

**MEDINA TOWNSHIP
ZONING BOARD OF APPEALS
PUBLIC HEARING
JULY 20, 2016**

Co-Chairperson Blakemore called the public hearing of the Medina Township Board of Zoning Appeals to order at 7:30 p.m. Permanent Board members West, Gray and Stopa were in attendance. Alternate members Payne and Williams were present. Mr. Morel was absent Williams sat in for a full Board.

Co-Chair Blakemore explained the procedures of the hearing.

Schmitt variance request-3900 Weymouth Woods Dr.

Secretary Ferencz read the application into the record. The applicant is Karl Schmitt. Address of the property requiring the variance-3900 Weymouth Woods Dr. Present Zoning-UR/PUD. Previous variance requests-none.

Variance being requested- Section 40e.4.E2 Minimum Rear Yard Depth-100 ft. 79 ft. 30 ft. Screened in porch will be located 26.5 feet from rear property line. Requesting a 3.5 foot variance.

The project we are pursuing is the building of a small screened in porch, using the boundaries of our existing patio as the foundation and outside parameters of the porch. We live in front of a wooded area, and are bombarded with mosquitos in the summer months, such that we cannot be outside much of the time, especially in the evening. The screened in porch will alleviate that difficulty, as well as allowing us to use the porch during inclement weather conditions throughout much of the year. We are requesting a modest 3.5 foot variance so that we can coordinate building the outside of the porch on the outside of the porch on the outside boundaries of the patio.

The following was an attachment to the application.

Please explain A. How the strict application of the Resolution will result in practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the Resolution.

It only makes sense to build the screened in porch directly over the outside framework of the patio. Building it inside the patio would create very awkward dead space, and even a potential safety hazard with two upright structures so close to each other. Without the variance, it does not make sense for us to build the porch so the property will not yield a reasonable return or beneficial use without the variance request. A 3.5 ft. variance is very modest, and has absolutely no negative impact on adjacent property owners as it backs up to a wooded natural area. Behind the extensive wooded area, and outside of view, are the backs of two property owner's garages.

B. What exceptional circumstances or conditions apply to this property that do not generally apply to others in the same district?

The outside patio structure is 3.5 feet closer to the property line, thus requiring the variance request. Fortunately, the patio and subsequent porch boundaries simply would extend a few feet further into our back yard, and beyond the back yard is an extensive natural area. Therefore there is absolutely no negative impact on anyone in the neighborhood. There would also be no adverse impact on the delivery of governmental services.

C. Why the granting of the variance will not be detrimental to the public interest or to property or improvements in such district and will not materially impair the purpose of the Resolution.

Granting the variance will have no conceivable impact on the public interest at all, and thus no detriment. The screened in porch actually represents a property improvement, and will be carefully constructed to blend in beautifully with the existing home. This would not in any be a detriment to property improvements in the district, but rather I have included copies of a letter from the Weymouth Woods HOA, whose president inspected the area, and whose board fully approved the building of the screened in porch. The granting the variance in these conditions absolutely uphold the spirit and intent of the Zoning Resolution.

Did the property owner purchase the property with the knowledge of the zoning restrictions?

As property owners, we certainly have a general knowledge of zoning restrictions. However, we did not actually anticipate an issue since we had a permit for the patio and were not extending the porch beyond the existing patio structure.

Whether the problem be resolved by some other manner other than in the granting of a variance?

We do not see a viable solution outside of the zoning variance, and it is not practical to build the porch anywhere other than over the top of the boundaries of the patio.

We fully respect the zoning laws, yet ask for your most serious consideration to granting the variance. It meets an important need for us, is a very minor variance, and does not negatively impact other property owners or government services in any way.

Respectfully,
Karl and Audrey Schmitt.

The applicant, Mr. Karl Schmitt were sworn in. He introduced his wife Audrey and their contractor Stephen. Mr. Schmitt stated this was a minor variance request. The screened-in porch will not impede anything and will be going over the existing patio.

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Mr. West stated the definition of the word "structure" in the zoning resolution was very unclear. Per the definition, the concrete patio and the brick and mortar knee wall around the patio do not constitute as a structure under existing definition of structure.

Ms. Strogin Chair of the Zoning Commission was sworn in. She stated patios are not considered a structure. She stated when she saw the picture of the patio with the brick wall around it she did not understand how that was not considered a structure.

Mr. West stated he did not have a problem with the variance request, but did have a problem with the request being based on an existing structure (the brick wall) that somehow didn't require a variance to be built, but now needs a variance to build a screened-in porch on top of the wall. It doesn't make any sense.

Mr. Schmitt stated there was a permit when the patio was built in 1996 and they put an addition on the home in 2011.

Ms. Strogin stated when a patio is enclosed it is considered a structure. Mr. West stated the definition of structure says it does not include fences or walls used as fences. Mr. West stated no variance was required to build the brick wall but now a variance is required to build a screened in porch on top. Mr. West stated the definition needs to be clarified or amended.

Co-Chair Blakemore stated since the Duncan Factors were already reviewed and hearing no further information from the Board or applicant; he would like to call for a motion.

Mr. West made a motion to approve a 3.5 ft. minimum rear yard depth variance for the construction of a screened in porch to be located 26.5 ft. from the rear property line for the property located at 3900 Weymouth Woods Dr. It was seconded by Mr. Stopa.

ROLL CALL-West-yes, Stopa-yes, Gray-yes, Williams-yes, Blakemore-yes.
The variance request was approved.

Stopa variance request-5198 Silver Maple Lane.

For the record, Board member Mike Stopa stepped down from the Board as he was the applicant requesting the second variance request this evening. Alternate board member Payne sat in for a full Board.

Secretary Ferencz read the application into the record. The applicants are Michael and Dawn Stopa. Address of the property requiring the variance-5198 Silver Maple Lane. Present Zoning-R2. Previous variance requests-none.
Variance being requested- Section R2 District. B.5.b. Minimum rear yard requirements 40 ft. Asking for 23 ft. variance for swimming pool will be located 17 ft. from rear property line. Requesting 23 ft. variance.

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Please explain A. How the strict application of the Resolution will result in practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the Resolution B. What exceptional circumstances or conditions apply to this property that do not generally apply to others in the same district C. why the granting of the variance will not be detrimental to the public interest or to property or improvements in such district and will not materially impair the purpose of the Resolution.

The response is as follows:

Due to the unique zoning requirement in my neighborhood subdivision this was the furthest away from the rear property line. Our house sits with the backyard facing a dry retention area. This area prohibits anyone from building behind us. And keeps the neighbors a distance from backyard. Due to the nature of the retention area I feel this variance request is not substantial.

The applicant, Michael Stopa was sworn in. He stated his lot sits up against the retention area. Mr. West asked how deep the retention area was to the lot behind it. Ms. Strogin stated the distance from Mr. Stopa's back property line to the house across the retention area was approximately 40-60 ft.

Mr. Blakemore stated the rear of Mr. Stopa's house faces south. The next closest house is across the retention area. He added the lots in the area are 75 ft. wide.

Mr. Stopa continued that the house directly behind his has a pool which is blocked by evergreens. The 17 ft. variance request from the rear property line is the closest he could get the pool to his existing deck. He stated that he was not going to incorporate the pool into the deck because he would have to dig the pool into the ground or raise the deck up and they just replaced the deck with vinyl so we don't want to tear it up.

Ms. Gray asked how deep the proposed pool would be. Mr. Stopa stated 54" deep. Mr. West asked the size of the pool. Mr. Stopa stated 24 ft. round above ground swimming pool.

Ms. Strogin asked if Mr. Stopa was planning on putting a deck around the pool. Mr. Stopa reiterated no, not at this time. If he did it would only be big enough to fit two chairs. The plan is place the filter the pump up against the deck because there is electricity right there.

Hearing 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? The Board stated yes

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2. Is the variance substantial? Mr. West stated in terms of the variance request number it is substantial but this is a unique environment with this retention area and the 40 ft. buffer between the rear of Mr. Stopa's property and the property that would otherwise abut him. Mr. West stated in his view; that reduces the significance of the variance request. The rest of the Board agreed.
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 a very skinny in ground pool could be accommodated which made no sense.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? Mr. West stated because the unique zoning this area has was the result of a court order and the zoning requirements are only applicable to this development, he felt the spirit and intent of the Resolution is being upheld in granting the variance request. The rest of the Board agreed.

Mr. West made a motion to approve a 23 ft. minimum rear yard depth variance for the construction of a 24 ft. round, above-ground swimming pool to be located 17 ft. from the rear property line for the property located at 5198 Silver Maple Lane. It was seconded by Ms. Gray.

ROLL CALL-West-yes, Gray-yes, Williams-yes, Payne-yes, Blakemore-yes.

The variance request was approved.

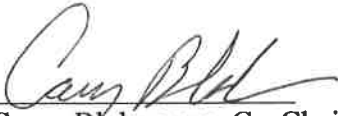
The May 18, 2016 meeting minutes and June 15, 2006 meeting minutes were approved as written.

Having no further business before the Board, the hearing was officially adjourned at 8:15 p.m.

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Respectfully Submitted,

Kim Ferencz, Zoning Secretary


Carey Blakemore, Co-Chairperson