

**MONTVILLE TOWNSHIP  
BOARD OF ZONING APPEALS MEETING  
JULY 1, 2024**

**PRESENT**

Elayne Siegfried, Vice Chairperson  
Cheryl Heinly  
Bill Montalto  
J. C. Stouffer  
Donna Watkins

**ALSO PRESENT**

P. Jeffers, Planning and Zoning Director  
B. Schwehm, Zoning Secretary  
J. Kirschnick  
J. Peddle  
N. Peddle

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**HANDOUTS:** None

- AGENDA:**
1. Public Hearing: Variance #05-24-023 (Tabled 6/17/24)/Kirschnick – 2817 Torrey Pine Drive/Section 570.3 to allow a fence to encroach into the wetland and riparian setbacks
  2. Public Hearing: Variance #06-24-025/Peddle – 4117 E. Smith Road/ Section 410.8, Rear Yard Setback for Patio/Sports Court
  3. Approval of Minutes: May 20, 2024
  4. Zoning Updates

Board Vice Chairperson Elayne Siegfried called the Monday, July 1, 2024 meeting of the Montville Township Board of Zoning Appeals to order at 7:00 p.m. and served as chairperson for the public meeting/hearing.

**ROLL CALL:** Board Member Donna Watkins – Present; Board Member Bill Montalto – Present; Board Member Cheryl Heinly – Present; Board Member J.C. Stouffer – Present; Board Chairperson Elayne Siegfried – Present.

Board Chairperson Siegfried asked if the meeting had been properly advertised in the paper.

Planning and Zoning Director Paul Jeffers said the meeting had been properly advertised.

Board Chairperson Siegfried asked if contiguous property owners had been properly notified.

Planning and Zoning Director Jeffers said contiguous property owners had been properly notified.

Board Chairperson Siegfried said everyone in attendance should sign in if they had not already done so. Anyone who wished to speak would be sworn in before testifying. The meeting was taped for transcription purposes; therefore, it was important for everyone to state their name clearly before speaking. As a quasi-judicial body, the Board of Zoning Appeals based its decisions on evidence and not on opinions. The official documentation of the proceedings would be the typed transcripts. She asked for cell phones and electronic devices to be silenced or turned off during the proceedings.

Board Chairperson Siegfried presented the items on the agenda and asked if any Board members would be abstaining from discussing or voting on any of the agenda items.

None of the Board members planned to abstain from discussing or voting on any of the agenda items.

**1. PUBLIC HEARING: VARIANCE – TABLED 6/17/24**

- Application No.:** 05-24-023
- Applicant/Owner:** Jason Kirschnick  
2817 Torrey Pine Drive  
Medina, OH 44256
- Zoning District:** R-2, Controlled Density, Planned Residential Development  
Windfall Estates
- Request:** Section 570.3, Establishment of Designated Watercourses,  
Riparian Setbacks and Wetland Setbacks  
A variance to allow a fence to encroach into the wetland and riparian setbacks.

Board Chairperson Siegfried opened the public hearing.

Mr. Jason Kirschnick, 2817 Torrey Pine Drive, was sworn in by Board Chairperson Siegfried.

Planning and Zoning Director Jeffers was sworn in by Board Chairperson Siegfried.

Board Chairperson Siegfried read/referenced the following:

- Memo from Planning and Zoning Director Jeffers dated June 7, 2024 regarding the subject variance request.
- Letter from Erik Malinoski, E.I., Civil Engineer, Medina County Engineer’s Office.
- An updated site plan with a new location for the proposed fence.

Board Chairperson Siegfried asked if Mr. Kirschnick would like to add anything.

Mr. Kirschnick said the fence installer talked with Planning and Zoning Director Jeffers. The drawing was updated; and as requested by the civil engineers, the fence no longer encroached into the easement.

Board Chairperson Siegfried said it looked like the fence was out of the storm water easement.

Mr. Kirschnick said that was correct. The variance request for a fence was for their 2-year-old and the dangers of him getting near the retention basin. Mr. Kirschnick referred to the pictures of the proposed fence style that were submitted with the application. The proposed fence would not impede the flow of water. Water would pass through the proposed fence, which was approved by the HOA (homeowners’ association) pending approval of the variance.

Board Member Montalto asked Planning and Zoning Director Jeffers to clarify the variance request.

Planning and Zoning Director Jeffers said the fence would actually be within the riparian area. The fence would also be within the wetland setback but not within the wetland.

Board Chairperson Siegfried and Board Member Heinly said a 100% variance was requested for the fence to be within the riparian.

Board Member Montalto asked if the applicant had looked at any other options in relationship to the riparian.

If the fence was moved out of the riparian setback, Mr. Kirschnick said his entire backyard would basically be excluded. The tree line did not exist as shown on the site plan. The builder had taken out the whole tree line since the trees would have been too close to the house. Mr. Kirschnick referred to the photos that he submitted with the application.

Board Member Montalto had looked at an aerial image and thanked Mr. Kirschnick for that clarification.

During the building process, Mr. Kirschnick said a fence had been discussed – even before documents were signed; however, the builder never informed them that there would be an issue with putting up a fence.

Board Chairperson Siegfried wanted to make sure the applicant had not considered moving the fence at least somewhat out of the riparian. The proposed fence location was solidly within the middle of the riparian. She understood that a 32-foot setback would make for a very small yard area; however, she wondered if Mr. Kirschnick thought about moving the fence away from the property line to reduce the current request.

Mr. Kirschnick said they really had not looked at that. He understood the proposed fence was within the setback, but the retention pond was a good 400 feet away. There were trees and then the clearing for equipment access. Mr. Kirschnick said they would probably consider coming in another 10 feet.

Board Chairperson Siegfried noted the proposed fence was actually within the riparian – not just the setback.

On the drawing, Mr. Kirschnick said the area was labeled, “Riparian setback. Do not disturb.” It did not say the fence was actually within the riparian.

Based on her understanding, Board Chairperson Siegfried thought the entire riparian area was delineated, which should not be disturbed.

Planning and Zoning Director Jeffers said that was correct. The riparian was in the middle with a 25-foot setback on each side.

Board Chairperson Siegfried confirmed the area was 50 feet across. Based on the plan, she thought the fence was beyond the riparian and into the other side of the setback. She wondered if Mr. Kirschnick considered moving the fence.

As shown on the drawing, Mr. Kirschnick said the fence was 34 feet from the back of the house. As it was, it was really not a lot of yard space.

Board Chairperson Siegfried heard Mr. Kirschnick was thinking about moving the fence 10 feet, and then, she heard him say maybe not.

Mr. Kirschnick thought a rear setback of 24.44 feet for the fence could be a compromise if that was what had to be done to get approval.

Board Chairperson Siegfried said Mr. Kirschnick could present that change to the Board for a vote. It was not a matter of the Board approving the variance request if he moved the fence, which was very different than presenting the change to the Board for a vote. If Mr. Kirschnick was interested, Board Chairperson Siegfried offered the possibility of making an amendment; however, just because an offer was presented, it did not mean the Board would approve or deny an amended request. She just wondered if there was an alternative other than what was originally presented to the Board.

Mr. Kirschnick amended the variance request to place the fence 24.44 feet from the back corner of the *above deck*, which would mean moving the fence 10 feet closer to the house.

For clarification, Board Member Montalto said Mr. Kirschnick planned to move the fence in 10 feet from the property line, which would put the fence at 24.44 feet from the edge of the house.

Mr. Kirschnick said, "Correct."

Planning and Zoning Director Jeffers clarified the measurement of 24.44 feet was from the *above deck*.

Board Member Montalto thanked Planning and Zoning Director Jeffers for that clarification.

Board Member Stouffer asked if the proposed change would get the fence out of the wetland setback.

Planning and Zoning Director Jeffers said the proposed change would place the fence on the east side of the riparian without crossing over the riparian.

Board Member Siegfried said the proposed change would also get the fence out of the wetland setback.

Planning and Zoning Director Jeffers confirmed the change would get the fence out of the wetland setback.

With the proposed change of 10 feet, Board Member Watkins asked if the fence would be outside of the riparian.

Board Chairperson Siegfried said the proposed change would move the fence out of the wetland setback, and the change would place the fence on the other side of the riparian – the side closest to Mr. Kirschnick's house.

Planning and Zoning Director Jeffers said the riparian was a stub that ended on the subject property. The riparian was either ending or picking up drainage from either the hillside or the detention basin. The purpose of the detention basin was to take the

drainage from the slope of Torrey Pine Drive. He thought the riparian was probably not a flowing stream like was typically seen in riparian areas.

To amend the request, Board Member Montalto asked if Mr. Kirschnick had to make a formal submittal or if the request could be amended verbally.

Planning and Zoning Director Jeffers said a verbal request could be made to amend the variance. Planning and Zoning Director Jeffers amended the original site plan to reflect the change. If the proposed change was greater than the original request, it would have to be readvertised; however, the amended request was less than the original request, which did not have to be readvertised.

Board Member Siegfried opened the hearing to the public. No one asked to testify, and the public portion of the hearing was closed.

Board Member Siegfried asked Mr. Kirschnick to clarify what he wanted the Board to vote on that evening.

Mr. Kirschnick wanted the Board to vote on moving the fence in 10 feet, which meant a 24.44-foot setback from the *above deck*.

Before reviewing the Duncan Factors, Board Member Montalto asked about going into executive session.

MOTION: Board Member Montalto moved for the Board to go into executive session.

SECOND: Board Member Heinly

A collective oral vote was taken.

Motion Approved: 5 – Ayes; 0 – Nays; 0 – Abstentions.

The Board went into executive session at 7:22 p.m.

MOTION: Board Member Montalto moved for the Board to end the executive session.

SECOND: Board Member Heinly

A collective oral vote was taken.

Motion Approved: 5 – Ayes; 0 – Nays; 0 – Abstentions.

The Board came out of executive session at 7:37 p.m.

The Board reviewed the Duncan Factors for Variance Application #05-24-023.

MOTION: Board Member Heinly moved to disapprove Variance Application #05-24-023 submitted by Jason Kirschnick at 2817 Torrey Pine Drive in Medina, Ohio 44256 for a variance from Section 570.3, Establishment of Designated Watercourses, Riparian Setbacks and Wetland Setbacks, to allow a fence to encroach into a wetland and riparian setback per the fence type detailed in the information submitted with the application. Per the letter dated May 8,

2024 from Erik Malinoski, E.I., Civil Engineer, Medina County Engineers, the fence may not encroach into the water sewer easement. The property is located in Windfall Estates, an R-2, Controlled Density, Planned Residential Development.

The fence is to be 10 feet east from the western property line.

Planning and Zoning Director Jeffers said the Board of Zoning Appeals made its motions in the affirmative – to approve, rather than disapprove.

The motion was amended to read as follows:

MOTION: Board Member Heinly moved to approve Variance Application #05-24-023 submitted by Jason Kirschnick at 2817 Torrey Pine Drive in Medina, Ohio 44256 for a variance from Section 570.3, Establishment of Designated Watercourses, Riparian Setbacks and Wetland Setbacks, to allow a fence to encroach into a wetland and riparian setback per the fence type detailed in the information submitted with the application. Per the letter dated May 8, 2024 from Erik Malinoski, E.I., Civil Engineer, Medina County Engineers, the fence may not encroach into the water sewer easement. The property is located in Windfall Estates, an R-2, Controlled Density, Planned Residential Development.

The fence is to be 10 feet east from the western property line.

SECOND: Board Member Montalto

Before voting, Board Member Watkins wanted to confirm a motion was made to approve the variance application with the fence being 10 feet east of the western property line.

Board Chairperson Siegfried confirmed that was correct.

ROLL CALL:

- Board Member Watkins: Approved.
- Board Member Stouffer: Approved.
- Board Member Heinly: Disapproved. While she appreciated the applicant’s compromise, she felt the variance was still too substantial of a variance in the riparian setback.
- Board Member Montalto: Approved.
- Board Chairperson Siegfried: Approved. With the shift of the fence 10 feet from the western edge of the property, the fence would no longer be in the wetland area; and per the Zoning Inspector’s testimony, the storm water basin is pulling most of the water from the riparian area at that point in time.

Based on those factors and the Duncan Factors, she approved.

Motion Approved: 4 – Ayes; 1 – Nay; 0 – Abstentions.

Mr. Kirschnick initialed the change to the plan.

Planning and Zoning Director Jeffers would get in touch with the fence contractor regarding the Zoning Certificate for the fence.

**2. PUBLIC HEARING: VARIANCE**

**Application No.:** 06-24-025

**Applicant/Owner:** Nicholas and Jaclyn Peddle  
4117 E. Smith Road  
Medina, OH 44256

**Zoning District:** R-2, Single-Family Suburban Residential District

**Request:** Section 410.8, Accessory Use Regulations

A variance to allow a patio/sports court to encroach 15 feet into the required 50-foot rear yard setback.

Board Chairperson Siegfried opened the public hearing and read/referenced the following:

- Application #06-24-025, which included an aerial photograph of the subject property; layout for the concrete pad and shed; visual design of the proposed shed; a photograph of the proposed shed; and photographs (4) of the yard where the patio/sports court and shed would be located.
- Memo from Planning and Zoning Director Jeffers regarding the subject variance request.

Mr. Nicholas Peddle was sworn in by Board Chairperson Siegfried.

Ms. Jaclyn Peddle was sworn in by Board Chairperson Siegfried.

Mr. Peddle updated the size of the proposed shed. The storage building would be 12 feet by 28 feet – not 12 feet by 24 feet as referenced in the application. The pad remained 35 feet by 35 feet.

Mr. Peddle said the main reason for the exposed portion of concrete was to get his children out of the driveway; East Smith Road could get busy. He also wanted to incorporate the existing 4-inch footers into the pad and was not initially aware of the 50-foot setback requirement.

Ms. Peddle did not have anything to add.

Board Member Montalto referred to the third paragraph of Planning and Zoning Director Jeffers’ memo, which referenced the existing footers and the proposed shed that met zoning setbacks. He asked if the footers met the setbacks for the shed.

Planning and Zoning Director Jeffers said the proposed shed met the required setbacks. It was the patio that did not meet the required setbacks. A 4-foot walkway around the shed would be allowed as a sidewalk; however, anything larger than 4 feet would be considered a patio and would require a variance.

Board Chairperson Siegfried asked about the gravel area shown in the photographs.

Mr. Peddle thought a permit would be needed for the shed, but he did not think a permit would be needed for the pad. The gentleman doing the work put down the gravel and put up the forms. Work stopped when Mr. Peddle discovered a variance was needed.

Board Chairperson Siegfried realized it was sometimes difficult to understand the intricacies of what was allowed and required.

Planning and Zoning Director Jeffers said the applicant was in a tough location. There were different regulations in the City of Medina, which was just a couple of blocks away.

No one else was present to testify. Board Chairperson Siegfried closed the public portion of the hearing, and the Board reviewed the Duncan Factors.

MOTION: Board Member Montalto moved to approve Variance Application #06-24-025 submitted by Nicholas and Jaclyn Peddle at 4117 East Smith Road in Medina, OH 44256 for a variance of 15 feet into the required 50-foot rear yard setback, per Section 410.8, Accessory Use Regulations, for a patio/sports court. The property is located in the R-2, Single-Family Suburban Residential District.

SECOND: Board Member Watkins

Board Member Stouffer: Approved.

Board Member Montalto: Approved, and appreciated what the applicants were doing to keep their boys safe and out of the front of the house with all of the traffic on East Smith Road and in the general area of Glenmoore Farms and Timber Trail.

Board Member Watkins: Approved.

Board Member Heinly: Approved.

Board Chairperson Siegfried: Approved, and agreed with Board Member Montalto. She did not see it as a substantial request, and the existing footers were being used.

Motion Approved: 5 – Ayes; 0 – Nays; 0 – Abstentions.



**3. APPROVAL OF MINUTES:**

**May 20, 2024**

MOTION: Board Member Watkins moved to approve the minutes of May 20, 2024.

SECOND: Board Member Montalto

ROLL CALL: Board Member Montalto – Approved; Board Member Heinly – Abstained; Board Member Stouffer – Abstained; Board Member Watkins – Approved; Board Chairperson Siegfried – Approved.

Motion Approved: 3 – Ayes; 0 – Nays; 2 – Abstentions.

**4. ZONING UPDATES**

Heritage of Medina – Wooster Pike

The 99-bed congregate care facility was under construction.

Dunkin’ Donuts and Taco Bell – Wooster Pike

Infrastructure was going in for Dunkin’ Donuts and Taco Bell.

Proposed Mixed-Use Overlay District Regulations

The Medina County Planning Commission would review the amendments at its August meeting. Based on the projected timeline, the amendments could become effective mid-October.

**ADJOURNMENT:**

MOTION: Board Member Heinly moved to adjourn the July 1, 2024 Board of Zoning Appeals meeting.

SECOND: Board Member Montalto

A collective oral vote was taken.

Motion Approved: 5 – Ayes; 0 – Nays; 0 – Abstentions.

The July 1, 2024 meeting of the Montville Township Board of Zoning Appeals was adjourned at 8:04 p.m.

Respectfully submitted,

Bonnie Schwehm  
Zoning Secretary

Signature \_\_\_\_\_  
Chairperson

Date \_\_\_\_\_