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**MEDINA TOWNSHIP
ZONING BOARD OF APPEALS
PUBLIC HEARING
June 21, 2023**

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

Wasilewski variance request-4033 Nichols Rd.

Secretary Ferencz read the application into the record. The applicant is Anthony Wasilewski. The address of the property requesting the variance is 4033 Nichols Rd. Present zoning-RR. Previous variance request-none. The variance being requested and the reason for the request: Section 401.3E-Minimum side yard setback-25 ft. The purpose is to construct a barn 10 ft. from the side property line for the property located at 4033 Nichols Rd. The request is for a 15 ft. variance.

The side setback will put the barn close to the septic. The Health Dept. requires a building to be a minimum of 10' from the septic. The Township guidelines will put the building 8' from the tank. I need the building to store our vehicles, tractor, lawn mower and trailer.

Secretary Ferencz stated she did receive correspondence from a neighboring property (3971 Nichols Rd.)who was in favor of granting the variance.

The applicant, Mr. Wasilewski was sworn in.

Mr. Morel asked why barn could not be 10 ft. away from the septic. Mr. Wasilewski said because his property drops off pretty close to the septic; so I have to build it up 6-8 ft. in order to put the barn closer to the septic. To the south was vacant land with a barn it.

Chair Blakemore asked the size of the barn. Mr. Wasilewski stated 36'x40' and 14' in height.

Diana Huffman (1046 N .Jefferson St) was sworn in. She asked if the barn door would be facing the neighbor's property. Mr. Wasilewski stated no; the door will face the street.

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 stated yes.

2. Is the variance substantial? The Board stated yes.

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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 no, a variance would be needed regardless.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board stated yes.

Mr. Ostmann made a motion to approve a 15 ft. area variance request for the construction of a barn to be 10 ft. from the south side property line for the property located at 4033 Nichols Rd. as presented. It was seconded by Mr. Greene.
ROLL CALL-Ostmann-yes, Greene-yes, Gray-yes, Morel-yes. Blakemore-yes.

The variance was granted.

Klik Land Management LLC variance request-3344 Pearl Rd.

BZA member Morel stated he needed to recuse himself from this variance request as he has known the Lamphear family for years. The Board explained that with Mr. Morel stepping down and no other alternate to sit, a 2 to 2 vote of the Board is a no vote, and the applicant had the right to be heard by a full 5-member board. The applicant, Mr. Lamphear stated he wanted to still go forward with his request. Secretary Ferencz read the application into the record. The applicant is Klik Land Management LLC-Kory Lamphear owner. The property requesting the variance is 3344 Pearl Rd. Present Zoning: BG Previous variance requests: No.

The variance being requested and reason for the request: Requesting a variance of Section 405.3.D.3.a.1 which states- A business with 150'-299' frontage, adjacent to a residential district or use, shall have a 75' side yard, of which 25' shall be landscaped. Request is for a 40' side yard, of which 25' will be landscaped for the property located at 3344 Pearl Rd. The request is for a 35 ft. variance.

- 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.

The neighboring property to the north is in a commercial zoning district and has historically been used as a commercial property. It is my understanding that the business use has been, and/or is currently, an accounting or tax preparation business.

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It is unclear at this time whether this business is active. If the property to the north is currently a business, then this variance request is not needed. The applicant purchased this property with the assumption that the property to the north was/is commercial.

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

See response to item "A" above.

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

It is the applicant's opinion that the improvements and associated variance will not materially impair the purpose of the zoning resolution. It is our belief that the current site plan, with approval of the requested variance, will be an improvement to the alternative plan without the variance. The alternative to our request would be to mirror the building and parking lot as currently shown. This would place the building to the south, and the parking lot to the north. With the parking lot to the north, the northern neighbor will experience much higher noise and visible disturbance from continual use of the parking lot from passenger vehicles and possibly have truck traffic associated with a typical business usage. At the very least, the northern property will need to deal with the possibility of continual trash truck traffic to the multiple businesses operating in this building.

The applicant, Mr. Kory Lamphear was sworn in. He stated the reason for the variance is going back to the commercial-to-commercial setbacks so he can get as many units as possible and have all the traffic to the south. What I have proposed will actually be a benefit to the neighbor to the north with the landscaping mound being placed there. The northern units will have no doors on that side. The mound would be filled with trees and shrubs.

Mr. Lamphear continued, the alternative to our request would be to mirror the building and parking lot as currently shown. This would place the building to the south, and the parking lot to the north. With the parking lot to the north, the northern neighbor will experience much higher noise and visible disturbance from continual use of the parking lot from passenger vehicles and possibly have truck traffic associated with a typical

business usage. At the very least, the northern property will need to deal with the possibility of continual trash truck traffic to the multiple businesses operating in this building.

Mr. Ostmann stated the property next door use to be an accounting firm but didn't know if it has functioned as one in many years.

Mr. Ed Morel was sworn in. He stated he was in favor of granting this variance as it makes sense to keep the traffic to the north.

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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. Potentially the applicant could turn the building around but that is not the best solution.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board yes.

Mr., Greene made a motion to approve a 35 ft .area variance request on the north property line. Request is for a 40' side yard, of which 25' will be landscaped for the property located at 3344 Pearl Rd. It was seconded by Mr. Ostmann.

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

The variance was granted.

Landmark Homes variance request-4531 Maggie Marie Blvd.

Secretary Ferencz read the application into the record. The applicant is Landmark Homes on behalf of the property owner Richfield Group. The property requesting the variance is 4531 Maggie Marie Blvd. Present Zoning: SR. Previous variance requests: No.

The variance being requested and reason for the request: Section 402.3D.-70 ft. required minimum front yard depth. House will have a 50' front yard depth. Requesting a 20 ft. variance.

Secretary Ferencz then read the attached letter from the applicant, Landmark Homes.

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Subject: Request for variance for front yard setback

I am writing on behalf of the Baumgartner Family, who have recently entered into a contract to purchase the property located at 4531 Maggie Marie Blvd. The purpose of this correspondence is to formally request a variance for the front yard setback requirements to facilitate the construction of their dream home.

As you may already be aware, the property in question presents certain challenges due to a Gas Line easement running through its center as well as site conditions and grading concerns. Nonetheless, our clients are enthusiastic about designing a custom home that can be tailored to accommodate these unique circumstances and align with their specific needs and preferences. However to accomplish this, we kindly request a variance from the front yard setback requirement of 20 ft.

We firmly believe that obtaining this variance would provide the necessary space to position the home optimally and carry out the essential grading work required to ensure proper water flow away from the property. Moreover, it would allow for a footprint size that is in line with the existing homes in the neighborhood, ensuring architectural consistency and harmony within the community.

I want to assure you that the Baumgartner family is committed to being responsible stewards of the land and adhering to all necessary precautions. We will diligently comply with all Township requirements and respect the restrictions set forth for the River Trace neighborhood. Our primary objective is to create a home that not only meets the needs of our clients but also enhances the aesthetic and functional qualities of the community as a whole.

Thank you for taking the time to consider our request. We eagerly await your response and hope for a positive outcome. If you require any further information or need to discuss any aspect of our proposal, please do not hesitate to contact me directly at 330-571-8100 to tpelton@landmarkhomes.biz.

A letter was also read by a member of the Association (Aaron Moran-4461 Maggie Marie Blvd. who was sworn in) as follows.

River Trace Landowners Association
June 3, 2023

Medina Township Board of Zoning Appeals

RE: Variance request, parcel 026-06A-15-018 description lot 23 WH River Trace Sub Ph 1 1.0687 acres. The River Trace Landowners Association Board does not support the 20 ft. setback variance requested for parcel 026-06A-15-018, street address 4531 Maggie Marie Blvd. The reasons are as follows:

1. This property has a beneficial use without acquiring the variance. This is supported by the current owner's statements to the Medina County Planning Commission on April 7, 2003. See pg. 3 paragraph 3.

2. The variance is substantial and not in alignment with the character of River Trace neighborhood. A 50 ft. setback is substantially different from the current 70 ft. and 80 ft. setbacks of the other houses in the neighborhood.
3. If this variance were granted, to proposed house layout would be noticeably different from the others houses, substantially altering the character of the neighborhood. Visitors and potential property buyers could negatively view the neighborhoods character due to the inconsistent setbacks.
4. Placing the house at a 50 ft. setback could debase the neighborhood and cause substantial detriment to the neighboring properties. The granting of this variance would be contrary to the general purpose, intent and objectives of the zoning code.

The current owner had the knowledge of the zoning restrictions when the property was platted. The problems brought forward by the builder can be resolved by other means. The house footprinted could be altered and/or repositioned to the north and east of the lot. The rear addition could be relocated or removed

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allowing the house to be setback more than the current layout. Furthermore, the developer was notified on April 7, 2004, by the Medina County Planning Commission that the developer could replat and combine any lots to address the building issues brought forward by the builder. The developer chose not to address the issue in this manner, and therefore the developer has responsibility for this hardship.

We would respectfully request the Board table the variance request at the June 21, 2023, meeting as the granting of the variance would set a poor precedent. The River Trace Landowners Association Board would also like to extend an invitation to the builder and prospective home owner to discuss alternative site layouts. The River Trace Landowners Association is willing to work with the builder and prospective homeowner to come to a solution that does not cause the detriments noted above. If the builder and prospective homeowner are willing to work with us in good faith, which would be represented by but not limited to sharing the detailed house plan, site layout, grading plan, plat layout, and landscaping plans and accepting our feedback in the overall design, the River Trace Landowners Association Board is confident that a solution can be reached with benefits to all parties.

River Trace Landowner Association

Attached: April 7, 2004 Medina County Planning Commission meeting minutes

The applicant, Mr. Tim Pelton was sworn in and stated he had the potential home owners present as well. Chair Blakemore asked if this was the only area on the lot that a house could be built on. Mr. Pelton stated yes with the grading on the site. You cannot cross the gas line easement and go to the back of the lot, so this is the most logical placement for the home. The other issue is the home slopes dramatically from the right-hand side to the left-hand side so the driveway has to be on the right hand side which is the high side of the lot.

Chair Blakemore asked what was on the back of the house. Mr. Pelton stated it is a covered patio. Chair Blakemore then asked how far the patio was from the gas easement line. Mr. Pelton responded approximately 4-5 ft.

Mr. Morel then asked if the house was going to be a single story. Mr. Pelton stated yes. Chair Blakemore stated then the house could be moved 4-5 ft. back. Mr. Pelton said in theory yes. Mr. Ostmann then asked, would moving the house back 4-5ft. cause a

problem. Mr. Pelton said no, not as dramatically as if this was a riparian setback. The gas line easement protects the gas line; but you can grade on it; you just can't build on it. Mr. Pelton commented that they are at the infancy stage of designing the home. The house design could change depending on the outcome of tonight's hearing.

Mr. Morel asked how far the garage sticks out from the main building. Mr. Pelton said 2 ft. to the closest point of the house. The neighborhood requires a side loading garage.

ZI Ridgely was sworn in. She stated the driveway needs to be 10 ft. away from the property line in the Suburban Residential zoning district. Once you get up to the pad that goes into the garage that can be right on the property line.

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Mr. Jeff Young (4153 Maggie Marie Blvd.) was sworn in. He said he was the President of the River Trace Landowners Association and has had many discussions with the land owner/developer, Mr. Moise Zarouk from the Richfield Group. There have been other variance requests for homes in this subdivision and the Township has denied them. The Association does not want a 20 ft. variance granted. The last 4 lots in the subdivision are 4 acre lots which are much closer together. All the other homes sit farther back. If the variance is granted you going to see a house completely out of line setback wise, then all the other homes in the development. He added he has had several conversations with Mr. Pelton as well as he (Mr. Young) was a general contractor. He continued the Association also asked if the proposed covered patio could be moved. Mr. Young continued the Association is willing to work with Mr. Pelton and the potential home owners. He added there was much discussion with Moise Zarouk back in 2004 about those last 4 lots. Those 4 lots really should have been 2 lots. Those lots are really not buildable; but Zarouk was not interested in reducing the number of lots.

Mr. Ostmann asked about the previous variance requests that were denied. He asked, what happened to those lots and were homes ever built. Mr. Young stated the one that was approved was for a smaller variance amount. He added he worked with the developer and ZI Ridgely to make the house fit even with the variance granted.

Diana Huffman stated she was a trustee at the time this development was approved; and the Trustees spoke with the developer about the some of the lots being a problem, but he didn't want to sell less lots or lots for less money.

Ms. Lynnette Rozinak (4536 Maggie Marie Blvd.) was sworn in. She stated she was present to support the Association. She added she lived directly across the street from this

lot. All the residents in that development had to follow the setbacks. Those lots are difficult to build on and that is why she did not build her dream home on that lot. She added she believes the potential owners can work with the Association. It was confirmed back in 2004 that there were problems with some of the lots. The developer was notified on April 7, 2004 by the Medina County Planning Commission that the developer could replat and combine any lots to address the building issues brought forward by the builder. The developer chose not to address the issue in this manner, and therefore the developer has responsibility for this hardship.

Mr. Pete Butler (4505 Maggie Marie Blvd. lot #21 and owner of the vacant lot next to it) lot #22) was sworn in. He stated he was the only one with the front load garage as he had the same issue with his lot and his builder worked with the Association. However he added he agreed with the Association that this variance should not be granted. The developer had the opportunity to fix these issues but choose not to.

Mr. Pelton then addressed some of the Associations concerns. He said he was not just a builder but a licensed architect as well and yes aesthetics is important. However, in his opinion there are lots of things to look at when determining a neighborhoods value, a streets value and a home's value. It's an opinion whether or not staggered front elevations
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are good or straight elevations were better. I do not believe either category is a negative to the neighborhood. There are two things happening in that conversation. One yes; we want a substantial home built to keep the neighborhood and property values. but we want you to make it smaller. It's difficult to accomplish. What we are trying to do is create a maximum footprint that allows the potential homeowner to have some flexibility in the design. It does meet all the things the Association wants for the neighborhood. If we modify the footprint too dramatically, it's going to be very difficult. We cannot address the things that happened in 2004 but I believe we can and will work with the Association and neighbors to come to some conclusion.

Mr. Pelton continued he disagreed with some of the recommendations like lop off the outdoor living area. Every home in that development has an outdoor living space. It was what the neighborhood deserves; and a house of this stature deserves it as well as the other homes in that area. We are flexible with the variance request, but I believe there is a lot of emotion around the variance due to the history of the development that are out of our control. We are asking to go from 70 ft. to 50 ft. but it's really more like 95 or 100 ft. to 70 ft. before you get to the street; so the variance does not put the house on the road and does not look that dramatic compared to the other houses in the development. Mr. Pelton added he did not do an analysis to see if every home was at a 70-80 ft. setback. My speculation is some of the homes were built further back and closer. When you have front load garages it gives the illusion of the home being closer to the road. I don't

believe moving this house further to the road is going to negatively impact property values.

Mr. Aaron Morrow stated the property is still owned by Mr. Zarouk (the Richfield Group) and the same people who spoke in 2004 against any variances are still here today and still own those homes they bought in this development. So what happened in 2004 are facts and still apply today.

Mr. Young stated the setbacks on Maggie Marie in that area we are talking about are 70 ft on one side of the street and 80 ft. on the other side of the street.

Mr. Morel stated he understood the concerns from the Association. The result of this subdivision is causing a problem for the Association, the township and the potential home owner and not the developer.

Chair Blakemore stated the BZA is here to make the best decision for Medina Township, not an individual or a person.

There was much discussion as to whether the variance amount could be reduced; if the Board would consider a reduction, etc. The Board stated they could consider a lesser variance but not a greater variance. Mr. Morel stated the variance runs with the land so it might be in the best interest for the applicant to table the request because once the Board

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rules the applicant cannot come back again and request the same/similar variance as that was considered res judicata. He concluded basically that meant heard the variance request once don't have to hear it/consider it again unless the facts of the case have changed considerably.

Mr. Butler asked what the square footage was for a house in the subdivision. Mr. Young state 2,300 sq. ft. for single-story home.

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 said it would be hard to put a 2,000 sq. ft. home on the buildable footprint.
2. Is the variance substantial? The Board stated not really.

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 there has been a lot of testimony from residents in the subdivision that it would.
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, the owner-Richfield Group platted it.
6. Whether the problem can be solved by some other manner other than the granting of the variances. The Board stated it appears a variance is going to be needed regardless.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board no.

Mr. Pelton stated he would like to request a 10 ft variance. He added he though he and his clients could work with that and design the home.

Mr. Butler stated he knew that the applicant was just in the infancy stage of designing the home but now the applicant says he can move the house around and can work with a 10 ft. variance. He asked are we (The Association) able to see the placement of the home and the home in relation to all the other homes on Maggie Marie Blvd.

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Mr. Greene stated that's because those other lots #22 and #23 are vacant. Mr. Butler stated that may be true but there are homes on Maggie Marie Blvd., and it would be nice to see the relation of the proposed home setback to other homes that exist and are built on the street. I want to see what the setback looks like for this home not the design of the home.

Mr. Young stated a plot plan can be done showing the other houses and their setbacks. Chair Blakemore stated that information was not provided as part of the application but that would be very helpful for the Board to make that decision.

Mr. Pelton stated there is a date to close on this property and if we have to wait 30 days the property might be sold to somebody else. Mr. Greene asked if the purchase was contingent on the variance being approved. Mr. Pelton stated yes, but there is no

guarantee by the owner to continue the option or if there is another interested party who wants to buy it. Mr. Morel stated he highly doubted that and Mr. Ostmann added the owner/developer was very aware of the issues with these lots, so this is not new to him.

Again Mr. Pelton stated he was willing to amend the variance to 10 ft. The board offered the applicant the option to table. Mr. Morel stated if the board votes tonight that vote is final. This gives the applicant, potential homeowners and the Association to get together to try and work this out.

The applicant, Mr. Pelton conferred with his clients and asked that the variance request be tabled so they could look at all the options and communicate with the Association as well.

Mr. Greene made a motion to continue the variance hearing for Landmark Homes for the property at 4531 Maggie Marie Blvd. for future consideration until July 19, 2023 at 7:00 p.m. as requested by the applicant. It was seconded by Mr. Morel.

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

Secretary Ferencz stated for the record that since the hearing was continued to a specific date and time, no notices would be sent to property owners or nor would there be a legal notice in the newspaper so asked everyone to make note to the meeting date.

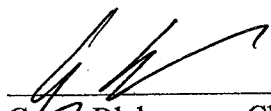
The minutes to the BZA May 17, 2023 hearing were approved as written.

Having no other business before the Board the hearing was adjourned at 8:28 p.m.

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Respectfully Submitted,

Kim Ferencz
Zoning Secretary



Carey Blakemore, Chairman