

**MEDINA TOWNSHIP
BOARD OF ZONING APPEALS
PUBLIC HEARING
JUNE 18, 2008**

Chairman Morel called the public hearing of the Medina Township Board of Zoning Appeals to order at 7:30 p.m. All permanent Board members Becker, Morel, and Dufala were present. Alternate member Steve Euse sat in on the Board. Permanent Board members Karson and West were absent. Alternate member John Bostwick was absent.

Stout Variance Request-4769 Hamilton Rd.

Chairman Morel reviewed the file. Secretary Ferencz read the application. The applicant/property owner is Owen Stout. Property requesting the variance-4769 Hamilton Rd. Present Zoning-SR. Previous Requests: None. Reason for the variance request: Variance requested of Section 402.3D Front Yard Depth Required-80 ft. from ROW. Needs garage at 60' from ROW. Need variance of 20' from ROW.

House was built in 1956. Want to attach new garage to existing house. Due to elevations on property this is the only logical connection to the house. Existing house is less distance from their right of way from current requirement. Did not know of current setback at time of purchase.

The applicant, Mr. Owen Stout was sworn in. Mr. Stout bought the house in December of last year. He added the house was built in the 1950's and sits 60 ft. back from the right of way. Mr. Stout stated when he bought the house it had a garage but it was detached and used as a stable. The garage has since been torn down.

Mr. Euse stated the drawing shows the proposed garage even with the front elevation of the home. He asked Mr. Stout if he had considered any other possible locations. Mr. Stout stated yes, the best location would be on the opposite side of the house where the kitchen is but the back of the house is a walk out and he would then have to build a two story garage. The house is not very deep and then there is a dramatic drop off. Chair Morel stated he did not have issues, as the proposed garage would not encroach any further than the existing home. The existing home has been there 52 yrs. and this seems to be the best location.

The Board then reviewed the Duncan Factors.

1. Will the property yield a reasonable return or a beneficial use without the variance request? The Board stated yes.
2. Is the variance substantial? The Board stated the request was boarder line in the number of feet being request but the garage would not encroach any closer than the existing structure (home).

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 maybe.
6. Whether the problem can be solved by some other manner other than the granting of the variance? The Board yes, the garage could be built in the back yard but that was not practical.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board stated yes.

Mr. Dufala made motion to approve a 20' front yard depth variance for the construction of a garage (33'x24') for the property at 4769 Hamilton Rd. It was second by Mr. Euse. ROLL CALL-Dufala-yes, Euse-yes, Becker-yes, Morel-yes.

Morgan Variance Request-5160 Silver Maple Lane

Chair Morel reviewed the application. Secretary Ferencz read the application. The applicant is Better Living Patio& Sunrooms of N. Ohio on behalf of the applicant, Darren & Deborah Morgan. The address requiring the variance is 5160 Silver Maple Lane. Present Zoning: Residential. Variation Requested: Section R-2B5.b-Rear Yard Setback-40 ft. Need setback at 35 ft. Deck is preexisting at 35 ft. and wants sunroom at 39 ft. setback. Variance request is 5 ft for deck and sunroom. The reason for the variance requested (attached) stated:

Request for Variance (item #5) Darren Morgan 5160 Silver Maple Drive:

- A) The premise is zoned residential and the lot depth is 150 ft. The existing rear yard set back is 43 ft. The minimum setback for this zoning classification is 40ft. This leaves an area 3.ft behind the house that can be built upon. The home is L-shaped and is push back further on the lot to meet the front yard setback. The effect of which was a reduction in the rear yard set back and the home being built within 3' of the rear yard setback line. The home as it was originally built does not have sufficient space to build even a modest sized deck or patio room addition without the benefit of a variance. The shallowness of the lot as originally approved creates a hardship for the homeowner and renders the lot to the rear of the house unbuildable without the benefit of a variance. The strict application of the zoning resolution does not allow this homeowner any options for a room addition at the rear of the home as a result of the afore mention circumstances.
- B) The Morgan's rear property line and the rear property of the abutting neighbor to the rear are separate by a catch basin that is approximately

- C) 225' wide. Assuming that both homes are at minimum setback requirement the result is a separation of 325' between the homes. We are asking for a variance of 5' for the deck and a 1' for the patio room. This would reduce the separation between the homes for 324' for the room addition and 320' for the deck.
- D) We are requesting a variance of 5' for the deck and 1' room into the 40-ft rear setback. The result is an encroachment of 12.5% for the deck and 2.5% for the room into the setback requirement. The proposed room projects 10' and the deck 14' from the house. The deck and the addition would be considered a modest by most standards. We feel the size it is at the minimum size to make it functional for the homeowner. The character of the neighborhood would not be substantially altered by the proposed addition. This condition exists as a result of the original layout of the neighborhood lots, not as a result of the homeowner's actions. The practical application of the current building code eliminates any opportunity for a reasonable sized deck or room addition at the rear of the home. There are no other locations options to the homeowner except to build at the rear of the property. The variance 5' and 1' for the patio room. The current separation between homes is 325'. The variance impact is so small that the intent of building code would not be compromised while the homeowner's ability to utilize his property to its fullest is enhanced. The impact on the public interest or property is non-existent. There are other patio room additions through the Township and this homeowner should be able to enjoy the same privileges.

Mr. Chris Laurianti from Better Homes and Patios and the property owner, Mr. Darren Morgan were sworn in. Chair Morel stated that this was one of the most well written variance applications that he has seen. It stated the case, answered the Duncan Factors, gave percentages and was well thought out.

Mr. Becker asked if the patio and or deck were existing. Mr. Laurianti stated the deck was existing and the patio proposed. As a matter of fact, the deck was existing before Mr. Morgan even bought the residence but it was not permitted. He added that he and Mr. Morgan were before the board this evening to also bring the deck into compliance.

Mr. Dufala stated that the Board has dealt with similar variances for structures and such in this development (Forestview Estates). The builder built these houses on small lots and left no room for anything else to be built. Chair Morel concurred and added that the issue is if it is a legal, buildable lot, the house can be built but unfortunately then there is no room for any additions or enhancements that a homeowner may want such as deck or patio etc.

Mrs. Strogin, Chair of the Zoning Commission was sworn in. She stated that this was the first planned unit development built in Township. It was built in 1978. The developer Did not leave a large enough lot for a homeowner to build other structures on. Because of this a blanket variance was given for this development for sheds which could not be larger than 144 sq. ft. (a permit is required) and could be no closer than 10 ft. from the side and rear lot line. There was no other blanket variances granted so other items such as decks, patios etc. had to go before the BZA to be heard on a case by case basis.

The Board then reviewed the Duncan Factors.

1. Will the property yield a reasonable return or a beneficial use without the variance request? The Board stated yes.
2. Is the variance substantial? The Board stated the request was minor in terms of percentages.
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 maybe, maybe not.
6. Whether the problem can be solved by some other manner other than the granting of the variance? The Board the size was not huge and the other option was not to build it.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board stated yes.

Mrs. Strogin stated that since the patio sunroom is going on the deck the only variance that was needed was the 5-ft. rear yard setback for the deck.

Mr. Euse made a motion to approve a 5-ft rear yard setback variance for the proposed sunroom and the pre-existing deck for the property located at 5160 Silver Maple Lane. It was second by Mr. Becker.

ROLL CALL-Euse-yes, Becker-yes, Dufala-yes, Morel-yes.

MISC.

Secretary Ferencz stated that she did write a letter to Bill Thorne regarding the Schroeter variance request. (See letter). Secretary Ferencz stated she called Mr. Thorne about this issue and he stated that if the Board would have voted differently if they knew at the time that Mr. Schroeter wanted to keep the existing building (garage) then it would be up to the Board to determine if this evidence would warrant the variance being reconsidered.

Also, Mr. Thorne stated the Board would need to determine whether the “existing building” was to be considered accessory building or use. The definition of accessory use or building states, “is a use customarily incidental and subordinate to the principal use or building, located on the same lot or premises as the principal use or building.” If so, only one accessory building is permitted. If there is more than one accessory building or use a variance would need to be applied for. Per the minutes from the May 2008 meeting, Mr. Schroeter stated on the record that the existing building (garage) would be rented to a local contractor. The Board stated that they would like to see the drawing that was approved, and would review the previous minutes pertinent to the case. Chair Morel asked if the Board needed to make a motion to reconsider the variance. Secretary Ferencz responded that unfortunately she did not pose that question but would try to contact Mr. Thorne before the Board's next meeting. The Board stated they would like to put this on their agenda for next month for discussion.

MINUTES

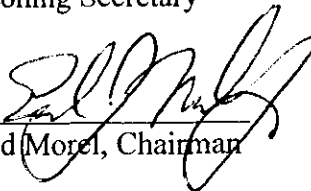
Mr. Dufala a motion to approve the minutes to the BZA's May 21, 2008 hearing as amended. It was second by Mr. Becker.

ROLL CALL-Dufala-yes, Becker-yes, Euse-yes, Morel-yes.

Having no further business before the Board, the hearing of Board of Zoning Appeals was officially adjourned at 8:28 p.m.

Respectfully Submitted,

Kim Ferencz
Zoning Secretary


Ed Morel, Chairman