

**MEDINA TOWNSHIP
ZONING BOARD OF APPEALS
PUBLIC HEARING
May 17, 2023**

Chair Blakemore opened the public hearing at 7:00 p.m. Permanent members Blakemore, Gray, Greene, Payne were in attendance. Permanent member Morel was absent. Alternate Ostmann sat in for a full Board. Alternate Traynor was also in attendance.

Modern Home Concepts variance request-3308 Thomas Lincoln Parkway

Secretary Ferencz read the application into the record. The applicant is Mike Burianek from Modern Home Concepts on behalf of the potential owners Brad & Holly Ostendorf (Prestige Homes.) The street address requiring the variance is 3308 Thomas Lincoln Parkway. Present Zoning: RR Previous variance requests: none.

The variance being requested and reason for the request: Section 401.3D required Minimum Front Yard Depth-80 ft. House to be constructed 60 ft. from side property line. Requesting a 20' variance. A 20 ft. variance in the setback to the front, east portion of the property is respectfully requested. This variance would move the setback of the home from 80 ft. to 60 ft. from Thomas Lincoln Parkway. It would not impact the 80 ft. setback from Remsen Rd.

1. Will the property yield a reasonable return or whether there is a beneficial use without the variance? The property, 3308 Thomas Lincoln Parkway, hereinafter referred to as "property" is presently zoned residential. Based upon the makeup of the property, the property will not provide a beneficial use with the bounds of the current setback for the reasons provided below.

Wetlands-the property contains a substantial amount of wetland area running north to south intersecting the property. To avoid disturbing the wetlands, a variance to the front or eastern portion of the property is required. As stated above, this would move the setback from Thomas Lincoln Parkway from 80 ft. to 60 ft. The 80 ft. setback from Remsen Rd. would not be impacted by the placement of the home. It should be noted that the planned home will be 2,280 sq. ft., just above the 2,200 sq. ft. minimum required for a home in the Regal Brook development. The purpose of the variance is not to place an inordinately large home on the property.

Elevation-The property characteristics include a significant elevation change down the drainage swale. Without the setback variance, the cost of building on the property would be significantly increased due to this elevation change. With the variance, the home will still deal with the natural change in elevation, just not a significant elevation change, which would make the project cost prohibitive. It should be noted that this significant elevation change, which would be avoided with a 20 ft. variance, is in the wetlands area. Property Use-The property has been part of the Regal Brook subdivision since approximately 2000, when construction began. No one has decided to build on the property during the past 20+ years, no doubt, due to the inherent challenges of the property.

Other Home Potential Locations on the property-The only other potential building location is in the back portion of the 2+ acre property. This location has its own challenges that make it nearly impossible to situate the home in this location. First, it is our understanding Medina Township will not allow the driveway to connect to Remsen Rd. due to traffic issues. Therefore, the driveway for the home would have to traverse the significant elevation change to meet Thomas Lincoln Parkway. Also, the driveway would have to be constructed through the wetland area, thereby disturbing the wetlands. The house located in this back portion of the property location also conflicts with the building plans for the subdivision initially submitted to the township, which places the home where we desire to place the home, in the southeast corner. Additionally, a home located in this back portion would not be in line with the other homes in the subdivision making it potentially unsightly.

In sum for any home to ever be constructed on this parcel of land, a variance would be required.

2. Is the variance substantial? The 20-ft. variance is not substantial. A 60 ft. setback is in line with other residential communities located in Medina Township. Due to the curvature of Thomas Lincoln Parkway, the home location with variance would not be noticed and be more attractive.
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 of a new 2,280 sq. ft. custom style ranch home would not alter the essential character of the neighborhood. As mentioned above, the curvature of Thomas Lincoln Parkway would make the variance to the setback unnoticeable. The characteristics of the neighborhood would be altered if the variance is not granted as any potential home would sit lower on the property and not in line with the other homes in the Regal Brook subdivision. Based on the home plans, the proposed home with a variance would only enhance the neighborhood.

Adjoining Property Owner Detriment-There is no adjoining neighbor to the north of the adjoining property, which was recently purchased; no home has been constructed on this lot. Based on the makeup of this property, and the curvature of Thomas Lincoln Parkway, the value or aesthetics of this property, or any future home constructed on it, would not be negatively impacted by the granting a variance to the setback.

4. Will the granting of the variance adversely affect the delivery of governmental services? The granting of the variance would only enhance the delivery of governmental services as the tax revenue collected by Medina Township would increase with the construction of a new home.
5. Did the property owner purchase the property with the knowledge of the zoning restrictions? Brad & Holly Ostendorf's purchase of the property is presently in "pending" status, and they are conducting due diligence prior to finalizing the purchase. Although the variance was known when the purchase contract was entered,

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its impact on the home location and increased construction costs were not fully realized. Additionally the presence of the wetland area was not known by Brad & Holly Ostendorf prior to entering the purchase contract and only discovered during their due diligence process.

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

It will not be resolved, realistically, by any other manner due to the naturally occurring building constraints inherent to the property outlined in this variance request. This is evident by the length of time the property has sat vacant.

7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? Yes, it upholds the spirit and intent of the Zoning Resolution. This request is for a reasonable variance to the areas zoning setbacks for this particular location to place a home within the bounds of a planned subdivision located in a residential area.

Also attached was a letter from Prestige Homes President Perry Bourn dated April 10, 2023 which read:

Dear Board of Zoning Appeals:

As current owner of lot 1 in Regal Brook Farms Subdivision Phase 1 also known as PP#02606A16009 of Medina County Records, I hereby give my permission to the potential buyer and Modern Homes Concepts to speak on my behalf regarding the variance request submitted and needed to be able to build their home on lot 1.

Lot 1 has topographic challenges that make it difficult to build a home on a lot without requesting this variance from the required setback. Lot 1, per the recorded plat is not permitted to have the driveway entering from Remsen Rd. so the driveway to the proposed home must enter off of Thomas Lincoln Parkway. This severely limits the buildable area for the home because of existing topography and the wetland area. Prestige and Premier Companies support the variance request and believe that since lot 1 is located along the curved street section of Thomas Lincoln Parkway, it would not be detrimental impact to the neighboring properties.

We would also like to thank Medina Township for the support of our developments over the last three plus decades. It has been a pleasure for us to build homes in Medina Township and truly appreciate the great working relationship Medina Township and Prestige Homes has developed.

The applicant, Mr. Mike Buriank, owner of Modern Home Concepts was sworn in.

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Chair Blakemore asked ZI Ridgely about the “no driveways off of Remsen Rd. ZI Ridgely was sworn in. She responded that was correct, the County Engineer said no driveways off of Remsen due to the hill that exists on that road.

Chair Blakemore asked Mr. Buriank if the wetlands that were referenced were legitimate. Mr. Buriank stated yes, and that was disclosed when the subdivision was originally approved.

Ms. Gray asked, presuming we grant the variance, will it be permanent for that piece of property? Secretary Ferencz stated variances run with the land so yes, the variance would be in perpetuity.

Alliss Strogan, Chair of the Zoning Commission was sworn in. She stated she was around when this subdivision was approved and what happens is the developer tries to get the maximum lots he can out of a parcel of property. The result is that some of the land truly is not suitable for the construction of a home due to topography issues even though it is by definition a buildable lot. Is it the Township’s responsibility to grant a variance to correct a deliberate attempt by the developer to construct a home on property that should probably not be buildable. That is the question.

Having no further comments from 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 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.
6. Whether the problem can be solved by some other manner other than the granting of the variances. The Board stated the minimum size of the homes that can be built in this subdivision is 2,000 sq. ft. so the home could possibly be made smaller. Mr. Ostmann stated building a home with all the wetlands around it would probably not be possible without the granting of a variance of some type.
7. Does the granting of the variance uphold the spirit and intent of the Zoning

Resolution? The Board yes.

Ms. Gray made a motion to approve a 20 ft. front yard setback variance for the construction of a home to have a 60 ft. front yard setback on the southeastern property line for the property located at 3308 Thomas Lincoln Parkway as presented. It was seconded by Mr. Greene.

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

The variance was granted.

Costanzo variance request-2740 Remsen Rd.

Secretary Ferencz read the application into the record. The applicants are Sara & Dan Constanzo. The property requesting the variance is 2740 Remsen Rd. Present Zoning: RR. Previous variance requests: Yes. In 1996 a variance was granted to allow 40 ft. variance to storage tanks; and a 60 ft. variance to gas well.

The variance being requested and reason for the request: Section 308.I.8. Supplemental General Regulations 1. Oil & Gas Wells. In order to add an addition to the side of our home to accommodate a main floor bathroom, we are seeking a variance on the frontage (300 ft.) from the house to the well and tanks leaving 236.18 ft. to the tanks and 232.37 ft. to the well. Seeking a 25.4' and 12' variance.

The provision is more restrictive than the State, and the Resolution is intended to preserve the character of the property. Allowing us to add on to the home to include a main floor bathroom promotes health and safety. Because the home is built near the eastern property line, into a hill, this limits any other options to add to the main floor. Allowing the requested variance supports persons with disability and the aging.

1. Will the property yield a reasonable return or whether there is a beneficial use without the variance? No. Without allowing the variance request, anyone who has a mobility disability will be unable to access the current bathrooms, as there is currently no bathroom facility located on the first floor of the home. I have been diagnosed with rheumatoid arthritis, so my mobility over time will increasingly worsen. There is a clear beneficial use to allowing the variance.
2. Is the variance substantial? No. It is only seeking between 12' and a 25.4' distances between the existing home and the gas storage tanks and well, which will result in the property still being in full compliance with Ohio regulations (ORC 1509.01 & 1509.021) which allow exemptions of 200' and as of 6/30/2010 a distance of only 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? No, as the variance request is to add 540 sq. ft. to the right side of the

home, continuing the character and design of the home so that it retains the existing aesthetics, with no impact on the neighborhood. Rather than suggesting putting only a 2 piece bathroom on the side of the house, which would structurally look odd and an afterthought, we worked with the contractor to design around the Septic tank, so that the proposed structure mirrors the living room/dining room footage and matches the existing structure from the outside.

4. Will the granting of the variance adversely affect the delivery of governmental services? No, the variance application will have no impact on current or future governmental services.
5. Did the property owner purchase the property with the knowledge of the zoning restrictions? No, when purchasing the home in 2016, no zoning restrictions were disclosed in the listing/sale/purchase documents. This was our first home purchase that included mineral rights of gas wells with storage tanks, so we had no information provided to explain any restrictions. In fact, when applying for a variance with the county, pertaining to the septic tank, which was granted, nothing was mentioned about the gas wells and tanks. We only learned of this variance issue when speaking with Elaine with the zoning department.
6. Whether the problem can be solved by some other manner other than the granting of the variances. No there are no other options on the first floor of the home (See images of current home). To the front of the house the water well is between the house and driveway, north of the house so we cannot bring the home closer to it; to the east of the house the garage exists, followed by the end of the property line with a waterway and; to the back side of the house there is a walkout basement and a deck off the main floor, which acts as a second floor since the house was built into an elevated slope, so the deck extends along the dining room and kitchen, and sits above the walkout basement.
6. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? Yes. The Resolution is intended to preserve the character of the property, while protecting inhabitants from damages. The request adheres to the standards from the State of Ohio (ORC1509.01 and 1509.021) to promote safety, health, morals, convenience and general welfare. As someone with rheumatoid arthritis, it is important to support persons with disabilities, allowing the addition to our home, so that a first floor bathroom can be included along with a sitting room which mirrors the overall home design. The home is a split level ranch, which was designed with 7 steps inside the home to access the bathrooms. The request will conserve social and economic stability and the general character and trend of community development, as accommodations for persons with disabilities and elderly members of the community is an inclusive measure.

Article III-General Regulations-Section 307

- I. Oil and Gas Wells-8. All oil and gas wells, storage tanks, and separator units shall be placed no nearer than the ORC 1509 permits from any residence of

public building. No shall any such building be erected within 300 ft. from any oil or gas well, storage tank, and/or separator units, abandoned or not abandoned. All wells, storage tanks, and separator units shall be at least 100 ft. from a road right of way and shall conform to all side and rear setback requirements of the appropriate districts. A landscaping strip shall be provided between adjacent residential properties and permanent oil and gas facilities.

Existing measurements from 1996 when home was built with initial variance request approved

261.58' from home to storage tanks

244.37' from home to gas well

Existing measurements from 1996 when home was built with initial variance request approved

261.58' from home to storage tanks

244.37' from home to gas well

What is being proposed:

Proposal (frontage) 25/4' would leave 236.18' remaining between home and tanks

Proposal (rear) 12' would have 232.37' remaining between the front of the addition to the home and well.

Also submitted was the letter from the County Health Department dated March 6, 2023 for a variance request for the building addition to be approximately two to three feet away from the existing household sewage system. The variance was granted.

A letter was submitted approving the original variance request for the house to be built closer than 300 ft. from the gas well and storage tank by the Medina Township Board of Zoning Appeals on April 22, 1996.

The applicant, Sara Costanzo was sworn in. She stated if the Board looks at the contractors' specifications as to what we are proposing to do, the septic tank is behind, so we are trying to aesthetically make it where you don't see the tanks. The house is not perfectly position to the road; it sits a little bit cockeyed.

Ms. Gray asked if the gas wells were still active. Ms. Costanzo responded, yes.

Having 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 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 no.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board yes.

Mr. Payne made a motion to approve a 25.4' variance (frontage) between the home and storage tanks; and a 12' variance (rear) between the home addition and gas well for the construction of a first-floor bathroom for the property located at 2740 Remsen Rd. as presented. It was seconded by Mr. Greene.

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

The variance was granted.

Grid Iron Guys variance request-3950 Pearl Rd.

Secretary Ferencz read the application into the record. The applicant is George Winkelmann from AIA Architects on behalf of the property owner Bill Lonjack Jr.-Grid Iron Guys. The street address requiring the variance is 3950 Pearl Rd. Present Zoning: BI. Previous variance requests: yes.

The variance being requested and reason for the request: Section 406.3D1a.(1)The owner desires to construct an open air, roofed, patio on the south side of his existing building. The current setback is 20 ft. The building wall is at 25 ft. The roof is 18' wide, therefore encroaching into the setback 13 ft.

- 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.
It would prohibit the owner from constructing a meaningful roof over the new patio which is being constructed for the benefit of his employees.
- B. What exceptional conditions apply to this property that do not generally apply to others in the same district
The building is surrounded by asphalt and concrete parking lots. This is the only side with grass & relief.

- C. Improvements in such district and will not materially impair the purpose of the Resolution
This small project would greatly enhance to employee experience at the business, is located behind landscape screening has a pleasant appearance, has no walls or widows and poses no hazard to the surrounding community or adjacent businesses.

Also attached were responses to the Duncan Factors.

1. Will the property yield a reasonable return or whether there is a beneficial use without the variance? Probably
 2. Is the variance substantial? The existing setback is 20' We are seeking a 13' setback.
 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 the essential area of the neighborhood would not change.
 4. Will the granting of the variance adversely affect the delivery of governmental Services? No, it will have no effect.
 5. Did the property owner purchase the property with the knowledge of the zoning restrictions? To the best of our knowledge, side yard setbacks were not discussed.
 6. Whether the problem can be solved by some other manner other than the granting of the variances. It would seem there is no other reasonable solution.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? We believe that the intent of the Resolution is to prevent the construction of a building closer to the property line than 25' and that the construction of the covered patio, that is completely open on 3 sides (except for the existing building wall) for the benefit of the employees does not violate the spirit or intent of the Resolution.
- The applicant, George Winkelmann from AIA Architects was sworn in. He stated he has known the Lonjak family for a long time and they have invested a lot of money in this site and felt it would be a great addition for the enjoyment of the employees.
- The building is actually 5 ft. further away than the setback required. The setback is 20 ft. and the building is 25 ft. away but when we put the roof on the patio it extends into the setback.

Chair Blakemore asked the reason why not put the patio somewhere else and not have to request a variance. Mr. Winkelmann responded the east side faces Pearl Rd. and the north side was the parking lot and the west side is all paved with a truck dock so the south side with the grass would provide the most relief for the employees instead of walking onto a sea of asphalt. If we had to locate it on the parking lot some parking spaces would probably have to be removed.

Chair Blakemore then asked what would be seen from Pearl Rd. Mr. Winkelmann stated nothing.

Ms. Strogin asked about additional landscaping to be tall enough to hide anything from being seen from Pearl Rd. Mr. Winkelmann stated the landscaping shown on the plan was approved when the original site plan for the building was approved. Ms. Strogin stated that was true but now you have a covered patio so the landscaping should be beefed up.

Having 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 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.
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 yes.

Ms. Gray made a motion to grant a 13 ft. side yard setback variance for the construction of an open aired, roofed patio to be 7 ft. from the south side of the building for the property located at 3950 Pearl Rd. It was seconded by Mr. Ostmann.
ROLL CALL-Gray-yes, Ostmann-yes, Payne-no, Greene-no, Blakemore-yes.

The variance was granted.

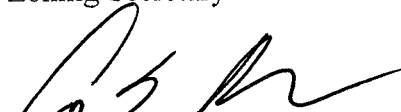
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Chair Blakemore reminded everybody about the Township clean-up day May 20, 2023 and asked those who can volunteer to do so if available.

The minutes to the BZA April 19, 2023 hearing were approved as written. Having no other business before the Board the hearing was adjourned at 7:36 p.m.

Respectfully Submitted,

Kim Ferencz
Zoning Secretary


Carey Blakemore, Chairman