

**MEDINA TOWNSHIP
ZONING BOARD OF APPEALS
PUBLIC HEARING
MAY 16, 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, Gray and Basilone were in attendance. Permanent member West was absent. Alternate member Payne state in for a full Board. Alternate member Dominguez was also present.

PUBLIC HEARING

Mower Shop variance request-3055 Pearl Rd.

Secretary Ferencz read the application into the record. The applicant is Illes Architects Inc. representing the property owner Ken Peters (The Mower Shop). Address of the property requiring the variance-3055 Pearl Rd. Present Zoning-BG. Previous variance request(s)-Yes for rear yard setback.

Variance being requested & Explanation of Requested Variances:

Variance request of Section 405.3.C Minimum Front Yard Setback-100 ft. requesting a 25 ft. variance and Section 405.3.D.-Minimum Side Yard Setback-75 ft. Requesting a 63 ft. 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.**

Expansion of the facility is not possible due to the setting of the existing building.

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

Existing property and structures abuts drainage way

- 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 provide secure dry storage for customer equipment, organize the site and remove chain link enclosure. Products will be removed from sight. This is an unheated canopy expansion with screen walls.

The applicant, Mr. Chip Klinkenberg was sworn in. He stated the canopy would be placed on the north side adjacent to the chain link area. The Mower Shop receives a lot of repair work during the off-season. When they receive a lot of mowers they are forced to store the mowers outside in the enclosed area. The Mower Shop has experienced several thefts. Also because the mowers are left out in the elements, they have the potential to rust which does not make the customers happy. Mr. Klinkenberg stated the Mower Shop really has no need to expand the building to facilitate this; but they need to find a way to secure the mowers to be worked on as well as to store new product they receive at this location. Mr. Klinkenberg stated the canopy would be placed over the existing concrete. The canopy would consist of an 8 ft. enclosure wall with 4 ft. of that being open screen. It would be unheated.

Mr. Klinkenberg continued that the reasons for the variances are because the way the building is situated it is slightly angled to the northwest. The setback on the south side of the building is still the front of the building but because of the curve of the road the dimension is reduced.

Regarding the side yard setback variance; Mr. Klinkenberg stated we are actually maintaining the distance we have when a variance was granted for the building years ago. The property line actually bisects a drainage creek, which is a protected waterway and controlled by the EPA. This is a significant waterway which cannot be diked or filled; therefore we are not changing anything on the site. The canopy will be placed on top of the existing concrete slab. Mr. Klinkenberg added that even though they are screened walls with a roof over it a variance is required. It would be constructed with low maintenance materials i.e. a pre-engineered metal roof and siding that matches the existing building.

Ms. Strogin Chair of the Zoning Commission was sworn in. She stated that the buffer is 75 ft. because this business abuts a residential use. Chair Morel stated this was a large variance. Mr. Klinkenberg stated he understood but the drainage way cannot be manipulated in any way. There is a fence there now and basically we are putting a roof over it. It is not a building; it's a canopy and we don't want to expand the building.

Mr. Joe Novak was sworn in. He stated he owned the residential property next to the Mower Shop. He asked to look at the site plan. He said he had no objection to the variances.

Mr. Blakemore asked if the front yard setback was even with the building? Mr. Klinkenberg stated yes. Mr. Blakemore asked if the current structure was 75 ft. Mr. Klinkenberg responded yes because of the angle of the lot. Mr. Blakemore then asked if there would still be access around the existing rear building, Mr. Klinkenberg again answered yes.

Mr. Blakemore stated the outdoor exposed fenced in storage area would now just be enclosed. Mr. Klinkenberg stated that was correct. Nothing will be visible from the street. The existing chain link fence would be removed as well.

Mr. Basilone asked about the height of the walls. Mr. Klinkenberg stated the bearing height of the wall in the corner would be 14 ft. because we still want to be able to get a box truck back there. Mr. Basilone asked about the roof? Mr. Klinkenberg stated it would be a pitched, metal roof.

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 request.** The Board stated yes.
2. **Whether the variance will be substantial?** The Board stated yes, it was huge.
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?** Chair Morel asked if off-site storage was ever a consideration? Mr. Klinkenberg stated the owner of the Mower Shop already has off-site storage. Most of those sites are too from this location and this is the number one location. He added if you look at the north side of the building there are garage doors and the service department is on the north side lower level. The biggest influx is that we all drop our mowers off in October and they work on them all winter. The mowers then sit out in the snow, sleet and rain and this “canopy enclosure” will prevent that from having to take place.
7. **Does the granting of the variance uphold the spirit and intent of the Zoning Resolution?** The Board stated that though this is a large variance, the proposed improvements would help clean up that area and make it more attractive.

Mr. Payne stated yes the variance is huge, but it is a big improvement from a chain link fence. Mr. Klinkenberg interjected that these variance requests would never have been brought before the Board but knowing that the drainage way is protected and a house could never be built up to that 75 ft. buffer we fell the variances are warranted.

Mr. Nowalk stated he owns the first 500 ft. of property on the corner from the road since the 1980's which is also zoned Business General. He added he owns and rents the farmhouse on the corner. Mr. Nowalk also stated that he still retained the original chicken coop that the Mower Shop started in on his property. The only change that would potentially happen is that that he would sell that property to a business that would use it as BG zoned property. Mr. Nowalk concluded that he did not believe with the creek dividing the property that there would be any value in a business getting close to that creek. This is a substantial waterway that has flooded from time to time. That property being used as residential is not realistic. That property on the corner will be used as Business General.

Ms. Gray asked if The Mower Shop would have to get any approval from the County for building so close to the waterway? Mr. Klinkenberg stated they would have to go before Storm Water Management. He added they are putting a hard surface over a hard surface. We are not excavating so there should be no issue.

Mr. Basilone stated when considering a variance request, he personally puts a lot of emphasis on what the neighbors think. Mr. Nowak is not concerned about the variance. Mr. Basilone added he liked to see businesses thrive in Medina Township and did not have a problem with the variance request.

Mr. Blakemore made a motion to approve a 25 ft. front yard setback variance and a 63 ft. side yard setback variance for the construction of a canopy structure at the property located at 3055 Pearl Rd. It was seconded by Mr. Basilone.
ROLL CALL-Blakemore-yes, Basilone-yes, Gray-yes, Payne-yes, Morel-yes.

The variance request was granted.

Stachowiak variance request-3057 Hood Rd.

Secretary Ferencz read the application into the record. The applicant is James & Deborah Stachowiak. Address of the property requiring the variance-3057 Hood Rd. Present Zoning-RR. Previous variance request(s)-No.

Variance being requested & Explanation of Requested Variances:

Variance request of Section 401.3.C. Minimum Lot Frontage-200 ft. Existing frontage is 78.27'. Requesting variance of 121.73'.

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.**

The property is unusable and has no practical value without the variance. The property was purchased with the intention of a retirement home.

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

The property is not exceptional. Many other buildable properties with similar dimensions exist.

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 lot will contain a valuable taxable home.

The applicant, Mr. James Stachowiak was sworn in. Chair Morel asked how did this whole situation come about? Mr. Stachowiak stated he and his wife moved into Medina in 1994 and bought 4.5 acres and built their home on it. When we bought it; it was originally 20-30 acres. The property that we are talking about now is the original property we desired at the time. It was owned by Edith Hood who was married to the Stock family. When we wanted to purchase the property it was 8.8 acres and the family did not want to sell so that's when we bought the 4.5 acres and built our home there. About a year later the home to the east was built by a spec builder who was having a hard time selling the property. We bought the 2.8 acres behind that property and added it to our 4.5 acres. After 10 yrs. the Stock family was finally willing to sell the property and took the original offer we gave them in 1994. We then purchased the property with the intention of building our forever home but at that time we were not financially able to do so. We entered into a mortgage with Wells Fargo, which ended up being a predatory loan. There was a primary mortgage which was to be fixed after 5 yrs. and a secondary mortgage that was supposed to be variable. While we were working on paying those loans off; we received a letter from Wells Fargo that the primary loan was not fixed and was going to go up. We contacted a local lawyer and were advised to stop paying on the loan and take them to court; which we did. Thirteen mediations later... we started to sink financially. We realized the frontage was 200 ft. but we were sinking financially so we sold some of the acreage even if it did not look good for us to build there later.

Mr. Stachowiak stated he and his wife have gotten their financial footing back and Wells Fargo dismissed the case and their loan was recast. While the loan was being recast the property had a loan on it from Third Fifth Bank. We cut the three acres off and added it to the other property so in case we ever wanted to put up an outbuilding we still could. Wells Fargo however would not recast the loan with the current deeds being the way they are. There are two deeds i.e. the original 4 acres combined with the 2.8 acres making almost 7 acres and the 5 acres that are left. Legally Wells Fargo could not recast the loan

because of the Fifth Third loan. With Fifth Third's permission, we split the land off again basically making it unbuildable. It has been this way for 8-10 yrs. now.

Mr. Stachowiak continued that he and wife are empty nesters and do not need a 5 bedroom home. We want to build our forever home on that hill like we planned back in 1994. In any other case this would have been a grandfathered lot and we could have obtained permits and built on it. However because this property has gone through this process, the timing of the zoning regulation changes; and the issue of the split that was done through the courts; this property has become unusable. The banks and the courts required this split otherwise the property would be part of the original 3 acres. Mr. Stachowiak continued that the creation of these 3 acres has ended up to be a major problem for them. He commented that he understood he dug this hole but this property is beautiful and secluded and they would like to build their house 800 ft. back. Mr. Stachowiak stated there are two neighbors who are present this evening who would like to testify this evening. We think the property has no value without the variances. It is even too small to tax as agriculture because one needs 10 acres to get a tax credit. It is only 5.5 acres and 78 ft. has a gravel drive on it. It then goes back approximately 625 ft. and then opens up to 280 ft. wide for another 700 ft. On the west side is another 2.8 acres, which is open and 4.8 acres that goes back to the road.

Michael Meadows (3075 Hood Rd.) was sworn in. He stated his property adjoins the Stachowiaks' to the west. He stated he thought the sincerity of Mr. Stachowiak has much to be said for the integrity and character of this individual and his desire for him and his wife to stay in Medina Township. He stated he is totally in agreement with the granting of the variance request.

Cindy Sladek (3073 Hood Rd.) was sworn in. She stated she purchased the 3 acres from the Stachowiak's from the 8.8 acres directly to the east of the 78 ft. section mentioned by Mr. Stachowiak. She stated she has lived there for 11 yrs. and had no issue with their variance request.

Laura Balmer (3093 Hood Rd.) was sworn in. She stated she lived to the west of the Stachowiaks. She questioned the flooding in the area, which seems to be happening more and more frequently. Mr. Stachowiak interjected that this property does not adjoin theirs. Ms. Balmer asked if she could continue. Cook Rd. is on an angle. It goes on an angle from Nichols Rd. and gets lower towards Cook. There is a lot of flooding. Ms. Balmer stated she is getting sinkholes and rushing water on her property. There is a swale between her property and the Stachowiak's property. She then came up to the Board to see where the Stachowiaks were planning on building their home. When she saw that the Stachowiaks were going to build farther back (800 ft.) than closer up front on their property and it will only be one residence; she was now not as concerned that the construction should be an issue. However Ms. Balmer stated she gets the runoff from everybody and produced pictures (see file).

Chair Morel stated he lived on Foskett Rd. and it is like a river in his yard when it rains and it seems to get worse every year. Mr. Stachowiak interjected that Ms. Balmer was right. There has been a lot of rain lately and we have had a lot of water in the front of our property as well as in the back of the property.

Chair Morel asked the size of the home. Mr. Stachowiak stated between 1800-2200 sq. ft. and they were planning on leaving the rear of the property natural with minimal landscaping.

Mr. Basilone stated he could not believe the court case resulted in the land becoming unusable. Chair Morel stated he was surprised the County would split the property in that manner. Ms. Strogin stated when this was recorded by the Auditor back in 2009 it states "The 5.299 acres is the balance from a court order split. It does not meet Medina Township's building site requirements therefore this parcel is a non-buildable lot."

Ms. Strogin stated the County can create a non-buildable lot and then they stamp it non-buildable. Ms. Strogin stated Mr. Stachowiak sold off the frontage of this lot due to financial reasons. Mr. Basilone stated then Mr. Stachowiak then created his own hardship. Ms. Strogin responded yes, unfortunately.

There was then a long discussion about all the water issues in that area especially along Hood Rd. Mr. Stachowiak stated he just got a culvert permit to do \$1100.00 worth of culvert work in his front yard. The ditch actually comes together on the Michaels' property at their tree line. The water comes in and hits his culvert first. This is the second time in 24 years that culvert has been replaced.

Mr. Blakemore stated he saw other properties in that area that also do not have 200 ft. frontage. Ms. Strogin stated that was because the zoning was changed from 150 ft. to 200 ft. of frontage. There was ample frontage for Mr. Stachowiak to use that rear property but unfortunately he sold off the frontage when he was having financial difficulties. The result was 78 ft. of frontage. It is basically a rear flag lot, which the Township does not allow. Mr. Stachowiak stated there are a few other lots like this in the Township i.e. Granger Rd. on 22 acres that was built in 1998. He added he realized he caused this situation but the aesthetics of what he was planning on building and the beauty of the property should be given consideration.

Deborah Stachowiak was sworn in. She asked why the flag lot is deemed to be unbuildable? Chair Morel stated it could be a flag lot as long as it has 200 ft. of frontage as this is the Rural Residential District. It is a density issue. Flag lots are not encouraged in Medina Township.

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 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, and the applicant has actually caused this situation.
6. Whether the problem can be solved by some other manner other than the granting of the variance? The Board stated we either make this a buildable lot or we don't.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? Chair Morel stated he did not want to open up the floodgates to allowing flag lots.

Mr. Basilone asked how long ago was this property manipulated and cut up in this manner. Mr. Stachowiak said approximately 11 yrs. ago. He added he was trying to stay financially afloat and to remain living in the Township.

Chair Morel stated he did not like flag lots. However in this case, the applicant's neighbors came to testify positively regarding the variance request and they would be the ones most directly affected. Therefore he could support the variance request in this case.

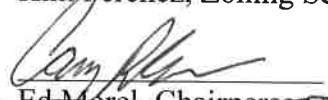
Mr. Blakemore made a motion to approve a 121.73 ft. minimum frontage variance for PP# 02606B38046. It was seconded by Ms. Gray.

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

The variance was granted. The minutes to the Boards April 18, 2018 public hearing were approved as written.

Having no further business before the Board, the hearing was officially adjourned at 8:00 p.m.

Kim Ferencz, Zoning Secretary


Ed Morel, Chairperson
