

**MEDINA TOWNSHIP
ZONING BOARD OF APPEALS
PUBLIC HEARING
JUNE 21, 2017**

Chairman Morel called the public hearing of the Medina Township Board of Zoning Appeals to order at 7:30 p.m. Permanent Board members West, Gray, Stopa, Blakemore and Morel were in attendance. Alternate member Boris Williams was also present this evening.

Chair Morel explained the procedures of the hearing.

Weymouth Community Church-3398 Old Weymouth Rd.

Secretary Ferencz read the application into the record. The applicant is Mr. Richard Wilson from Rolling/Hocevar Inc. The property owner is Weymouth Community Church. Address of the property requesting the variance is 3398 Old Weymouth Rd. The present zoning is RR. Previous variance requests-None. Variation requested and Section No. and Reasons: 100' setback for building and parking lot-Section 401.3D
Parking on parcel being used-Section 504A.
Use on a State or County Rd.-Section 308C.3
100 ft. from road right of way-Section 504B.

Explanation for the variance.

Existing (180 yrs.) use non-conforming. We cannot construct and stay within all the setbacks

Parking lot setback would make it too far to walk. Church has been there 180+ years and parcel is too small to allow expansion within setbacks

We have no close neighbors.

Mr. Blakemore stated he did not know what variances were being requested. Mr. West stated he felt the same way.

Mr. Wilson, civil engineer from Rolling, Hocevar and Associates was sworn in. He stated he was present this evening to represent Weymouth Community Church.

Mr. West asked for the specific variances being requested. Mr. Wilson stated Section 401.3D requires a 100 ft. minimum front yard depth. The request is for a 90 ft. variance. The nearest point of the building is 10.1 ft. Mr. Wilson said the second variance is based on the zoning code which says the parking must be within walking distance of the use. That's in conflict because a 100 ft. setback for parking is required. Mr. Wilson stated the Church bought the 14 acres across the street and that is the closest we can get parking to the addition. Mr. West asked so what is the variance request of Section 504A. Mr. Wilson responded the code says the parking must be on the same lot as the principle use. The parking is on an adjacent lot as the church owns the lot across Church Rd. Chair Morel stated the variance request then is 100%.

Mr. Wilson continued that the next variance was of Section 308c.3 which requires a church (use) to be located on a secondary street or major thoroughfare. The Church is located on a Township road i.e. Church Rd.

Ms. Strogin Chair of the Zoning Commission was sworn in. She stated the Church is a pre-existing, non-conforming use. Mr. West asked, so the variance request is 100%. Mr. Wilson responded yes that is correct.

Mr. Wilson stated the last variance request is Section 504B parking shall not be permitted in the front or side yard in all RR Districts. The Church is parking 20 ft. from the road right of way. Therefore we are requesting an 80 ft. variance.

Ms. Strogin stated the code was written with the mindset of a new church being built from scratch. Since Churches are permitted in residential areas, the Township wanted to protect the residential area so they wouldn't have a big church with tons of parking on top of them. So any new church had to be in the center of a large piece of property so it would not encroach terribly on the neighbors. An example is the church built on Foote Rd. as well as Heartland Church on Rt. 3 built on 40 acres with no parking near the street. With a new church these rules are fairly easy to adhere to but tonight the church before the Board is 180+ yrs. old. The quagmire here is that there is no room for expansion on the lot on which the church is located. She added the church was able to secure property across the street but the code requires the parking must be located on the same lot as the use as well as the issue of setbacks. If the two parcels could be combined in some manner these variances would be moot.

Mr. West asked how section 504B. spoke to the fact of the requirement of 100 ft. from road right of way? Ms. Strogin answered, the code was written in mind of a new church being built from scratch. Mr. West stated he did not see anything in Section 504 that relates to 100 ft. road right of way setback. Ms. Strogin stated this is a corner lot and in the RR District the requirement is 100 ft. from both sides. She added there is another section of the code that addresses churches and that is where you will find the 100 ft. requirement.

Mr. West stated that section in 308 C1 is that correct? Ms. Strogin stated the applicant should have made that clear. Mr. Wilson stated 504B states parking shall not be permitted in the required front or side yard setback in the RR District and the requirement is 100 ft.

Mr. Wilson interjected that the parking lot needs to be within walking distance of the use. Chair Morel stated in order to approve the addition, the Board would have to grant variances to park on a parcel that is contiguous; allow a parking lot to be 20 ft. from the road where the requirement is 100 ft. and to allow the building to be 6 ft. away and for the church to be on a Township road.

Mr. Wilson stated the church address is Old Weymouth Rd. and the addition will be in the back so one might reason the church is off a county highway.

Mr. West asked if the parking on the other side of the street would run all the way to Old Weymouth Rd. Mr. Wilson stated no. Mr. West stated a variance would still be needed. The lot where the parking lot would be located is a problem.

Chair Morel asked, if the church was built today could it be on the road it's on? Mr. Wilson stated no, it could not meet the required setbacks. Chair Morel stated if the church fit and

could meet all the setbacks etc. could it be built where it is right now? Mr. Wilson stated yes. ZI Ridgely was sworn in and confirmed that was correct because the church's address is Old Weymouth Rd. address and that is a County Rd.

Chair Morel stated that variance #3 was not required for the addition but is required for the parking lot. Mr. West stated he believed 308 C3 was needed as the parking would be considered a variance to the use of a church. Mr. Wilson responded he needed all the variances granted in order to move forward with the addition and parking for the church.

The first variance is a 90 ft. front yard depth variance of Section 401.3.D for the addition. The canopy of the building is only 10.1 ft. from the road right of way, the building itself is 13.3 ft. and the required setback is 100 ft. Mr. West stated he looks like the road runs closer to the building as one moves north. That's the problem.

Chair Morel asked if anyone wanted to speak to this matter. Mr. Rob Ganley (3434 Old Weymouth Rd.) was sworn in. He said he lives down where the church bought 14 acres across the street to construct a parking lot. He said he had no idea what the Church was planning on doing so he came this evening to make sure the community center or parking lot "wasn't going wanting to be built in his backyard." Mr. Ganley added he has been sitting next to the architect for the church this evening and is comfortable with the plan. The only concern he had was about the amount of rain water runoff coming down the slope. He added about three years ago the church cut the meadow down and raised the land down there which is his backyard and that area stays wet in the spring but that was something he could live with. Mr. Ganley said he was concerned with the parking lot being asphalt and if he will have even more water coming onto his property.

Chair Morel stated that was all approvals for the County Engineer to make. Mr. Wilson stated the runoff will be going to the east not south where Mr. Ganley lives.

Mr. Joe Brafchak (4433 Seymour Dr.) was sworn in. He stated he was present this evening to represent his mother, Ms. Brafchak who lives at 3400 Church Rd. which was directly across from the Church. Mr. Brafchak stated he was concerned about access to his mother's driveway and the proposed parking lot will be right next to her property. Mr. Brafchak stated currently the church members' park on the side of the road. He concluded his mother was an elderly woman and he wanted to make sure his mom had access in and out of her driveway.

Chair Morel responded, having a parking lot to park in and one that is 20 ft. off the road would help reduce that incident instead of having parking all up and down Church Rd.

Ms. Kathleen Kashnier (3340 Frantz Rd.) was sworn in. She stated her yard directly abuts the church and she was concerned about screening between her lot and the church lot and all the expansion planned.

Mr. Ralph Kashnier (3340 Frantz Rd.) was sworn in. He asked how this proposed addition was going to affect his land. He added that he and his wife have lived here 31 yrs. and did not sign up for living next to a mega church.

Rob Ganley asked if the residents could see an aerial view of the plans for the Church since none of them really know what the layout of the church is proposed to be.

Chair Morel stated the comments here this evening are taken into consideration but the Board was to consider the Duncan Factors in making the determination as to whether or not to grant a variance.

Mr. Blakemore stated he did not like the lack of clarity on the application. The Board has spent the last 40 minutes trying to determine what was being asked for. Chair Morel responded that maybe consideration of the Duncan Factors would help. He added he would like to start with the variance request for the setback of the building.

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.
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 it could be argued either way.
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 the Church is 180+ yrs. old.
6. Whether the problem can be solved by some other manner other than the granting of the variance? The Board stated the church could not expand.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board stated no.

Chair Morel stated the second variance request is for parking on another parcel.

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 no.
2. Is the variance substantial? The Board stated yes it is 100%.

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 it is a parking lot not a beautification project. Mr. Brafchak interjected he was originally told the 14 acres purchased by the church was to build a new church.
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 the yes.
6. Whether the problem can be solved by some other manner other than the granting of the variance? The Board stated no if the Church want to expand.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board stated some things aren't expandable.

Chair Morel stated the third request is that a Church must be located on a County Rd or State Rd. He stated he did not feel was applicable since the Church, as it currently exists, is in compliance. The rest of the Board agreed.

The fourth variance request was for a 100 ft. setback from the road right of way for the parking lot. The variance request is for 80 ft.

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 there were other things they could do with the property just not put a parking lot on it.
2. Is the variance substantial? The Board stated yes it is 100%.
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 it is a parking lot.
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 the yes.
6. Whether the problem can be solved by some other manner other than the granting of the variance? The Board stated not for a parking lot.

7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board stated it was nice to see the Church wants to expand but there are residents in the area. A parking lot is nothing but blacktop. The spirit and intent of the neighborhood has changed from a small quaint church to a large church.

Mr. West made a motion to deny the 90 ft. Front Yard Depth Setback variance (Section 401.3D) for the proposed addition for Weymouth Community Church located at 3398 Old Weymouth Rd. It was seconded by Robin Gray. The Board stated it was a large addition for such a small area and it would definitely change the dynamic of the neighborhood.

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

Mr. West then asked if the rest of the variance requests were moot at this point and should be withdrawn. Mr. Wilson responded he needed all the variances to move forward with the addition to the Church so he would like to the Board to vote on each variance.

Mr. West made a motion to deny the 80 ft. variance from the road right of way (Section 308C.3) for the proposed parking lot to be located across Church Rd. for Weymouth Community Church located at 3398 Old Weymouth Rd. It was seconded by Mr. Blakemore.

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

Mr. Blakemore made a motion to deny the variance request for a proposed parking lot to be constructed on another parcel which is not on the main lot as the principle use (Section 504 A) for Weymouth Community Church located at 3398 Old Weymouth Rd. It was seconded by Ms. Gray.

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

Chair Morel cautioned Mr. Wilson for asking for a vote of 504 B. because if the Church wants to build something on that property; the Board would not be obligated to hear it unless the circumstances substantially change. (Res Judicata). Mr. Wilson withdrew the variance request of 504B.

Jones variance request-3570 Watkins Rd.

Secretary Ferencz read the application into the record. The applicant is Jeffrey Jones. The address is 3570 Watkins Rd. Present zoning is S-R. Previous variance requests-none.

Variation requested including Section No. of Zoning Resolution and Reasons:

Would request minimum side yard width of 20' be changed to 10 ft. width. Section 402.2E Minimum Side Yard Width-20 ft. Asking for a 10 ft. variance.

Explanation for the variance request. A. New garage should be centered on existing driveway. Side Yard requirement will offset garage; B. Driveway on property angles severely towards the side property line and stops 8' from side property line.

C. I believe this variance will only add to property value and neighborhood.

There is an attached document: The Duncan Factors used in the Board of Zoning Appeals Decisions:

1. Will the property yield a reasonable return or whether there is a beneficial use without the variance?

Without the variance I would not erect a garage on this property. The driveway on my property is angled off the street and slants toward the side property line. At the rear corner of the driveway there is approximately 8 ft. from the property line. The driveway is lined with mature evergreens, so moving the driveway is not an option. Putting a new garage in the middle of the opening between the existing house and the property line is the only aesthetic option. This would line up new garage with existing driveway.

2. Is the variance substantial?

I do not think the variance is substantial. The property is 150 feet wide and this is only a 10 ft. 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?

I think it will add to the character of the property and the neighborhood. Both the neighbors have additional buildings on their properties. This variance will give me the opportunity to erect an additional garage on this property. The neighbor on this property line has no objections to the variance. Keeping the building 20 ft. off the property line will interfere with the future plans for the backyard (deck and patio). It will offset the building on the driveway and look out of place from the street.

4. Will the granting of the variance adversely affect the delivery of governmental services?

This variance has no bearing on the delivery of governmental services or utilities.

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

I bought the house in 2013. I was not told about the 20 ft. offset at that time. I knew I would need an additional building in the near future and thought I could build where I wanted to.

6. Whether the problem can be solved by some other manner other than the granting of the variance?

I do not think there is another spot to locate the garage. Space is limited due to the driveway, location of the house and the ¼ plus acre pond in the back yard

7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution?

If adding curb appeal and value to the property is upholding the spirit and intent of The Zoning Resolutions, then I believe it is. If I would erect the building without a 10 ft. variance, the garage would look out of place, like an afterthought, instead of flowing with the rest of the property.

The applicant Mr. Jeffrey Jones was sworn in. He stated there was already an existing attached 2-car garage. Mr. West asked how big the proposed building would be? Mr. Jones stated 22x44. Chair Morel asked about the height of the building. Mr. Jones stated one-story but added he did not have drawing plans for the building yet. Chair Morel asked about the roof. Mr. Jones stated it would probably be 5-12 pitch. Chair Morel asked about the walls. Mr. Jones stated he would probably go 10 ft.

Chair Morel stated Mr. Jones did a good job with the Duncan Factors but the variance request is 50%. Twenty feet is called for and a variance is being requested for 10 ft.

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.
2. Is the variance substantial? The Board stated yes it is 50%.
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 the applicant stated no but one is deemed to have knowledge of the zoning when one purchases the property.
6. Whether the problem can be solved by some other manner other than the granting of the variance? The Board stated no otherwise the adjoining properties would be crowded on.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board stated yes.

Mr. West asked if there was anyone present who wanted to speak on this variance request. Mr. Thomas Kenski was sworn in. He stated he was the adjacent property owner immediately to the south of Mr. Jones property and he had no objections to the request.

Mr. Blakemore made a motion to approve a 10 ft. side yard setback variance to construct a 22x44 one-story accessory building for the property located at 3570 Watkins Rd. It was seconded by Mr. Stopa.

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

Gary Schween variance request-3780 Hunting Run Rd.

The applicant is Grimm Brothers Landscaping on behalf of the property owner Mr. Gary Schween. The present zoning of the property is UR-PUD. Previous variance requests-none. Variation requested including section no. of resolution and reasons:
Section 403.3F Minimum Rear Yard Depth Setback-30 ft. Requesting a 10' variance for post for pergola.

Mr. Jacob Grimm from Grimm Brother's Landscaping was sworn in. He stated he represented the property owner Mr. Gary Schween. He stated the one pergola post is 20 ft. from the property line and the other is 28 ft. Due to the pie-shaped lot and location of the Lake this is why the variances are being requested.

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.
2. Is the variance substantial? The Board stated it is 1/3.
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 don't build it or move it closer to the house which does not make sense with the view of Lake Medina.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board stated yes.


Mr. West made a motion to grant a 10 ft. minimum rear yard depth variance for the construction of an open air pergola at the property located at 3780 Hunting Run Rd. It was seconded by Mr. Blakemore.

ROLL CALL-West-yes, Blakemore-yes, Gray-yes, Stopa-yes. West-yes.

The minutes to the May 17, 2017 BZA meeting were approved as written.

Having no further business before the Board the meeting was officially adjourned at 9:00 p.m.

Kim Ferencz, Zoning Secretary



Ed Morel, Chairperson

Carey Blakemore, Vice Chairman