

**MONTVILLE TOWNSHIP
BOARD OF ZONING APPEALS
APRIL 5, 2010**

PRESENT

**CHAIRPERSON, SALLY ALBRECHT
BOARD MEMBERS: RON TANSKI
BILL TUCHEK
ALLEN BIEHL
KRISTINA SINK
DONNA WATKINS**

ALSO PRESENT

**BRETT VACCARELLI
JEFF WILSON
ALAN GRIBBLE
JIMMY LEDBETTER
MONICA TUOHY
ZI, JUDITH EMRICK
ZS, ROBIN HALLEEN**

HANDOUTS:

1. APRIL CALENDAR

CONDITIONAL ZONING CERTIFICATES (APPROVED REQUIRE SIGNATURE):

1. CERTIFICATE #11 RIDGE TOP GOLF COURSE
2. CERTIFICATE #2 EDWARD VIOLETT
3. CERTIFICATE #8 MONTVILLE BUSINESS CENTER

AGENDA

MINUTES:

1. MARCH 22, 2010

APPLICATIONS:

1. VARIANCE: APPLICATION #02-10-05 ~ A REQUEST BY MR. ALAN GRIBBLE OF SIGNET HEALTHCARE MEDINA, LLC, 75 E. MARKET STREET, ARKON, OHIO 44308 ON BEHALF OF SUMMA HEALTH SYSTEMS HOSPITALS, 3780 MEDINA ROAD, MEDINA, OHIO 44256 FOR A VARIANCE (SECTION 320.1.B REQUIRED STREET FRONTAGE) TO ALLOW EASEMENT AGREEMENT TO SERVE AS THE REQUIRED STREET FRONTAGE. (THIS ITEM WAS TABLED FROM THE MARCH 22, 2010 MEETING.)

2. VARIANCE: APPLICATION #03-10-06 ~ A REQUEST BY MR. JEFF WILSON, 5177 MAPLEWOOD FARM DRIVE, MEDINA, OHIO 44256, FOR A VARIANCE (SECTION 410.8.D.3 - ACCESSORY BUILDINGS) TO ALLOW AN ADDITIONAL ACCESSORY BUILDING TO BE CONSTRUCTED ON THE PROPERTY.

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Chairperson Albrecht called the April 5, 2010 Board of Zoning Appeals meeting to order at 7:02 p.m.

ROLL CALL:

**Board Member Tanski: Present
Board Member Tuchek: Present
Board Member Biehl: Present
Board Member Watkins: Present**

Board Member Sink arrived at 7:05 p.m.

PUBLIC HEARING

Chairperson Albrecht: "If there is anyone here who wishes to speak on the subject(s) in question tonight, please sign the witness sheet if you have not already done so. Anyone who wishes to speak will be sworn in before their testimony is heard. The official minutes of the meeting are taped and therefore, it is important that the participating public state their name clearly prior to testimony. The Board of Zoning Appeals is a quasi-judicial body who bases their decisions on facts and not opinions and therefore, we ask that your testimony be based on facts and not personal opinion. The written/typed transcripts (minutes) are the official documentation of the proceedings."

Chairperson Albrecht asked if the proper notices were sent.

Zoning Inspector, Emrick stated: "Yes."

Chairperson Albrecht asked if the contiguous property owners were notified.

Zoning Inspector, Emrick stated: "Yes."

MINUTES:

1. March 22, 2010 Minutes

MOTION: Board Member Biehl made a motion to approve the March 22, 2010 minutes as written.

SECOND: Board Member Watkins

ROLL CALL: A collective oral vote was taken. Board Member Biehl, Board Member Watkins and Chairperson Albrecht stated Aye ~No Nays ~ (All other Board Members present abstained as they were not present for the March 22, 2010 meeting.)

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Board Member Watkins left the meeting at 7:10 p.m.

1. VARIANCE: APPLICATION #02-10-05 ~ A REQUEST BY MR. ALAN GRIBBLE OF SIGNET HEALTHCARE MEDINA, LLC, 75 E. MARKET STREET, ARKON, OHIO 44308 ON BEHALF OF SUMMA HEALTH SYSTEMS HOSPITALS, 3780 MEDINA ROAD, MEDINA, OHIO 44256 FOR A VARIANCE (SECTION 320.1.B REQUIRED STREET FRONTAGE) TO ALLOW EASEMENT AGREEMENT TO SERVE AS THE REQUIRED STREET FRONTAGE. (THIS ITEM WAS TABLED FROM THE MARCH 22, 2010 MEETING.)

Chairperson Albrecht explained that the first item was tabled from the March 22, 2010 meeting so the board could get legal advice on the suggested language in the event they decided to vote to approve the variance.

Chairperson Albrecht explained to the applicant, Alan Gribble, that there were only two (2) Board Members present that were at the previous meeting and there were several new members present that weren't present at the March 22, 2010 meeting. She asked him if he had any objections to the going forward with his request with the new members present.

Applicant Alan Gribble and Zoning Inspector Emrick were sworn in.

Applicant Alan Gribble stated that he did not have an objection and wanted to proceed.

Chairperson Albrecht asked the board if they had any questions for the applicant.

Board Member Tanski: I read the minutes from the March 22, 2010 meeting and I am trying to figure out the reason for the variance request. What is the current reason that requires a change right now?

Applicant Alan Gribble: We need to align the underlying land for financing the project. We are aligning land with the phase because we don't have the required frontage. Right now we have the entire 32 acre parcel encumbered by our financing arrangement for the first phase of the project. The second phase of the project, which may be an office building, garage, or something ancillary to the existing project, will have no underlying collateral applicable to it. So it is to align the land with the phases of the project. The reason for the variance is because per the Montville Township zoning code, we don't have the required frontage. As Summa moves forward, they will have the parcel of land for future phases to use as collateral.

Board Member Tanski: So your lease agreement requires the split? When does it have to be executed by?

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Applicant Alan Gribble: We are actually passed the date. It was supposed to be within 120 days from signing the documents this past September.

Board Member Tanski: What was the delay?

Applicant Alan Gribble: We were negotiating and/or discussing whether or not we needed a variance... use of a road... we looked at all angles and a language agreement... how best to accomplish what we were trying to do.

Board Member Tanski: When and if you decide to do the project... why can't it be done at the time of the project?

Applicant Alan Gribble: I respect your question. I think it would preferably be at this time because as either party goes for financing... for example, we started this project in 2007 and it took two (2) years for the ground breaking... talking to lenders, conception of the buildings, etc. It would be much better for us and Summa if we can present it to the banks now, rather than stating that "we can try to get a variance". It puts us in a better position financially.

Board Member Tanski: What do you see as your obstacle, if it were done in the future?

Applicant Alan Gribble: It is part of our current lease arrangement with Summa. Our first phase mortgage lender is also requiring us to split off the property so it is available for future phases.

Board Member Tanski: So, this was known from the beginning?

Applicant Alan Gribble: Not from the beginning. From the time the financing portion began.

Board Member Tanski: But it all occurred prior to ground breaking?

Applicant Alan Gribble: Yes

Board Member Tucheck: Is the additional office space and ER a done deal?

Applicant Alan Gribble: Yes. With the announcement, our designers are working on the schematics for the ER and it will sit on the original parcel – contiguous to Phase 1. (The question is whether or not it will have two (2) levels of office space above.)

Board Member Tucheck: Will the ER be a separate building or will it be attached?

Applicant Alan Gribble: It will be a separate building but attached through a walkway.

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Zoning Inspector, Emrick: Alan and I have talked many times about this project and have had several discussions regarding this variance... Mr. Gribble has also been in contact with the Medina County Prosecutor's office to discuss this variance.

Board Member Tanski: What happens if this variance is denied?

Applicant Alan Gribble: Phase I would still go forward. We would have to go back to negotiations. It would affect the future phases of the project.

Chairperson Albrecht opened the hearing to the public for comments and questions.

No Response

Chairperson Albrecht closed the hearing to the public.

The Board reviewed the Duncan Factors:

Duncan Factors:

- 1. Will the property yield a reasonable return or is there a beneficial use of the property without the variance? Yes**
- 2. Is the variance substantial? No (In essence it is a temporary variance an unusual situation.)**
- 3. Would the essential character of the neighborhood be substantially altered or adjoining properties suffer a substantial detriment as a result of the variance? No**
- 4. Will the variance adversely affect the delivery of governmental services? No**
- 5. Did the property owner purchase the property with the knowledge of the Zoning Resolution? No (As the parcels were combined initially financing driving later on.)**
- 6. Can the property s owner s predicament be solved by some other means rather than granting the variance? Yes (Restructure of financing could be done.)**
- 7. Will the variance preserve the spirit and intent of the zoning requirement and will substantial justice be done by granting the variance? Yes**

Board Member Tucheck: At what point does the temporary variance end or cease to exist?

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Chairperson Albrecht: Should the language (from the Prosecutor's office) be read into the motion?

Zoning Inspector, Emrick: Yes, the 30 day stipulation should also be put into the motion. (They have 30 days to deliver a copy of the recorded deed restrictions.)

Board Member Tucheck: Being it is a temporary variance... it ceases to exist?

Chairperson Albrecht: It becomes void at that point.

Zoning Inspector, Emrick: At the last meeting we met with Attorney Karas and he explained that once the deed restrictions were met the variance would no longer exist.

Chairperson Albrecht. It is my understanding that the attorneys from both sides have reviewed the language and are satisfied.

Zoning Inspector, Emrick: Correct

Applicant Alan Gribble: Correct

Board Member Tucheck: Mr. Gribble do you think the language is too restrictive?

Applicant Alan Gribble: I don't think it is overly restrictive.

MOTION: Board Member Biehl I move that a variance be granted to Signet Healthcare for property located at 3780 Medina Road, Medina, Ohio 44256; Variance being to Section 320.1.B Required Street Frontage. In addition the following deed restriction is to be placed with this variance as noted in the attached Exhibit A , which reads as follows: The conveyance of the Deed Restriction as noted in Exhibit A be conveyed and recorded with Medina County Recorder s Office within 30 days of Board of Zoning Appeals approval; otherwise, this approval becomes null and void.

SECOND: Board Member Tucheck

ROLL CALL:

Board Member Tucheck: Yes both parties are satisfied with the quote/unquote language

Board Member Sink: Approve to approve

Board Member Biehl: Approve

Board Member Tanski: While I do have a problem with granting a variance at this time with regards to my comments in the minutes of April 5, 2010, as I see no hurry up need for this variance, I vote to approve with the deed restrictions specified.

Chairperson Albrecht: Approve

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Variance Passed by a 5-0 vote.

Chairperson Albrecht introduced the second item by reading the information from application #03-10-06 and the following "supplemental information" that was attached to the application:

Request:

Jeff and Maria Wilson who reside at 5177 Maplewood Farm Drive, Medina, Ohio 44256 and are Montville Township residents are requesting a variance for an accessory building to be used as part of a swimming pool/landscape project as shown with the supplied plan.

We are a very active outdoor family. We do our own lawn care, snow removal and landscaping. We've accumulated many larger lawn and garden accessories to maintain the appearance of our home and our 2 acre lot. To store our equipment, we currently have a 12 x 16 utility shed.

The storage shed is vinyl sided and matches the color of our house. The storage shed is located on the back part of our property and is not visible from the road or from any neighbor's property, or even from our house. There is a high concentration of evergreens surrounding the shed; even during the winter time, when there are no leaves on the trees, the shed still cannot be seen.

Our plans call for a small swimming pool accessory building, 10 x 16, located with the boundaries of our house, meaning the pool accessory building will not stick out past the side line of the house. Within the pool accessory building it will be used to store safety equipment. We have middle aged children, a 10 year old and an 11 year old, who will undoubtedly have friends over. We will store life jackets, a throw able PFD and other first aid related equipment as well. A phone line would be run to the building. A small bathroom is planned as well which would tie into our septic system. Both the pool accessory building and the shed (although the shed cannot be seen) would/will be aesthetically pleasing. Both the pool accessory building and the utility shed will not block or obstruct any neighbor's view or even be in their line of site.

We want to keep the size of the pool accessory building to a minimum size. Montville Zoning allows accessory building to be 1% of the platted lot area. The utility shed is 12x16 which is 192 square feet the pool accessory building would be 10x'6 which are 160 square feet for a total shed/accessory building combination of 352 square feet. Our lot size 175x502 which is 87,850 square feet 1% of this is 878.5 square feet. We are well below this requirement.

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Also, Section 410.8 Paragraph E states Maximum coverage of Rear Yard. The total area of all detached accessory buildings and structures, including garage, swimming pool, decks and storage sheds shall not exceed 30% of the rear yard area. Paragraph E reflects the sum of the shed and accessory building. This section seems more applicable to our request because the pool accessory building and shed will serve 2 completely different functions. We do not want any interaction of the shed or the pool accessory building. With this in mind the utility storage shed is 12 x 16 which is 192 square feet the pool accessory building is 10 x 16 or 160 square feet, the pool including the cement patio is approximated 65 x 40 which is 2,600 square feet, for total rear yard coverage of 2,952 square feet. From the back of the house to the property line there is approximately 381 linear feet with a property width of 175 feet meaning there is 66,675 square feet of back yard. We are much less than 20,000 square feet allowed (30%) allowed to be covered.

Our neighbors are excited with this project and have more than given their support/consent.

With this variance, we do not have to cut down any trees.

Duncan Factors:

- 1. Will the property yield a reasonable return or is there a beneficial use of the property without the variance? Yes**
- 2. Is the variance substantial? No. The shed is concealed by evergreen trees and is not visible from the road or neighbor's property.**
- 3. Would the essential character of the neighborhood be substantially altered or adjoining properties suffer a substantial detriment as a result of the variance? No. The project enhances the property and all surrounding neighbors are in favor of the project going forward.**
- 4. Will the variance adversely affect the delivery of governmental services? No**
- 5. Did the property owner purchase the property with the knowledge of the Zoning Resolution? No**
- 6. Can the property's owner's predicament be solved by some other means rather than granting the variance? No**
- 7. Will the variance preserve the spirit and intent of the zoning requirement and will substantial justice be done by granting the variance? Yes**

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Chairperson Albrecht: Also attached to the application are: Application 8410, which was denied because the applicant was requesting a second accessory building; three (3) site plans; zoning text; Homeowner's Association documents and the following note:

2/28/10

Jeff and Maria Wilson will be applying for a variance in the next few weeks and would like your consent to help obtain this variance. Currently we have an accessory utility shed that is 12 x 16 in the back of our property. We are planning on building an in ground swimming pool and would like to add an accessory 10 x 16 pool storage/restroom. This additional pool storage/restroom building would require a variance. If you have no objections, please write your name, address, and phone number below.

The Zoning Board of Appeals most likely will be calling you on this matter.

Signed by:

- 1. Brett Vaccarelli, 5193 Maplewood Farm Drive*
- 2. Jimmy Ledbetter, 5174 Maplewood Farm Drive*
- 3. Monica Tuohy, 5154 Maplewood Farm Drive*
- 4. Focus Homes Ltd. William Fuller, 5157 Maplewood Farm Drive*
- 5. Michael Hollo, 6848 Wooster Pike*
- 6. Mark Orzell, 5190 Maplewood Farm Drive*

Chairperson Albrecht read the following memo addressed to the Board of Zoning Appeals from Zoning Inspector, Emrick:

March 22, 2010

Re: Variance 5177 Maplewood Farm Drive, Section 410.8.D.3

Mr. Wilson is requesting a variance to Section 410.8.D.3 which allows one accessory building per dwelling unit.

As stated in Mr. Wilson's comments, he has an accessory building presently and wishes to construct an additional accessory building which will be part of his pool fenced area. This second accessory building will house pool equipment and a bathroom. The county health department will need to be contacted for a permit for the additional bathroom. No kitchen will be allowed in this second accessory building per the Montville Township Zoning Resolution.

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Included in this application is a document signed by six (6) neighbors, as stated in previous meeting, unless these residents attend the meeting and provide evidence, not just opinions, their comments can not be considered. Also are Building and Development Restrictions for Maplewood Farms Subdivision which neither the Township nor the board have any control over. The applicant should contact his HOA for approval from the HOA board prior to obtaining his zoning permit.

Should you need additional information please let me know.

Applicant Jeff Wilson was sworn in.

Chairperson Albrecht: Mr. Wilson you gave us a very complete package but it didn't include a drawing of the proposed accessory building.

Applicant Jeff Wilson stated that he brought a drawing to the meeting and passed out copies to the board members.

Chairperson Albrecht asked the board if they had any questions for the applicant.

Board Member Tuckek: Will the building be accessible to the pool? Is there a fence?

Applicant Jeff Wilson: It will only be accessible through the pool area. The accessory building is part of the pool landscaping.

Board Member Tuckek: So the fence will come up to the sides of the building?

Applicant Jeff Wilson: Yes

Board Member Tuckek: Are there any doors on the back or sides of the building?

Applicant Jeff Wilson: No

Board Member Biehl: Is this an above ground or in ground pool?

Applicant Jeff Wilson: It is an in ground pool.

Board Member Biehl: How tall is the fence?

Applicant Jeff Wilson: Per the Township zoning code it will be four (4) feet. The full intent of the accessory building is to be a mini copy of the house. The same company that put the siding on the house will side the accessory building.

Chairperson Albrecht: What is the roof pitch?

Applicant Jeff Wilson: It will be 10/12 or we may have to bring it down to 8/12.

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Chairperson Albrecht: Did you hire a contractor to construct the building?

Applicant Jeff Wilson: No. It comes in a kit and I will construct the building.

Chairperson Albrecht: Do you have HOA approval?

Applicant Jeff Wilson: Due to lack of funds our HOA disbanded. However, the six (6) people that signed off on my request (letter) make up half of the people living on my street.

Chairperson Albrecht: Judy, does he need something from the HOA or developer stating this project has been approved by them?

Zoning Inspector, Emrick: We will have to check to see if the HOA was part of the original requirements for that subdivision. However, that doesn't have anything to do with this variance.

Chairperson Albrecht opened the hearing to the public for comments and questions.

Brett Vaccarelli was sworn in.

Brett Vaccarelli: I am not a swimmer but I live adjacent to Mr. Wilson and I reviewed the plans and I don't have any objections. I can't see the existing accessory building from my house and I think the swimming pool and landscaped area will be an asset to the neighborhood.

Chairperson Albrecht asked if there were any other questions or comments from the audience.

Monica Tuohy was sworn in.

Monica Tuohy: I live across the street from Mr. Wilson and I cannot see the existing accessory building from my property. I too am not a swimmer but I have seen the plans and I do not have any objections.

Chairperson Albrecht: At this time we will close the meeting to public participation.

The Board reviewed the Duncan Factors:

Duncan Factors:

- 1. Will the property yield a reasonable return or is there a beneficial use of the property without the variance? Yes**
- 2. Is the variance substantial? Yes**

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3. Would the essential character of the neighborhood be substantially altered or adjoining properties suffer a substantial detriment as a result of the variance? No
4. Will the variance adversely affect the delivery of governmental services? No
5. Did the property owner purchase the property with the knowledge of the Zoning Resolution? No
6. Can the property s owner s predicament be solved by some other means rather than granting the variance? Yes
7. Will the variance preserve the spirit and intent of the zoning requirement and will substantial justice be done by granting the variance? Yes

MOTION: Board Member Sink I move that a variance be granted for the property located at 5177 Maplewood Farm Drive to allow the construction of a second accessory building which shall measure 10x16 feet for a total of 160 square feet. The proposed accessory building shall match the house in style and design elements and shall not have any kitchen/cooking facilities located inside the structure.

SECOND: Board Member Tanski

ROLL CALL:

Board Member Sink: Approve as written

Board Member Biehl: Approve

Board Member Tanski: I would like to compliment Mr. Wilson for his presentation and approve the variance.

Board Member Tucheck: Approve

Chairperson Albrecht: After review of the Duncan Factor, I vote to approve.

Variance Passed by a 5-0 vote.

Chairperson Albrecht asked for a motion for adjournment:

MOTION: Board Member Tanski I move to adjourn the meeting.

SECOND: Board Member Biehl

ROLL CALL: A collective oral vote was taken. All members stated Aye ~ No
Nays

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Meeting adjourned at 8:05 p.m.

Respectfully Submitted,

Robin Halleen
Zoning Secretary

Approved:

Chairperson, Sally Albrecht

Date