

**Miami Township
Board of Zoning Appeals
Monday, October 1, 2018**

Members of the Board of Zoning Appeals present:

James Hamilton, Chairman
Gregory Clatterbuck
Fred Sinder
John Broz

Members of Miami Township Staff present:

Kyle Hinkelman, Deputy Director
Alex Carlson, Planner

Others Present:

Ora Rolfe, 6072 Willet Way
Brennan Pascoe, 4040 Crains Run Road
Suzy Pascoe, 4040 Crains Run Road
Joy Pascoe, 5252 Medlar Road
Brittany Pascoe, 5252 Medlar Road
Jason Epstein, 5493 Crains Run Road
Kathleen Epstein, 5493 Crains Run Road

GENERAL MEETING

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

Action on minutes from September 10, 2018.

Mr. Clatterbuck motioned to approve the minutes from September 10, 2018. Mr. Sinder 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
Ora Rolfe
Nick Rolfe
Brittany Pascoe

NEW BUSINESS

1. Case # BZA 828-18 – Variance – 6072 Willet Way

Mr. Hamilton stated that the first case of the evening to be heard was case BZA #828-18 filed by Ora Rolfe.

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 a variance to construct a dwelling addition to the front of a home in a residential district. He further explained the property has an existing deck located at the front of the property currently permitted as a non-covered deck. He explained that the property also has a larger rear yard and the majority of homes in that district have structures located in the rear yard.

Mr. Carlson stated that staff recommends denial of this request noting that the proposed structure may be built in the rear yard.

Mr. Hamilton asked why the existing deck was not on the aerial provided.

Mr. Carlson noted the aerial was taken in 2016 and believed the deck was built after that time.

Mr. Hamilton asked for clarification if the current setback requirement is 25 feet.

Mr. Carlson confirmed that the setback of the home is 25 feet from the right-of-way. He further noted that the deck is located 19 feet from the property line, permitted by exception to project 6 feet into the required front yard.

Mr. Ora Rolfe and Mr. Nick Rolfe came forward and it was confirmed they both had been sworn in.

Mr. Ora Rolfe stated that he didn't understand why he couldn't put a roof on the structure. He stated there was too much sun on the deck and noted the proposed cover would be the same size as the existing deck.

Mr. Hamilton asked Mr. Rolfe to confirm he had spoken with staff in regards to the requirements and Mr. Clatterbuck asked if he spoke to staff specifically about installing the roof and if he knew prior to building the deck that it could not be covered, and Mr. Rolfe confirmed he had.

Mr. Rolfe stated he felt there would still be plenty of front yard and explained that he still would have built the deck in the same location.

Mr. Clatterbuck noted that the house was not built with the intention of including an awning.

Mr. Sinder asked the applicant what his unique hardship was.

Mr. Nick Rolfe stated his father was handicapped and there are stairs on the back of the property, noting the front yard is easier for him to access.

Mr. Hamilton asked Mr. Rolfe if alternatives were discussed with staff.

Mr. Nick Rolfe stated that he looked into patio covers but felt those options wouldn't look as nice.

Mr. Ora Rolfe stated that the proposed cover would look nicer.

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.

The board voted on the following findings of fact.

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	Y

- B. The variance is substantial;

Sinder	Clatterbuck	Hamilton	Broz
Y	Y	Y	Y

- 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	Y	Y	N

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

Sinder	Clatterbuck	Hamilton	Broz
N	N	N	N

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

Sinder	Clatterbuck	Hamilton	Broz
N	N	N	N

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

Sinder	Clatterbuck	Hamilton	Broz
Y	Y	Y	Y

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

Sinder	Clatterbuck	Hamilton	Broz
N	N	N	N

Mr. Broz made a motion to deny case # 828-18 citing the findings of fact. Mr. Clatterbuck seconded the motion and the vote was all ayes. The motion passed.

2. Case # BZA 829-18 – Conditional Use – 5252 Medlar Road

Mr. Hamilton stated the next case to be heard was case BZA #829-18.

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 a conditional use lot split in an agricultural district. He further explained the applicant's request is to split a 13.3 acre residential property from the existing 78.5 acre property. The split would create a 2,000 foot deep parcel with 404 feet of road frontage.

Mr. Carlson continued that the property meets the five general standards required of all conditional use lot splits, except the maximum depth standard of 400 feet.

Mr. Carlson further noted that the county engineer would review the proposed location of the driveway and the lot would become more regular and remove the existing irregularities of the current flag lot.

Mr. Sinder asked what a flag lot was and Mr. Carlson explained it was in reference to the shape of the lot.

Mr. Sinder asked for confirmation that there was a driveway located on the provided aerial and Mr. Carlson confirmed.

Mr. Broz asked to confirm that the proposed split does not comply with the current resolution requirements and Mr. Carlson confirmed.

Ms. Joy Pascoe came forward and confirmed that she had previously been sworn in.

Ms. Pascoe thanked the board for their consideration in this case. She noted the correction that the desired location of the split lot would be better suited to run the full distance of the lot. She explained that if the ownership ever separates that the lot would be considered greater than ten acres.

Mr. Sinder asked if there was already a house located close to the roadway in that location.

Ms. Pascoe stated there was a farm house located on a separate parcel of land between her property and the bike path.

Mr. Sinder referenced the area the home is being proposed and Ms. Pascoe confirmed.

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.

CONDITIONAL USE

In each specific case, the Board of Zoning Appeals shall not grant a Conditional Use unless it shall, make specific findings of fact directly based upon the particular evidence presented that support the following:

- A. The proposed Conditional Use will comply with all applicable regulations of this Resolution, including lot size requirements, development standards and use limitations.

Sinder	Clatterbuck	Hamilton	Broz
Y	Y	Y	N

- B. The Adequate utility, drainage and other such necessary facilities have been or will be provided.

Sinder	Clatterbuck	Hamilton	Broz
Y	Y	Y	Y

- C. Adequate access roads or entrance and exit drives will be provided and will be so designed as to prevent traffic hazards and to minimize traffic conflicts and congestion in public streets and alleys.

Sinder	Clatterbuck	Hamilton	Broz
Y	Y	Y	Y

- D. All necessary permits and licenses for the use and operation of the Conditional Use have been obtained, or evidence has been submitted that such permits are obtainable for the proposed Conditional Use on the subject property.

Sinder	Clatterbuck	Hamilton	Broz
Y	Y	Y	Y

- E. All exterior lights for artificial open-air illumination are so shaded as to avoid casting direct light upon any adjacent property located in a Residential District.

Sinder	Clatterbuck	Hamilton	Broz
Y	Y	Y	Y

- F. The location and size of the Conditional Use, the nature and intensity of the operation involved or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to streets giving access to it, shall be such that it will be compatible with the appropriate and orderly development of the district in which it is located.

Sinder	Clatterbuck	Hamilton	Broz
Y	Y	Y	Y

- G. The location, nature, and height of buildings, structures, walls, and fences on the site and the nature and extent of landscaping and screening on the site shall be such that the use will not unreasonably hinder or discourage the appropriate development, use and enjoyment of adjacent land, buildings and structures.

Sinder	Clatterbuck	Hamilton	Broz
Y	Y	Y	Y

H. The Conditional Use requested will not adversely affect the public health, safety, or morals.

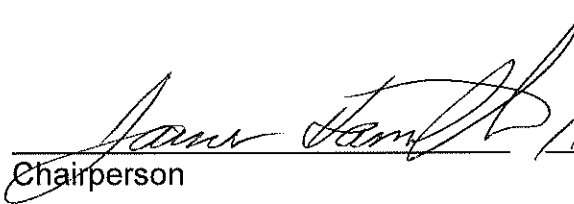
Sinder	Clatterbuck	Hamilton	Broz
Y	Y	Y	Y

Mr. Sinder made a motion to grant the conditional use lot split as applied and Mr. Broz seconded the motion. The vote was all ayes and the motion passed.

OTHER BUSINESS

Mr. Hamilton 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

11-5-14
Date