

**MEDINA TOWNSHIP
ZONING BOARD OF APPEALS
PUBLIC HEARING
APRIL 18, 2018**

Chairperson Morel called the public hearing of the Medina Township Board of Zoning Appeals to order at 7:00 p.m. Permanent Board members Morel, Blakemore, West, Gray and Basilone were in attendance. Alternate member Dominguez was also present.

PUBLIC HEARING

TABLED ITEM

Schween variance request-3780 Hunting Run Rd.

Secretary Ferencz read the application into the record. The applicant is Brothers Grimm Landscaping Design representing the property owner Gary Schween. Address of the property requiring the variance-3780 Hunting Run Rd. Present Zoning-RR. Previous variance request(s)-Yes.

Variance being requested & Explanation of Requested Variances:

Variance request of Section 403.3F Minimum Rear Yard Depth-30 ft. Pool will be located 18'-6" from the rear property line. Requesting for 11'-6" variance for an in-ground pool.

Rear yard of a residence house has 30' setback for building or structure. Homeowners want to have in-ground swimming pool. Pool will be beyond setback by 11'-6" rear yard. The back of property has huge lake, (Lake Medina). The pool will not be detrimental at all.

The applicant, Mr. Jacob Grimm from Brothers Grimm Landscaping and Design & Co. was sworn in. Chair Morel stated there is also the issue that the pool is already constructed. Mr. Grimm stated yes that is true. He then approached the Board and produced a site plan of the entire project. Mr. Grimm stated he was before the Board last year with phase 1 of this project where a variance was granted for the "picnic" area. The purpose of this project is to create outdoor living space for the Schween family. The Schween's purchased this distressed property and have been renovating it. Due to the market crash in 2008, the project was put on hold. Mr. Grimm stated that it was always the Schween family intention to have a pool as part of this project and he added he confirmed that with the original builder.

Mr. Grimm stated that it was their understanding per the 2009 State Building Code, that a pool was not considered a structure, so they did not think the zoning code would consider a pool a structure either; therefore they proceeded with the construction of the pool. When notified by the Township that a pool is a structure and that this pool would require a variance, we immediately stopped progress on the project. We then came in and filed for a variance and are now before the Board this evening.

Mr. Grimm stated we are now starting phase 2 of the project and as stated before a pool was planned as part of the project. Mr. Grimm stated this is a pie-shaped lot that butts up to Lake Medina. In order to meet the zoning code the septic system would have to be relocated. In addition, there is a significant drop off of the property all which makes where the pool can be located very restricted. The addition of the pool will not only enhance the property of the Schween's but increase the property value of those homes in the neighborhood.

Mr. Blakemore stated the variance request is from the property line to the Lake? Mr. Grimm stated that was correct. Mr. Grimm stated there were also neighbors of the Schweens' present this evening to voice their support of the project.

Mr. Grimm stated because the Schween home is a walk-out; with some creative grading and landscape plantings the pool all but disappears out of view except to those living there and enjoying the pool.

Mr. Basilone asked about the grading. Mr. Grimm stated they would be bringing in 250 cubic yards of dirt and grade the property so it is built up in front of the pool and then add landscaping.

Mr. Basilone asked about the homeowners association. Mr. Grimm responded that was one of the reasons they asked for this to be tabled last month; we were working with the architectural review board and they were asking for some additional information and revisions. Those requests were accommodated and we received their approval for the pool earlier this week.

Mr. Jim Patten (3774 Hunting Run Rd.) was sworn in. He stated he was the neighbor that had the view of the Schween property through the trees and he wanted to give the Schween's a vote of confidence for getting a variance and finishing the project.

Mr. . Dan Crogen (3777 Hunting Run Rd.) was sworn in. He stated he was the neighbor on the other side and said he was in favor of the variance request and the Schweens moving forward with their project.

Chair Morel stated in his opinion the pool will be level to the ground and won't be seen from Lake Medina. If this were a pole barn it could be seen from miles away but this is sunken in the ground. Yes it is a structure; but it is not obtrusive.

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 and there was evidence from two neighbors that they support the project.
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 but the septic system would have to be moved which would be costly for just a few feet.
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 approve an 11'-6" rear yard setback variance for the construction of an in-ground pool at the property located at 3780 Hunting Run Rd. It was seconded by Mr. Blakemore.

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

The variance was granted

Thompson variance request-3412 Old Weymouth Rd.

Secretary Ferencz read the application into the record. The applicant is William Carl Thompson. The owner is the same. The address of the property requesting the variance is 3412 Old Weymouth Rd. Present zoning-RR. Previous variance requests-None. The variation requested and reason. Section 401.3 D 100' minimum front yard depth. Requesting a 71'-6" variance for shed #1. 100' minimum front yard depth #1 shed will be 28'-6" from front yard setback. Requesting a 71'-6" variance.

Requesting a 60' variance for shed #2. 100' minimum front yard depth. #2 shed will be 40' from front yard setback.

Attachment for the explanation for the variance request reads as follows:

- A. How the strict application of the provision of the Resolution will result in practical difficulties or unnecessary hardship inconsistent with the general purpose or intent of the Resolution.**

This 70 ft. variance request for a storage and display shed. It supports the spirit of a well maintained neighborhood with fundamental need for storage of vehicles, yard equipment, etc. Due to the location of the pond and wetlands there is no other place to put it.

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

The shed will appear as a nonfunctional “old garage” and storage building. Due to the location of the existing pond and small areas of wetlands, there is no other place to put the building.

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

The granting of the variance will not be detrimental to the public or other property owners. It will blend in nicely with the environment of Weymouth.

Duncan Factors

1. **Will the property yield a reasonable return or whether there is a beneficial use without the variance?** No, because there is rain runoff from the properties to the north and east causing wetlands behind the barn. The front of the barn is the only place to put the sheds.
2. **Whether the variance will be substantial?** 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 building is needed to enhance the neighborhood and for storage to clean up the property.
4. **Will the granting of the variance adversely affect the delivery of governmental services?** No.
5. **Did the property owner purchase the property with the knowledge of the zoning restrictions?** No. We purchased the property 40 yrs. ago. The zoning laws were different. The houses were closer to the road years ago. We aligned the sheds with the house.
6. **Whether the problem can be solved by some other manner other than the granting of the variance?** No.
7. **Does the granting of the variance uphold the spirit and intent of the Zoning Resolution?** Yes

The applicant, Mr. Thompson was sworn in. Mr. West asked how far the house was from the road. Mrs. Thompson was sworn in and answered 64 ft. Mr. Thompson stated he started this project when he first bought the property. He added he built the barn and did not realize the code had been changed since then. Mr. Thompson stated he spent countless money putting in the concrete pad and doing grading. Mr. Thompson stated the garage was going to look like something from the Andy Griffith Show i.e. an old gas station. He added that the barn is completely full with all the items he needs to create this “look”. He added he did not know he needed a permit until he was putting the overhang on the building.

Mr. Blakemore asked if the building labeled #1 shed on the drawing was already on the property. Mr. Thompson stated yes it has been on the property for almost 3 years. Mr. Thompson stated #2 shed was also at the property on skids in the driveway.

Mr. West asked how far the sheds would be from the road. Mr. Thompson stated one shed would be 28 ft. and the other shed would be 40 ft. Mr. West stated if the house was 64 ft. from the road how could the sheds be even with the house?

Mr. Basilone stated there sure was a lot of “stuff” on the property. Mr. Thompson stated that was true and the barn was full as well.

Mr. Blakemore stated Mr. Thompson stated that the sheds would be even with the house but that does not compute. Mrs. Thompson interjected there is a curve to the road. Mr. Thompson stated the back of the big shed was already level with the corner of the house with the porch. The big shed was 13’x 20’ and 13 ft. tall and the small shed was 6’x10’ and 6 ½ -8 ft. tall.

Mr. Blakemore asked how large the pond was at the back of the property. Mr. Thompson answered; about 2/3 of the lot. Mr. Blakemore stated the depth of the lot was 311 ft. on one side and 476 ft. on the other. Therefore that leads 430 ft. of property so the shed could be moved. Mr. Thompson stated no because of the location of the septic system.

The Board stated they did not have enough accurate information and would like to table the applicant’s request. Mr. Thompson asked what information the Board needed. Mr. Blakemore stated on the application, it states that the sheds will be level with the house and in no way is that the case. He added when requesting a 60 ft. variance it needs to be spelled out in detail why this is required and what prevents the shed being pushed back farther.

Mr. West asked what a “display” shed was. Mr. Thompson stated it would be a shed that would look like an old gas station with signs and stuff. He added Weymouth is the center of this Township and it is unique and he wanted his property to reflect the uniqueness of area.

Mr. Morel stated the drawing is completely different than what is being requested. The house is shown at 64 ft. and the shed is shown completely behind the house.

Mr. Basilone tried to explain what he thought the applicant was requesting and what was existing on the property. The Board stated the applicant needed to present his own case thoroughly so all Board members could understand what was being requested. Mr. Basilone commented that Mr. Thompson was not going to get all his "stuff" in the proposed shed. Mr. Thompson stated once he got the "gas station" shed up and his cars out it would open up his barn. This "gas station" will enhance the neighborhood.

Mr. Blakemore stated that what Mr. Basilone is trying to explain he viewed by going to the site is different than what is on the application before the Board members. Mr. Morel reiterated that the BZA needed a topographical map with an overview of what exists on the property and what and where things will be added.

Mr. Thompson stated the zoning office only gave him this map. (which was an aerial view of the property). Mr. Blakemore stated a topographical map was needed and this can be obtained from the County Auditor's Office on line free of charge.

Mr. Blakemore addressed Mr. Thompson and stated he was present before the Board to ask for a deviation from the zoning code so it was his obligation to provide information as to why this variance is being requested and why it should be granted. This has not been provided this evening.

Mr. Thompson stated the building lady was pleased with what he provided and even said that information was sufficient. Mr. West stated that might be what is required for the Medina County Building Department but not for Medina Township; which is totally separate from the County.

Mr. Blakemore stated the Board needs to see a topographical map, where the lake on the property is and where the septic system is located and where the sheds will be permanently located.

Ms. Alliss Strogan, Chair of the Zoning Commission was sworn in. She stated she would like the Board to ask some questions about this "gas station" shed. Ms. Strogan asked if the proposed gas pumps and signage were going to be on the outside of the building? Mr. Thompson stated yes. Ms. Strogan asked if the gas pumps would be closer to the road? Mr. Thompson stated no that's why he was asking for a variance for the smaller shed because then he would have to go to the Medina County Building Department and get the specs for building the overhang. She also stated that per the zoning code, accessory buildings were not permitted signage.

The BZA told Mr. Thompson to provide information like the Board does not know the community, his property or what he wants to do. The Board suggested Mr. Thompson

meet with Zoning Inspector Ridgely and speak to her about everything he wanted to do with and on the property as well as all the information the Board is requesting so a complete application can be acted on.

Mr. West made a motion to table the variance request per the applicant's request until additional information as stated by the Board of Zoning Appeals is submitted. (No additional fees are required) It was seconded by Mr. Blakemore.

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

Figola variance request-3680 Foskett Rd.

Secretary Ferencz read the application into the record. The applicant is James Figola. The owner is the same. The address of the property requesting the variance is 3680 Foskett Rd. Present zoning-RR. Previous variance requests-None. The variation requested and reason. Section 401.3 E-25 ft. required minimum side yard setback. Shed will be 12' from side property line. Requesting a 13' variance.

Attachment for the explanation for the variance request reads as follows:

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

Our spray type septic system and associated sewer lines lie just beyond the current zoning, twenty-five foot property line build restriction. This would cause the (12'x10'+5' permanent ramp) shed to overlap the sewer line, limiting access to the septic system and/or sewer lines in a repair situation. We were told by the septic company that this would be inadvisable. See Picture B.

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

Based on the contour of the land our home was built higher than the homes around us thus causing a significant slope to our sides and back yards. We slope for approximately thirty-five feet from the house to the side property lines. Also, based on our land type we had to install a spray septic system in a very specific location dictated by the county and have had work performed on the system twice since moving in. We are concerned about limiting access to the system or sewer lines.

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

Thirteen feet of variance request for placement of a (12'x10'+5' permanent ramp) Chalet style shed will have no negative impact on the appearance on the adjacent property or neighborhood. The neighbor's property on the East side closest to the variance request already has two out-buildings and a detached garage adjoining our property, the proposed shed will blend with existing out buildings in neighbor's yard while supporting the appearance of a well-maintained yard and neighborhood. The proposed new shed is a new Chalet type shed which aesthetically appealing and will add value to our and neighboring properties.

Duncan Factors

1. **Will the property yield a reasonable return or whether there is a beneficial use without the variance?** Without the variance the proposed (12'x10'+5' permanent ramp) Chalet style shed would end up being built with a portion of a shed extending over the septic sewer lines impeding access to the septic system and sewer lines in a repair situation. We have been told by the septic company that this is highly inadvisable. Property values trend higher and are more marketable with the addition of storage sheds. Inside storage provides a more clean and fresh appearance of the property versus overflow outside of the garage such as; trash cans, yard power equipment, wheelbarrows, etc.
2. **Whether the variance will be substantial?** No, the variance request is to reduce the building line from 25 ft. to 12 ft. from the East property line beginning approximately 220 ft. back from Foskett Rd. It will not impact neighbor's property in any way. I have already spoken to the neighbor on the East side and they have no issue with the shed placement based on variance granted.
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?** No, if the variance is granted the shed will support a well-maintained neighborhood. The Chalet style is aesthetically pleasing and will add value to ours and neighbor's property. If variance is granted the building line of the shed will align with a row of pines already in place that will help block the view of the shed from Foskett Rd. See Picture A. There will be zero impact to the property on the West side of our property as that property line will be one-hundred and forty-five feet away with trees blocking the view of shed from their home.
4. **Will the granting of the variance adversely affect the delivery of governmental services?** No, this is a side yard variance beyond the end of the driveway that will not impede access to the property in any way.
5. **Did the property owner purchase the property with the knowledge of the zoning restrictions?** No, at the time of our land purchase and build contract we had no knowledge of the zoning restriction associated with erecting a shed within

a certain distance of the property line, nor did we know exactly where the spray septic system and sewer lines would be installed. It was only after purchasing the shed and applying for the permit to build were we informed of the restriction. And then only after measuring the distance did we discover the issue with the septic/sewer lines.

5. **Whether the problem can be solved by some other manner other than the granting of the variance?** No, based on the placement of our septic system and sewer lines, the existing tree line and the slope of the property away from the house the area in which we are wishing to build the shed is the only feasible spot for construction. See Picture B. The request is in the spirit of the neighborhood appearance as well as the surrounding open spaces and wooded area while supporting the need for garage overflow storage. The variance will sustain and add to the overall appearance of the existing neighborhood.
6. **Does the granting of the variance uphold the spirit and intent of the Zoning Resolution?** Yes, the intent of the zoning restriction in conjunction with the approved variance would be preserved and have negligible to no impact on the surrounding properties on the East, West, North or South sides of the property. It will not interfere or deviate from the architectural or aesthetic appearance intended.

The applicant, Mr. Figola was sworn in. Mr. Blakemore asked how far Mr. Figola wanted the shed to be from the sewer line. Mr. Figola stated if the variance was granted he would be 13 ft. from the sewer line so that if the septic system had to be worked on, backhoes and other equipment could get to it. Mr. Figola stated if the variance were not granted the 5 ft. permanent ramp attached to the shed would lay over the sewer line.

Mr. West asked the distance from the house to the property line. Mr. Figola answered 65 ft. And the distance from the house to the sewer line? Mr. Figola stated 26 ft. Mr. West stated that leaves 39 ft. With the 25 ft. setback that leaves 14 ft. for the shed and the ramp.

Mr. Figola stated he was gun shy to put anything over the septic system because the company has been out twice to work on it. If something else should happen, he did not want to block access to the system.

Mr. Blakemore asked if there were clean out traps to which Mr. Figola stated yes there were two.

Chair Morel stated he was confused as to where the evergreens were located per the picture submitted. Mr. West stated they were located along the concrete drive where the garage entrance is; and behind that is the proposed location of the shed. Chair Morel stated it appeared there was enough room to accommodate a shed.

Mr. Figola responded, what you don't see is the slope from the house. He added he was afraid that if work needed to be done on the septic system; backhoes could not gain access as they would be riding on the high side of his yard. The yard slopes right down to the sewer lines. There is a substantial grade from the house down to the sewer line. The area shown for the shed was the only flat spot on the property.

Mr. Blakemore stated the application stated "Based on the contour of the land our home was built higher than the homes around us thus causing a significant slope to our sides and back yards. We slope for approximately thirty-five feet from the house to the side property lines."

Mr. Figola stated when he built his home the land was flat. He asked the builder when he dug the foundation to raise the house up. Now everything slopes back down to the wooded area. If I put a shed there and try to get things in and out of the shed I would be bumping up the slope every time I do so. Unless I turn the shed around and put the back of the shed toward the slope, toward the back of my house and face the woods I would have an issue getting things in and out of the shed based on the slope of the yard.

Chair Morel stated there is not that much of a slope. Mr. Figola stated the slope was substantial i.e. a 12 ft. slope.

Mr. Blakemore asked how much room was needed between the ramp and the sewer line? Mr. Figola stated 5-6 ft. Chair Morel stated he did not understand why Mr. Figola did not just put it over the sewer line? Mr. Figola reiterated that twice now he has had issues with the septic system and heavy equipment had to be brought in on the property.

Mr. Basilone stated per the pictures provided it seems the proposed location of the shed will eventually be blocked by the row of pine trees. Mr. Figola stated yes, that was correct.

Mr. West asked if there could be a lesser variance request that would still allow for access to the back? Mr. Figola answered, a 10 ft. variance rather than a 13 ft. variance would work for him.

Chair Morel stated to him it seemed that the further you put the shed from the property line the more access you will have behind the shed. Why can't you go behind the shed to access the septic system? Mr. Figola answered, because all of the scrub, overgrowth and tree stubs that lay back there along the property line. However if that is the case, then the shed moves further into the yard.

Chair Morel stated that the Board has considered a similar case where the individual did not want his shed in the middle of his yard and it was denied. The shed ended up being built 25 ft. from the side yard setback. He added everybody wants their "stuff" on the edge of their property. The zoning code setbacks are because we don't want to look like

Parma or the City of Medina. When you are talking about the essential character of the neighborhood this is RR-Rural Residential.

Mr. West stated he was looking at the drawing and was struggling with the fact of why can't they just drive the heavy equipment up the driveway? It appears that the problem is from the driveway back. Mr. Blakemore stated if you drive heavy equipment over the sewer line you would snap it. He stated personally he would not drive heavy equipment over his sewer line.

Mr. Basilone stated the shed was not out in the open. There was woods or shrub and overgrowth. If he were a neighbor he would have no concern over the proposed location.

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-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 the owner said no.
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? Chair Morel stated he did not feel that there was enough evidence. Mr. Blakemore stated he agreed with Mr. Basilone that this was the right thing for the resident.

Mr. Blakemore made a motion to approve 13 ft. side yard setback variance for the construction of 10x12 shed with a 5 ft. ramp at the property located at 3680 Foskett Rd. It was seconded by Mr. Basilone.

ROLL CALL-Blakemore-yes, Basilone-yes, Gray-no, West-no, Morel-no.

The variance was denied.

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The minutes to the Boards March 21, 2018 public hearing were approved as written.

Having no further business before the Board, the hearing was officially adjourned at 9:24 p.m.

Kim Ferencz, Zoning Secretary



Ed Morel, Chairperson