

**Miami Township
Board of Zoning Appeals
Monday, September 10, 2018**

Members of the Board of Zoning Appeals present:

James Hamilton, Chairman
Gregory Clatterbuck
Fred Sinder

Members of Miami Township Staff present:

Kyle Hinkelman, Deputy Director
Alex Carlson, Planner

Others Present:

Stan Haper, 2419 Pinegrove Drive
Nicholas Vendel, 6485 Munger Road
Robin Koebberling, 2400 Pinegrove Drive

GENERAL MEETING

Mr. Hamilton called the meeting to order at 6:00 PM.

Action on minutes from August 6, 2018.

Mr. Sinder motioned to approve the minutes from August 6, 2018. Mr. Clatterbuck seconded the motion and the vote was all ayes. The motion passed.

THE OATH

Mr. Hamilton administered the Oath of Truth to the following people:

Alex Carlson
Robin Koebberling
Stanley Happer

NEW BUSINESS

1. Case # BZA 826-18 – Variance – 6485 Munger Road

Mr. Hamilton stated that the first case of the evening was case BZA #826-18.

Mr. Carlson came forward and stated that the application was property filed, the legal requirements had been met, and all the surrounding property owners had been notified.

Mr. Carlson explained that the applicant is requesting a six foot fence in the front yard in order to replace an existing fence currently on the property. He further explained that the proposed fence would be 3.5 feet tall and consist of wrought iron material. He stated the wooden gates currently on the property would be replaced with wrought iron as well.

Mr. Carlson noted that staff recommends approval so long as the fence is of iron construction to increase visibility and that a 15' minimum setback be required in case the roadway is widened in the future, as proposed in the Montgomery County thoroughfare plan.

Mr. Clatterbuck asked if there was a proposed date to widen the road and Mr. Carlson stated there are no current plans.

Mr. Sinder asked if the county would be required to obtain an easement to widen the road and Mr. Carlson stated that the land would have to be acquired through the standard acquisition process.

Mr. Clatterbuck asked if an easement is acquired by the county, if it would require the fence to be moved if it were located at 15' from the right of way. Mr. Carlson replied that would be determined by the county at that time.

Mr. Nicholas Vendel came forward and confirmed he had been sworn in.

Mr. Sinder asked if the wood gate would be replaced with wrought iron and Mr. Vendel replied it would.

Mr. Vendel explained that he wanted to replace the fence because of its age and wear and also because of the deer entering the yard and damaging his wife's garden.

Mr. Hamilton asked if there were any further public comments and there were none.

The Board closed the public portion of the hearing and discussed the case.

Mr. Sinder asked staff if the wrought iron gate needed to be approved and Mr. Carlson replied it was approved previously for 6'.

The board voted on the following findings of fact.

403(B) VARIANCES

In granting a variance, the Board of Zoning Appeals shall prescribe appropriate conditions and safeguards to maintain the intent and spirit of the zoning district in conformity with this Zoning Resolution. Variances granted shall be the minimum necessary relief to alleviate the hardship.

In each specific case, the Board of Zoning Appeals shall determine existence of a practical difficulty by considering the following factors:

A. The property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

Sinder	Clatterbuck	Hamilton	Broz	
Y	Y	Y	n/a	

B. The variance is substantial;

Sinder	Clatterbuck	Hamilton	Broz	
N	Y	Y	n/a	

C. The essential character of the neighborhood would be substantially altered or whether adjoining property owners would suffer a substantial detriment as a result of the variance;

Sinder	Clatterbuck	Hamilton	Broz	
N	N	N	n/a	

D. The variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage);

Sinder	Clatterbuck	Hamilton	Broz	
N	N	N	n/a	

E. The property owner purchased the property with knowledge of the zoning restrictions;

Sinder	Clatterbuck	Hamilton	Broz	
Y	Y	Y	n/a	

F. The property owner's predicament feasibly can be obviated through some method other than a variance;

Sinder	Clatterbuck	Hamilton	Broz	
N	N	N	n/a	

G. The spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Sinder	Clatterbuck	Hamilton	Broz	
Y	Y	Y	n/a	

Mr. Clatterbuck made a motion to approve case # 826-18 with the stipulation that the wood sections of the fence and gate are replaced with wrought iron. Mr. Sinder seconded the motion and the vote was all ayes. The motion passed.

2. Case # BZA 827-18 – Variance – 2400 Pinegrove Drive

Mr. Hamilton stated the next case to be heard was case BZA #827-18.

Mr. Carlson came forward and stated that the application was properly filed, the legal requirements had been met, and all the surrounding property owners had been notified.

Mr. Carlson explained that the applicant is requesting approval to construct a dwelling addition to the rear of the home located at 2400 Pinegrove Drive and this would exceed the permitted lot coverage allowed in an "R-3" residential district. He further explained that the limitation is intended to prevent clustering and protect neighbors from any imposing structures.

Mr. Carlson stated the lot predates the Miami Township Zoning resolution, and by exceeding the permitted lot coverage is a legal non-conforming property.

Mr. Carlson presented the board with a chart estimating the lot coverage considerations of the surrounding properties and suggested the board use the chart to determine permitted lot coverage. He further suggested the board consider removal of the two existing accessory structures currently located on the property to meet any permitted square footage requirements for the dwelling addition.

Mr. Clatterbuck asked for clarification that the surrounding properties were smaller in size than what is currently permitted and Mr. Carlson confirmed they are.

Mr. Sinder asked if lot size was typically a limiting factor and Mr. Carlson confirmed that it was.

Mr. Hamilton asked if there were any permits obtained for the sheds on the property and Mr. Carlson noted that there were no permits on file and reiterated the property is currently a legal non-conforming lot.

Mr. Clatterbuck commented that just the house exceeds the permitted lot coverage and Mr. Sinder added that the sheds should be included in determining the current lot coverage.

Ms. Robin Koebberling came forward and confirmed she was sworn in.

Ms. Koebberling explained that the reason she would like to expand the home is to add square footage so her elderly and recently widowed mother-in-law may move in with her and her husband. She further noted their intent to add a second bathroom on the interior of the property.

Mr. Hamilton expressed his condolences to Ms. Koebberling and her family.

Mr. Clatterbuck asked if the existing patio located at the back of the property had a cement slab and Ms. Koebberling replied that there was a cement slab at present and that is where the addition would be constructed.

Mr. Sinder asked if the sheds on the property were currently being used and Ms. Koebberling replied that they are.

Mr. Hamilton asked if there were any further public comments and Mr. Stanley Haper came forward and confirmed he had been sworn in.

Mr. Happer stated that he lived nearby and after hearing Ms. Koebberling's testimony that he had no issue with the proposed addition. He explained that he was a realtor and that he felt it would add value to the property. He recommended the board approve the request for the addition.

Mr. Sinder asked Ms. Koebberling if the home had a garage.

Ms. Koebberling stated that the home included a two car garage.

Mr. Hamilton asked if there were any other public comments and there were none.

The board closed the public portion of the hearing and discussed the case and voted on the following findings of fact.

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In each specific case, the Board of Zoning Appeals shall determine existence of a practical difficulty by considering the following factors:

- A. The property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

Sinder	Clatterbuck	Hamilton	Broz	
Y	Y	Y	n/a	

- B. The variance is substantial;

Sinder	Clatterbuck	Hamilton	Broz	
Y	Y	Y	n/a	

C. The essential character of the neighborhood would be substantially altered or whether adjoining property owners would suffer a substantial detriment as a result of the variance;

Sinder	Clatterbuck	Hamilton	Broz	
N	N	N	n/a	

D. The variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage);

Sinder	Clatterbuck	Hamilton	Broz	
N	N	N	n/a	

E. The property owner purchased the property with knowledge of the zoning restrictions;

Sinder	Clatterbuck	Hamilton	Broz	
N	N	N	n/a	

F. The property owner's predicament feasibly can be obviated through some method other than a variance;

Sinder	Clatterbuck	Hamilton	Broz	
N	N	N	n/a	

G. The spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Sinder	Clatterbuck	Hamilton	Broz	
Y	Y	Y	n/a	

Mr. Sinder made a motion to grant the variance. Mr. Clatterbuck added that the approval would not allow the addition to extend past the back of the home. Mr. Clatterbuck seconded the motion.

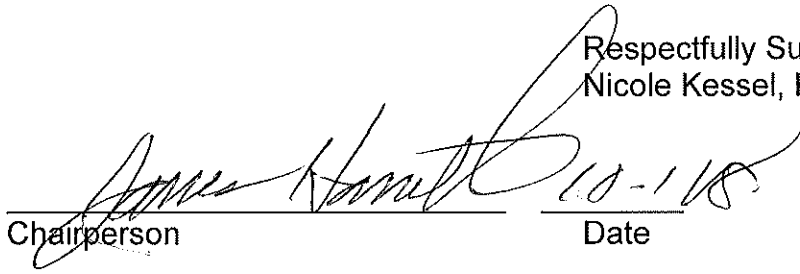
Mr. Hinkelman asked for clarification that the approval is for a 162 square foot addition as shown on the proposed plan and Mr. Clatterbuck confirmed.

The vote was all ayes and the motion passed.

OTHER BUSINESS

Mr. Clatterbuck made a motion to adjourn the meeting at 6:40 p.m., Mr. Sinder seconded the motion, and the vote was all ayes. The motion passed and the meeting was adjourned.

Respectfully Submitted,
Nicole Kessel, Recording Secretary



Chairperson

Date