

**MEDINA TOWNSHIP  
ZONING BOARD OF APPEALS  
PUBLIC HEARING  
October 19, 2022**

Chair Blakemore called the hearing of the Medina Township Board of Zoning Board of Appeals to order at 7:05 p.m. Permanent members Gray, Payne, Greene, Morel and Blakemore were present. Alternates Bill Ostmann and Chris Traynor were also in attendance.

Chair Blakemore stated the Township was hosting a food drive for Medina County from October 13, 2022-December 16, 2022. Non-perishable food items would be accepted. You can drop off your donation at the Township Hall. On October 29, 2022 Township volunteers will be in front of Wal-Mart collecting food donations.

**379 Management LLC (Brian Kress) variance request-3790 Pearl Rd.**

Secretary Ferencz read the application into the record. The applicant is 379 Management LLC. Owner-Brian Kress. The street address requiring the variance is 3790 Pearl Rd.

Present Zoning: BG. Previous variance requests: none.

The variance being requested and reason for the request:

Section 405.3C-Minimum Front Yard Setback-100 ft. I'm requesting a setback variance due to unusual property lines on the west and east sides of the lot. I am asking for a 90 ft. setback instead of 100 ft. to the front of the building. New building will be located 90 ft. from the front yard setback. Requesting a 10 ft. variance.

The right of way is not straight due to the location of the old building when the road was widened. When the west side of the lot was taken it left this property with an angled line. With this variance granted the front of this building will be even with the front of the Dollar General located next to this property.

The owner, Mr. Brian Kress was sworn in. He stated the back of the property is on an angle. I am trying to optimize the parking lot so I would like to construct the building as far back to the northwest corner as I can. In order to do so, I will need a 10 ft. variance. This should make the front of the building parallel to General Dollar next door.

Chair Blakemore asked why the building could not be moved 10 ft. further back. Mr. Kress said with the width of the new building being 100 ft. wide and the back of the property being on an angle, I would have the room on the north side but as the building comes across, I lose that 20 ft. that I need for the landscaping requirement and driveway. I am trying to push the building back as far as I can allowing me more front parking as that little pie-shaped piece of property in the back is useless.

Mr. Morel asked, did you lose property with the widening of Pearl Rd.? Mr. Kress stated he did not know as he did not own the property at the time. He stated he thought so as the building (former Streetside restaurant/bar) was so close to the road. Mr. Kress stated as a result he is left with a unique curvature of a property line in the front where the right of

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way is as well as due to the police station taking a portion of the back which used to be part of this property.

Ms. Strogan, Chair of the Zoning Commission was sworn in. She confirmed that the State did take 10-12 ft. from this property. That taking really butchered that property. As long as the building is going to line up with Dollar General it will not look out of place and is a realistic variance request.

Hearing no further comments, 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 yes.
2. Is the variance substantial? The Board stated no.
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 variances. The Board stated not really.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board stated yes.

Mr. Morel made a motion to approve a 10 ft. front yard setback to construct a new building with a 90 ft. front yard setback for the property located at 3790 Pearl Rd. as presented. It was seconded by Mr. Greene.

ROLL CALL-Morel=yes, Greene=yes, Gray=yes, Payne=yes, Blakemore=yes.

The variance was granted.

**Shurell reconsideration of variance-3284 Old Weymouth Rd.**

Secretary Ferencz read the application into the record. The applicants are Robert & Marlene Shurell. The street address requiring the variance is 3284 Old Weymouth Rd.

Present Zoning: RR. Previous variance requests: yes.

The variance being requested and reason for the request:

We are requesting a variance to Section 401.3A, for the purpose of transferring approximately .87 acres of land from the 3284 Old Weymouth Rd. property to the adjoining Remsen Rd. property, (PP# 026-06B-18-079). This adjustment will leave 3284 Old Weymouth Rd. With approximately 2.16 acres and the Remsen Rd. property with approximately 4.81 acres. (We have owned both properties since 1986.)

Please refer to the attached maps that show existing property configurations and the requested configuration. There are several things to notice on these maps.

- The Remsen Rd. property is largely landlocked and has only two access points to the public-way, both on Remsen Rd. The eastern access is the current and historic access point for this property and serves the existing barn. The western access point is currently a wooded tree line containing mature trees, with no vehicular access either historic or planned.
- The Remsen Rd. property surround the Historic Weymouth Cemetery on three sides (woods to the steep ravine, stream and woods to the north and the established driveway to the east).
- The 3284 Old Weymouth Rd. property “bulges” into the Remsen Rd. property, cutting off vehicular access to the deeper, landlocked, areas of the property. The exiting Remsen Rd. driveway cross a culvert at the 3284 Old Weymouth Rd. property line providing access to the landlocked portion of the property.

A problem exists because the driveway crosses an appendage of the 3284 property. The problem we are seeking to fix centers around access to the landlocked portions of Remsen Rd., by incorporating the access pathway into the Remsen Rd. property.

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

Strict adherence to the Resolution would render the existing driveway isolated and unusable for accessing the landlocked areas of Remsen Rd. Should 3284 Old Weymouth Rd. ever change ownership, the only pathways to access the landlocked areas of Remsen Rd. would be:

- Construct a vehicle driveway along the stream bed north of the Historic Cemetery, which would be prohibitive because of the steep embankment immediately behind the cemetery and the proximately of the paralleling stream.
- Construct a new vehicle driveway on the west side of the Cemetery, which would require clear-cutting a significant portion of the existing mature wood line, building a retaining wall, and creating a new Remsen Rd. access point directly across from the intersection at the dead-end of Myers Rd. This solution, while it could be done, is not desirable from a conservatorship perspective. It would have a negative impact on the view of neighboring

properties, most noticeably that of 3055 Myers Rd. adjoining to the west, where their eastern view would change the backlands and the barn/garage would require back and forth, exiting and entering, onto and off the Remsen Rd. Additionally, a driveway entrance placed at a highway intersection (Remsen and Myers Roads) may be dangerous. Our goal is to minimize visual and physical impacts to the character and historic quality of Weymouth, and to avoid creating safety issues. Approval of the variance will promote preservation of the character, preservation of mature woods and minimize new traffic safety concerns.

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

The most unique aspect to this Remsen Rd. property is that it surrounds the Historic Weymouth Cemetery on three sides and therefore has a special responsibility to preserve the charm of Weymouth Village and to uphold and preserve the beauty, privacy and serenity of a wooded border to the cemetery. Our goal is the preservation of existing conditions.

Another unique condition of these two properties is their “puzzle piece” interconnectedness and highly irregular shape. We seek to normalize these properties and solve a unique access issue for the Remsen Rd. property through this variance.

- C. Improvements in such district and will not materially impair the purpose of the Resolution.

The proposed transfer of approximately .87 acres has no impact on the amount of green space or housing density and will do no practical or aesthetic harm to the adjoining properties or the neighborhood in general. From the road and all points of view it would be invisible. However, it does not impact the property in a negative way. Safety and service vehicles will continue to have full and open access to both properties, as access will remain as it currently exists.

Because the Township’s zoning intent and spirit will be upheld and we believe the impact of this variance not to be substantial, we respectfully request your approval.

The applicant Mr. Shurell was sworn in. He stated that this variance request was originally heard by this Board back in March 2022. We are here before you this evening to ask for an amendment to the variance was granted. Mr. Shurell stated the reason is when the surveyor finished his survey there was 7/100<sup>th</sup> of an acre more that transferred. So instead of the lot being 2.16 acres on the 3284 Old Weymouth Rd. property it ended up being 2.09 acres.

Mr. Shurell continued the reason why is that the acreage that he calculated on that appendage was based on the tax map which was cruder. In the language on the original application it did state approximately. Secondly when I drew on the map it showed the culvert which we needed to include, and I put more of a curve on it than actually exists. So, when the surveyor was there, he had to move the line a bit over to encompass the culvert.

Mr. Morel stated the bottom line is that the smaller piece of property that was left was smaller than it was before. Mr. Shurrell responded, that was correct.

Zoning Inspector Ridgely then addressed the Board. She stated on the exhibit marked parcel A on the application, it was excluding the right of way. As when we calculate the acreage, we do not include the right of way.

Ms. Strogin interjected the lot does not include the right of way. For a lot they measure from the center of the road. That is why the zoning code states that the setbacks are X amount exclusive from the road right of way. ZI Ridgely stated then it's not 2.094 acres. The correct calculation is 1.7031 acres.

Mr. Green stated if the right of way is excluded then it should be the figure that excludes the right of way. The Board agreed.

Hearing no further comments, 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 yes.
2. Is the variance substantial? The Board stated no.
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 variances. The Board stated yes.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board stated yes.

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Mr. Payne made a motion to grant an area variance request of Section 401.3A-Minimum Lot Area-Three acres exclusive of the road right of way. The variance request is to approve the creation of a new lot (PP#026-06B-18-079-Remsen Rd.) to have approximately 1.7031 acres exclusive of the road right of way (Parcel A) as presented.

It was seconded by Mr. Morel

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

The variance was granted.

The minutes to the BZA September 21, 2022 hearing were approved as written.

Having no other business before the Board the hearing was adjourned at 7:30 p.m.

Respectfully Submitted,

Kim Ferencz  
Zoning Secretary

  
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Carey Blakemore, Chairperson