

**MEDINA TOWNSHIP
BOARD OF ZONING APPEALS
PUBLIC HEARING
MAY 16, 2007**

PUBLIC HEARING

Chair Morel called the public hearing of the Medina Township Board of Zoning Appeals to order at 7:38 p.m. All Board members were present. Alternate member John Bostwick and Steve Euse was also in attendance. Chair Morel introduced the Board members and explained the public hearing procedure to those present.

VARIANCE REQUESTS

Vell's Bed & Breakfast variance request-3526 Pearl Rd.

Chair Morel reviewed the file. Mr. Vel Vasiljevich brought in a blueprint of the proposed building. He stated he tried to make a smaller building but it would not work otherwise it would look like an ordinary house. Chair Morel asked about the date on the blueprint, which was 1998. Mr. Vasiljevich stated that was the correct date, but his architect stated he needed to come back before the Board to build a larger building as an elevator had to be accommodated for handicapped accessibility. Chair Morel stated it looked like a big house to him. Mr. Vasiljevich stated it was a mansion. The first floor would consist of 3,788 sq. ft. The second floor would be 1,705 ft. The basement, which was really a walk out would consist of 3,715 sq. ft. The total square footage was around 9, 500 sq. ft.

Secretary Ferencz stated she could not read the application as to her it was illegible. Mr. Vasiljevich was asked to read the application. The applicant was Mr. Vel Vasiljevich on behalf of Vell's Bed and Breakfast. The property is located at 3526 Medina Rd. Present Zoning-BG. Previous variance requests, yes. Rear Yard Setback-25ft. and Side Yard Setback-25 ft. The variance being requested is of Section 405.3 (D) 2. B. (2) Minimum Rear Yard Setback Required-100 ft. with a 50-ft. landscape buffer. Requested Rear Yard Setback-75 ft. Therefore a variance of 15ft. The Second variance is of Section 405.3 D 2 (b) 1 Requesting a 10-ft. variance.

The explanation for the variance request stated, "A building size is 70'x 100'. I need more variance to put that building on this existing lot. The reason for changing for more variance is surveyor did not take light pole into consideration as well as building size."

Mr. Vasiljevich stated that he had the site surveyed by Cunningham and Associates and they proposed a 60'x 100' building. However, he could not place the building that far in front due to the light pole present as well as the other existing utilities present on the site. The building would also be too close then to the proposed gazebo and fountain. Therefore, the only place to go was to the rear of the property and he would also need an additional 10-ft. to the north of the property.

Chair Morel swore in Mrs. Strogin, Chair of the Zoning Commission. Mr. Morel asked about what happened previously regarding the site plan submittal of this building. Chair Strogin stated that Mr. Vasiljevich came before the Zoning Commission with a site plan for the Bed & Breakfast, gazebo and fountain, and the Commission turned him down due to the setback requirements. Mr. Vasilevich then went to the BZA last year and the Board granted him a variance for a 75-ft. rear yard setback (100 ft. required). Chair Strogin added that at that meeting Mr. Vasiljevich said that he might want to push the building back to which she responded that would possibly mean a larger variance would be required, and questioned if the BZA should go through with the variance request before them if the plan was going to be changed and the variance increased. Mr. Vasiljevich stated at that meeting that he wanted to go forward with his variance request. Mrs. Strogin added that now Mr. Vasiljevich wants a larger building and a larger variance (another 15-ft.) to be 60 ft. from the rear property line as well as a larger variance on the side. Mrs. Strogin stated the Zoning Commission did not see the drawings before the Board this evening.

Mr. West stated the date on the drawings is June 11, 1998. Mrs. Strogin stated that Mr. Vasiljevich did not ask for approval by the Township for these buildings until last year. Secretary Ferencz read the variance granted on December 20, 2006, in which the BZA made a motion "to grant a 25-ft. Rear Yard Setback variance for Vel's Bed and Breakfast to be located at 3526 Pearl Rd. as presented.

Secretary Ferencz then read the minutes from the BZA meeting on December 20, 2006 which read: "Mrs. Strogin stated that Mr. Vasiljevich stated that he might want to push the building back which would mean a larger variance may be required and questioned if the BZA should go through with the variance request before them if the plan was going to be changed and the variance increased."

Chair West stated that the Board would only act on the application and information before them. If it were Mr. Vasiljevich's intent to move the building and therefore change the site plan and amount of the variance, then he would need to revise his drawings to reflect the new location of the building and the amount of the variance now required.

Mrs. Strogin stated that when Mr. Vasiljevich brought his site plan for the Bed and Breakfast before the Commission for approval, the plan was lacking much detail. The Commission suggested he take the plan back and add the necessary details and try to make the variance the least that he would need to be able to go ahead with his plan. Mrs. Strogin stated that Mr. Vasiljevich stated that he might want to push the building back which would mean a larger variance may be required and questioned if the BZA should go through with the variance request before them if the plan was going to be changed and the variance increased.

Chair West again stated that the Board could only act on the request before them which was a 25-ft. variance request to the rear property line. Mr. Vasiljevich stated he changed

the amount of the request he would have to have new blueprints made and that would cost him another \$20,000 and the property would still be congested. Mr. Vasiljevich stated he wanted the Board to act on the variance request as applied for.”

Mr. Dufala then commented that the setback required on the side should be 75 ft. not 25 ft., because it was being used as a residential use (Guzawski) even though it was zoned commercial. Mrs. Strogin stated that she believed a variance was granted previously by the Board for the side yard.

Mrs. Strogin then read a letter dated January 30, 1991 by the BZA, which read,

“At a meeting of the Board held on January 23, 1991 your request for a zoning variance for the property located at 3526 Pearl Rd. was approved per the following:
Section 405.3 Paragraph F, Yards Adjacent to Residential District or Use. It was agreed to grant a variance on the required buffer on the north side of the property and accept the 8 ft. grass strip between the residential property and your parking lot, with you planting trees approximately every 5 ft.

Section 405.3 Paragraph C, Minimum Front Yard Depth. A variance of 22’ on new building setback was granted, based on compliance with completing landscaping requirements.

Section 405.4 Paragraph C, Landscape Strip. It was agreed to accept the proposed wall along Pearl Rd. Wall to be 6’ from the furthest road right of way and run in a straight line. It will be 3’ high, with columns being 4’ high and 1’ in width with column 2’ in width. Space from wall to road will be landscaped with stone and walkway or equivalent.”

Chair Morel stated that the BZA did not grant a side yard setback variance but a landscape buffer variance as he interpreted the letter.

Mr. Becker stated that according Section 405.3 D.2. (b) 1. BG District lots with frontages in excess of 300 ft., “Minimum side yard widths shall be 100 ft. of which 50 feet shall be landscaped and/or screened buffer strip as determined during the review of site plans as required by Section 306. The remaining 50 ft. may be used for parking but not for outdoor material storage.” Mr. Dufala asked Mr. Vasiljevich how wide his lot was across the front. Mr. Vasiljevich responded, about 1100 ft.

Mr. Becker continued that for BG District lots with frontage in excess of 300 ft., “Minimum rear yard depths shall be 100 ft. of which 50 feet shall be landscaped and/or screened buffer strip as determined during the review of site plans as required by Section 306. The remaining 50 ft. may be used for parking but not for outdoor material storage.”

Mr. Becker stated that based upon what he read, both the side yard and rear yard setback are 100 ft. for this property. Mr. Dufala stated that if that was the case there would need to be a 40-ft. variance on the rear and 85 ft. variance on the side due to the unique configuration of the lot. Mr. Vasiljevich stated that he was 550 ft. from the road.

Mr. West stated the variance was beyond substantial. The drawings go back to 1998 and this is the second time since he has been on the Board that this property has requested variances for this project. The only positive thing is that it is on Pearl Rd. Mr. West then asked, "Was the Board inclined to grant an 85 ft. side yard variance due to the location of a light pole?" Mr. Dufala stated it was apparent that no one understood, until Mr. Becker read the regulations that the side yard setback for this property due to its frontage is 100 ft.

Mrs. Strogina stated that both Zoning Boards believed that a side yard setback had been granted previously but apparently that was not correct or could not be confirmed with what documents were in the file.

Chair Morel stated that back in December 2006; the BZA granted this property a 25-ft. variance from the 75-ft. rear yard requirement. No side yard variances were granted. Mrs. Strogina stated that was correct, but the interpretation per the letter read was that a side yard setback variance was granted previously, but it appears it was only for the landscape buffer requirement. She added that the landscape regulations went into effect in 1996 and the landscape buffer variance was granted in 1991 so those regulations were not in affect at the time the landscape buffer variance was granted.

Chair Morel asked what the Zoning Commission denied in November 2006 before they BZA heard the variance request in December.

Secretary Ferencz read the motion made regarding Vel's Bed & Breakfast from the ZC meeting on November 19, 2006. The minutes read as follows:

Mr. Overmyer made a motion to deny the site plan for the addition of a gazebo, fountain and 7,000 sq. ft. new building (Bed & Breakfast) as it does not comply with the Medina Township Zoning Resolution Section 405.3.D.2 (b) (2) Minimum rear yard setback of 100 ft. of which 50 ft. shall be landscaped. It was so noted that the applicant has agreed to add handicapped parking near the walkway of the proposed Bed & Breakfast if and or when constructed, and will either install a sprinkler system for this building or a fire hydrant on the county water line which is to be lined up with the driveway per the Medina Township Fire Dept. All members voted in favor.

Chair Morel stated if the Board granted the variance as requested, that would put the building only 15 ft. from the property line and that was way too close for a building especially of this size.

Mr. Dufala suggested that the building be moved back 10 ft. Then the Board could grant a 50-ft. rear yard variance and keep the building 25-ft. from the side property line.

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 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. Chair Morel stated he agreed and added that everything Mr. Vasiljevich has done with the property has added value. Mrs. Karson added that if the neighbors objected, they would have been present this evening.
4. Will the granting of the variance adversely affect the delivery of governmental services? Chair Morel stated that this has already been addressed by the Fire Dept. at the Zoning Commission meeting.
5. Did the property owner purchase the property with the knowledge of the zoning restrictions? The Board stated yes. Chair Morel added that Mr. Vasiljevich has owned the property a long time and the code has been changed during the years.
6. Whether the problem can be solved by some other manner other than the granting of the variance? The Board stated yes. The building could be made smaller or not built at all.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? Chair Morel stated that if Mr. Vasiljevich as a property owner, wanted to put that much money into his property without a detrimental affect upon the Neighbors then he should be able to.

Mr. Dufala made a motion to rescind the previous 25-ft. rear yard setback variance granted on December 20, 2006 for Vel's Bed and Breakfast located at 3526 Pearl Rd. It was second by Mrs. Karson.

ROLL CALL-Dufala-yes, Karson-yes, Becker-yes, West-yes, Morel-yes.

Mr. Dufala made a motion to grant a 50-ft. rear yard setback variance for Vel's Bed and Breakfast located at 3526 Pearl Rd. as presented. It was second by Mr. West.

ROLL CALL-Dufala-yes, West-yes, Karson-yes, Becker-no, Morel-yes.

Mrs. Karson made a motion to deny the 10-ft. side yard setback variance request for Vel's Bed and Breakfast located 3526 Pearl Rd. as presented. It was second by Mr. West.

ROLL-Karson-yes, West-yes, Dufala-yes, Becker-yes, Morel-yes.

Russell Park variance request (3848 Medina Rd.)

Chair Morel reviewed the file. The application read as follows: The applicant is J & RR Investments. The property owner is Ron Russell. The address of the property requesting the variance is 3848 Medina Rd. Present Zoning-BL. Previous requests-Yes, for wall

sign. The variation requested is of Section 605 I Wall Signs for a second sign on the clock tower for Russell Park. Explanation for the variance request stated, "We would simply like to rescind the variance in order to receive an identification sign."

Secretary Ferencz stated that per the minutes, on August 16, 2006 the BZA granted the following variance: "Mr. West made a motion to grant a variance of Section 605 I-1 to allow for a second wall sign stating "Russell Park" to be located on the clock tower of the building located at 3848 Medina Rd. as submitted. Specifically conditioned upon the "on the record" waiver by Russell Realty (J & RR Investments LLC) of any right under the Zoning Resolution of Medina Township the request for any identification sign for Russell Park and or any future tenants of Russell Park."

The applicant, Mr. Ron Russell was sworn in.

Mrs. Strogin asked if the identification sign would be built and erected per the requirements of the Zoning Resolution. She added the sign could be 75-sq. ft. in size, 25 ft. in height and must be 25 ft. back from the road right of way. Mr. Russell stated the proposed identification sign would actually be smaller.

Mr. Becker made a motion to rescind the variance granted for the second wall sign to be located on the clock tower made on August 16, 2006 for Russell Park located at 3848 Medina Rd. It was second by Mr. Dufala.

ROLL CALL-Becker-yes, Dufala-yes, Karson-yes, West-yes, Dufala-yes.

Minutes

The minutes to the BZA's April 18, 2007 were approved as written.

Having no further business before the Board, the hearing of Board of Zoning Appeals was officially adjourned at 9:07 p.m.

Respectfully Submitted,

Kim Ferencz
Zoning Secretary


Ed Morel, Chairman