Mr. Blakemore agreed.
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 agreed he probably did but the applicant was there and hasn't started digging.
6. Whether the problem can be solved by some other manner other than the granting of the variance? Mr. West stated the alternative would be much more expensive with the topography. Chair Morel and Mr. Blakemore agreed Mr. West.
7. Whether the granting of the variance upholds the spirit and intent of the Zoning Resolution? Chair Morel stated he would personally like to see this man expand his house and stay in the neighborhood. Mr. West and Mr. Blakemore agreed.

Mr. West made a motion to approve the variance request of Section 401.3E, Lot and Yard requirements, for a 4' side yard variance at 4324 Huffman Road for the purpose of building a garage, reference the South side edge of the property. It was seconded by Mr. Blakemore.

Chair Morel asked for the Board to discuss the motion amongst the Board. He stated he does not want to see all kinds of houses on top of each other and does not think this is the case here, Mr. West agreed. There is quite a bit of slope, going downhill.

The drawings are professional and expect it will be done professionally. Chair Morel stated he would be in support of the variance; Mr. Blakemore and Mr. West agreed.

ROLL CALL – West – yes, Blakemore – yes, Morel – yes

Pat O'Brien Chevrolet – continued to Aug. 20, 2014

Stonegate Center LLC – Section 403.4D2 - Riverview Villas, Lots 42 & 43

Chair Morel swore in Mr. Ken Cleveland. He asked if he would like to proceed with a three panel board and Mr. Cleveland agreed. Chair Morel reviewed the application and asked Secretary Shoemaker to read the request into the record.

Applicant and owner of property: Stonegate Center LLC, Mr. Ken Cleveland, Block 'P' Lots 42 & 43 parcel #026-06C-09-10, Medina, OH 44256.

Present Zoning: UR (Urban Residential) PUD (Planned Unit Development).

Previous Variances requested: none.

Variance requested: Section 403.4 D.2 – 50' minimum front yard depth. Stonegate Center LLC requesting a 15' variance for units 1, 2 & 3 of development. These three units have existing easements in their rear yard which limits the owner's use and enjoyment.

The Reason: Maintaining the 50' setback would require the rear yards to co-exist with existing easements. These easements limit the development at back yards by their owners. These units (1, 2, 3) are to be footprint lots. They are limited in depth by the existing street & subdivision boundary property line. Granting the variance for these units will not be detrimental to the area since it will actually increase the rear yards.

Attached to the application: Plans showing units 1, 2 and 3, which is at the corner of Sacramento Blvd. and Stonegate drive.

Chair Morel swore in Dave Lewis, Lewis Land Professionals, 8691 Wadsworth Rd., Wadsworth OH, representing Stonegate Center LLC and Ken Cleveland. Mr. Lewis apologized for not having a copy of the approved plan with him but the one he had on display is very similar, showing 29 cluster homes. The plan that was approved by Medina Township Zoning Commission and Medina County Planning was only 25 cluster homes. This parcel backs up to the Rocky River and is known as Block "P" of the subdivision. They are in the Rural Residential district and was a PUD started 25 years ago. Ms. Strogan stated it was in 1980. Mr. Lewis stated this is a 16.5 acre parcel and the last remaining block of the undeveloped plan in the subdivision. The units will have spectacular views over the river as they are built on the high ground. Stonegate drive has already been constructed, the easements recorded and the sewers put in. They have 14.5 acres of open space.

Mr. Lewis stated this development went through the cluster home provision within the PUD and as part of that, the cluster homes are permitted to have a 25 ft. driveway. All the homes in the development are cluster homes with 25 ft. driveway. Unit 4 was eliminated due to the steep bank so units 1, 2 and 3 are the issue. They are limited on the width of the land between the existing Stonegate Dr. and the subdivision boundary which is why they need the variance.

Mr. Lewis stated the public street front yard setback is 50'. If they were building single family homes, they would have to adhere to the 50' but because they are building the cluster homes, they would like to secure the variance to reduce the driveway length to 35' from the right of way line, not the curb or street. They will have driveway lengths that won't affect the overall plan approval which required having enough parking. With the variance they will still be able to park four cars in the driveway with a two car garage. They also have guest parking. The granting of the variance will not change or alter in any way the intent of the approved plan. All of the lawns and snow removal will be maintained by contractor hired by the HOA. They are not stand-alone homes and are part of the development and will be like the main units.

Mr. Morel asked why the extension (units 1, 2 and 3) didn't end up with single family property and said it doesn't seem to fit with the rest of the 16 acres. Mr. Lewis stated it is part of block "P" and that's how block "P" was created years ago. The provision in the PUD allows for a 30' rear building line. The difficulty with this location is the easements put in across the back lot. By bringing it forward, it will allow more buffer between the undeveloped properties.

Mr. Morel asked how far the units were from the rear property line are. Mr. Lewis explained these are mini-lots and are asking for the variance so a patio could be built. Mr. West asked how far the back of the buildings were from the rear property line. Mr. Lewis stated the back of the building will always have to meet the 30' rear setback.

Chair Morel asked Mr. Lewis to explain what the actual shapes on drawings are showing. Mr. Lewis said they were lot areas (envelope) and the unit will be built inside that area. They purposely made them as large as they could; Medina Twp. zoning requires certain separation and certain rear yard setbacks from the boundary of the subdivision and a minimum of 25' setback, with the exception of the public street which is 50' of the right of way. If the homeowner wanted to do something special, i.e. deck, patio or screened porch, they wanted to make them big enough for that. One unit will go in one envelope. Through the Medina Twp. approval process, they came down from 25 units. They listened to comments from the Township about making the envelopes big enough for people to build within that envelope and not have to build over the easement.

Mr. West asked if they wanted the backyard to go from 30' to 45' and Mr. Lewis confirmed. Mr. Cleveland stated that this plan is conceptual and will have the same visual look. Mr. West asked if variances will be required for any other units in the future and Mr. Lewis said no, he will not be asking for any other variances.

Ms. Strogin stated this was originally presented to the Township in '93-'94 and was originally 48 duplexes, which the township said no. Now Mr. Cleveland has now come to the last piece in this development and she suggested single family detached clusters, which seem to be the more popular unit now vs. the duplexes. They've reduced the number of units close to 50% bringing the number from 48 to 25. Traditionally, clusters are built on private streets so they have a shorter set back from the front. Ms. Strogin asked Mr. Cleveland to make the envelopes bigger to accommodate for building on to the unit within the envelope. As Chairman of Zoning Commission, she takes every opportunity to have developers make the envelopes as big as they can and Mr. Cleveland was very cooperative and did just that. Ms. Strogin stated the reason the three lots are there is because the strange layout of that particular block would normally be part of a private drive scenario but because of the way the road came around and the way the lot was carved out 20-30 years ago, it ends up those three are on a public street which causes the larger set back. In trying to keep the premise of the building envelope available, it would be beneficial for them to bring it up 15' to match all the others in the development.

Chair Morel swore in Mark Robinson, 4010 Stonegate, sub lot 191. Mr. Robinson stated what sold him on the house was the character and set back. He measured from his garage and it is 70'. The 50' setback and 15' variance would allow the builder to build unit with 35' setback making it half the length of his. He feels someone coming in to build three units across the street with those setbacks would decrease his property and affect the character of the neighborhood.

Chair Morel swore in John Bohaty, 4271 Pearl Rd. Mr. Bohaty asked if they have started excavating on the property yet and how close is it to his property. Mr. Lewis stated they have not started to excavate and Mr. West said his property is on the other end of the Block "P".

Chair Morel swore in Barb Kavolsky, 4534 Tatiana Trail. Ms. Kavolsky asked where Stonegate Dr. was in reference to Tatiana Trail. She asked about the entrance to the development and Mr. Lewis said it will. Ms. Kavolsky feels the extension will not fit in and stated these changes are a complete surprise to her. Chair Morel reminded her that this has been approved for years and the only thing in question is the three lots. Ms. Kovalsky began discussing a personal issue with Mr. Cleveland and Chair Morel explained that is not the issue being discussed at this meeting.

Chair Morel explained he understood her concerns but this has been pre-approved and we are fortunate it is not high density like Brunswick Hills although her comments are appreciated.

Mr. Bohaty asked Mr. Lewis to show him on the map where they are excavating. Mr. Lewis said they have not started yet but pointed to an area where they may be installing sanitary sewers.

Ms. Kovalsky asked if there were any plans to have Stonegate extended through the dead end at the corner of Stonegate and Tatiana. Mr. Bohaty said not in the near future because that was his property.

Ms. Strogan clarified that a Planned Unit Development allows several styles and types of homes. Single family lots (which is allowed in a PUD) does require a larger set back. Clusters, (which are also allowed in PUD) is different type of structure and on smaller lots. The trade-off is that they get more open space in the development. It's not that they are giving special consideration to smaller lots, it's just the type of unit a developer can chose to exercise in a block of property.

Ms. Kovalsky wanted clarification that the original plan was 25 units and is now 48 and where the entrance will go. The Board said no, it was 48 and has been brought down to 25. Mr. Lewis reiterated the only reason they are asking for the variance is so if the owner wanted to add on, it would not cause issues with the easements down the road. Mr. Lewis stated the homes will be landscaped and made nice, if not nicer than the existing homes. The entrance will be landscaped at the intersection.

Stan Tasketer (sp?), stated, regarding the easement requests, his letter states that it appears that lots 42 and 43, which indicates only two lots but they elected to put three homes there? It appears those lots have phone, cable and electric but if it's developed for one reason and they are changing it.., Mr. Lewis clarified they are not changing. Mr. Tasketer(sp?) asked how many sub lots were across the street and the Board said there were no sub lots. Chair Morel stated directly across the street were two sub lots but all was approved in 1993.

Mr. Bohaty asked what was behind the units and Mr. Lewis said it is vacant, undeveloped property owned by Mr. Halamay. Ms. Strogan stated there has had developers interested in that property.

Mr. West agrees Mr. Cleveland's land was sectioned off for this development but also agrees the homes should be built to match the others, although in this case, these three are single, residential houses, not the other 22 on the plotted streets.

Mr. Cleveland stated they have not sold anything yet but they have had great interest from people can afford a more expensive unit.

Chair Morel understands Mr. Cleveland has brought down the number of units from 48 to 25. He also explained to Ms. Kovalsky that this development has been approved years ago so it's going in. Mr. Morel asked Mr. Cleveland if there was a problem putting in a patio over an easement. It is allowed but would just have to be torn up if the sewer needed maintenance. Mr. Cleveland asked what if they wanted to build a screened-in porch; that may be a problem.

Chair Morel requested discussing the Duncan Factors. He stated he has mixed feelings but am pleased they went from 48 units to 25. Mr. West said he was very pleased with the progress they have made getting it reduced to a manageable level, which is a real positive for the neighborhood, on the other hand, he has an issue with the units being on a public street and having a significant variance. Mr. West feels the units can still be placed on the property without the variance. The house may not be built at the back of the envelope. It could have been a duplex but the neighborhood has been safe from that but homes should match. Mr. West said this acknowledging how much work the Zoning Commission has put in and the work Mr. Cleveland has done.

Mr. West said he wasn't persuaded the variance should be granted and felt they could work within the numbers and build reasonable cluster homes. He had a concern with them looking different from the others in the neighborhood.

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 stated yes, about 25, 30%. Mr. West said that's substantial.
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? Chair Morel said detriment, not sure but it's different. Mr. West and Mr. Blakemore agreed.
4. Will the granting of the variance adversely affect the delivery of governmental services? The Board stated no.

Did the property owner purchase the property with the knowledge of the zoning restrictions? The Board agreed Mr. Cleveland knows the zoning.

5. Whether the problem can be solved by some other manner other than the granting of the variance? Chair Morel said this is Mr. Cleveland trying to do what our Zoning Commission Board requests so we don't have somebody coming in here saying they can't build a deck because of the setbacks.
6. Whether the granting of the variance upholds the spirit and intent of the Zoning Resolution? Chair Morel asked whether substantial justice would be done to future owners or the people that are currently living there that feel this is not a positive. Mr. West and Mr. Blakemore agreed they couldn't say either way. Mr. West doesn't feel it would be any type of injustice to say to follow current zoning because the people buying these homes will probably be older people. Mr. West sees this as a request for a larger back yard. Chair Morel stated all the other units are in a line and they should all match.

Mr. Lewis explained he understood people had concerns about the three units being separate and understands this is to be a tight knit development. They have plans to blend the three units with the architecture and landscaping to tie them into one look.

The board stated they understood that's the plan but no matter what, the three units will look separate, which bringing the envelope closer will only embellish the difference.

Chair Morel swore in Ron Zubal, 4535 Tatiana Trail. Mr. Zubal stated his back yard is 30-40ft. and he put on a 20' deck with no problem. Mr. Lewis stated the problem is building anything because of the easement.

Chair Morel called for a motion. Mr. West made a motion to deny the 15' front yard depth variance on unit 1, 2 and 3 of Riverview Villas of Stonegate, Block "P". Mr. Blakemore seconded the motion.

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 yes.
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 agreed yes.
6. Whether the problem can be solved by some other manner other than the granting of the variance? The Board agreed yes.
7. Whether the granting of the variance upholds the spirit and intent of the Zoning Resolution? The Board agreed no.

ROLL CALL – West – yes, Blakemore - yes, Morel – yes.


Minutes

The June 18, 2014 Organizational meeting minutes were approved as submitted.

Having no further business before the Board, the meeting of the Board of Zoning Appeals was officially adjourned at 9:02pm.

Respectfully Submitted,

Laurie Shoemaker
Zoning Secretary



Ed Morel, Chairman

9/17/14

Date