

**MONTVILLE TOWNSHIP
BOARD OF ZONING APPEALS MEETING
JULY 15, 2024**

PRESENT

Elayne Siegfried, Vice Chairperson
Cheryl Heinly
Pat Ryan
J. C. Stouffer
Donna Watkins

ALSO PRESENT

P. Jeffers, Planning and Zoning Director	
B. Schwehm, Zoning Secretary	
M. Akins	Jeanett Goodman
J. Burgoon	S. Kile
C. Cramer	D. Linder
L. Cramer	F. Michal
R. Gomola	C. Mills
Jason Goodman	D. Whipkey

HANDOUTS: None

- AGENDA:**
1. Public Hearing: Variance #06-24-027/Goodman – 4448 Luckystone Way/Section 410.8 – Side yard setback for driveway
 2. Public Hearing: Variance #06-24-028/Michal – Parcel #030-11D-30-031/ Section 410.4 – Lot frontage, width and size
 3. Zoning Updates

Board Vice Chairperson Elayne Siegfried called the Monday, July 15, 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 Cheryl Heinly – Present; Board Member Donna Watkins – Present; Board Member Pat Ryan – 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

- Application No.:** 06-24-027
- Applicant/Owner:** Jason Goodman
4448 Luckystone Way
Medina, OH 44256
- Zoning District:** Planned Neighborhood Development
Cobblestone Park Subdivision
- Request:** Section 410.8, Accessory Use Regulations
A variance of 3 feet from the minimum setback of 3 feet from the side lot line for a driveway.

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

- Application #06-24-027, which included an aerial photograph of the subject property; an exhibit of the subject property with driveway detail; an *exploded map of encroachment & area to be removed*; Exhibits 1 – 11 as listed in the application; a layout detailing where the contractor calculated the property line; and a site plan.
- Memo from Planning and Zoning Director Jeffers dated July 8, 2024 regarding the subject variance request.

Mr. Jason Goodman was sworn in by Board Chairperson Siegfried.

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

Board Chairperson Siegfried asked if the applicant had any information to present in addition to what had already been read into the record.

Mr. Goodman thanked all of the Board members for hearing his request. His neighbor, Cisco Mills, who lived across the street on Brownstone, was there on his behalf.

Without question, Mr. Goodman said he would remove the concrete to the lot line. In a brief conversation with a representative from Ryan Homes, the representative indicated Ryan Homes, the current landowner of the neighboring parcel (4452 Luckystone Way), would be satisfied if the concrete was removed to the lot line.

Board Chairperson Siegfried said anyone who wanted to speak on Mr. Goodman’s behalf would have to be sworn in.

Mr. Goodman said one of the reasons for the subject parking space was to keep cars from being parked on the street. He believed a child was hit last year in the

neighborhood. Since he moved into his home, there had only been two houses on the street; however, the street now went through.

Board Chairperson Siegfried said the request before the Board that evening was to remove 6 inches of the driveway concrete that was on the neighboring property and totally eliminate the required setback.

Mr. Goodman confirmed that was correct.

Board Chairperson Siegfried asked if testimony from contiguous property owners would be considered part of the application presentation or part of the public.

Planning and Zoning Director Jeffers thought the testimony should be considered part of the presentation.

Mr. David Whipkey, Ryan Homes, was sworn in by Board Chairperson Siegfried.

Mr. Whipkey was present along with Mike Akins from Ryan Homes. Mr. Whipkey spoke briefly with the applicant; and as the current property owner of the neighboring parcel, Ryan Homes was okay with the concrete being cut back to the lot line. However, if the variance was granted, he asked for consideration to be given to cutting the concrete back an additional 6 inches so the driveway would not be right on the property line. The additional 6 inches would prevent a parked car from hanging over the property line.

Mr. Whipkey said Ryan Homes had worked with the future homeowners, and some adjustments had been made to the swale. He said everybody was comfortable with it. The extra 6 inches was just a consideration.

Board Chairperson Siegfried reiterated that the request before the Board was for the driveway to be right up to the property line. However, the applicant could reduce the request before the Board.

Mr. Goodman wanted to be a good neighbor and was willing to work with his neighbor; however, he would have to make sure there was enough clearance to get vehicles in and out on a regular basis.

Board Chairperson Siegfried said Mr. Goodman had the option of modifying his request that evening, but there were no guarantees.

Mr. Goodman asked if the Board could vote on the 3-foot request and if any deviations from that distance could be worked out between neighboring property owners.

Board Chairperson Siegfried said the 3-foot variance would essentially eliminate any required setback. If Mr. Goodman modified the request, the Board would vote on the amended request. The applicant would have to adhere to whatever was approved by the Board.

Mr. Goodman understood.

Board Chairperson Siegfried said removing more concrete than what the Board may approve would be up to Mr. Goodman and his neighbor. However, if the Board approved a 3-foot variance, the neighbor could not object to the driveway being on the

property line. As the applicant, it was Mr. Goodman's choice to determine the amount of the variance request.

Board Member Ryan said another option would be for Mr. Goodman to ask the Board to table the variance request, which would give him an opportunity to determine the absolute minimum setback that was needed and time to make sure he could still get the cars in and out. If a request for a full 3-foot variance was denied that evening, Mr. Goodman could not come back before the Board.

Attorney Dan Linder said they were okay with the full request.

If a 2.5-foot variance was requested, Board Member Watkins said an additional 6 inches of concrete would be dug up, and a parked car would hang over grass.

As demonstrated in the photographs, Mr. Goodman said the bumper would align with the property line – it would not hang over the property line.

Theoretically, Board Member Stouffer said the tires could be at the property line, which would mean the bumper would hang over the property line. However, cars could be moved and would not be part of the actual pavement. He wondered if there would be any landscaping to prevent someone from accidentally backing off of the driveway.

Ms. Jeanette Goodman was sworn in by Board Chairperson Siegfried.

Mr. Goodman said bushes or vegetation of some type had been discussed. When they talked with the buyer of the neighboring parcel, they said they would not encroach onto the adjacent property.

Board Member Stouffer asked if the new homeowner would be notified of the situation.

Mr. Whipkey said the buyer was aware, and the buyer was okay with it.

Based on the above discussion, Board Chairperson Siegfried said the request before the Board was for a 3-foot encroachment into the minimum 3-foot setback.

Board Member Ryan referred to Photo #2. She wondered if the applicant had three or four vehicles.

With three adult children, Mr. Goodman said they actually had five vehicles.

In the photograph, Board Member Ryan said it appeared the vehicles were quite a bit forward of the 3-foot mark. If the cars were pulled back so that the tires were on the 3-foot mark, it appeared almost another 2 or 3 feet would be gained.

Mr. Goodman thought the appearance may be due to the angle. He suggested looking at Photo #4, which might provide a better angle. He said the bumper would not overhang the property line.

If the bumper would not overhang the property line, Board Member Ryan said the concrete could be 6 inches from the property line. The wheels would be forward of the bumper, and the tires would still be on the concrete.

Mr. Goodman understood what Board Member Ryan was saying. If that worked, he would be totally for it. Ultimately, he wanted to be able to get the cars in and out.

Board Member Ryan again referred to the option of tabling the agenda item to determine the absolute minimum distance needed.

If the full 3 feet was approved, Mr. Goodman would be willing to go back an extra 2 to 4 inches. He was ultimately trying to make everyone happy.

Attorney Linder said Mr. Goodman was trying to accomplish everything voluntarily between neighbors, rather than it being mandatory by the variance.

Board Member Ryan said the Board looked at granting the least variance possible. If the driveway could be cut back an extra 6-12 inches, why grant a variance for the entire setback?

Mr. Goodman said it would be tight.

Board Member Ryan was not saying otherwise, but a variance request for a zero setback was quite a bit.

Board Member Watkins noted the pictures showed a smaller car and a larger car. Referring to Photo #2, it appeared someone would have to be very, very careful when pulling out of the one-car garage. As a mother of six, no one knew what size car everyone would end up with; and she would hate to limit the applicant to a compact car for the sake of 6 inches. However, she understood the Board liked to consider the least possible variance.

Planning and Zoning Director Jeffers referred to Photo #2 and asked what was located next to the silver car. Landscaping? A utility box?

Mr. and Ms. Goodman indicated it was a pile of leftover landscaping materials that had been ripped out.

In similar situations, Planning and Zoning Director Jeffers said people had started near the sidewalk and angled concrete towards the property line to provide a parking area where vehicles could be parked at more of an angle.

Ms. Goodman said they were trying to not spend an additional \$10,000 on concrete.

Planning and Zoning Director Jeffers was not trying to spend the Goodman's money.

Mr. Goodman understood; however, he would comply with whatever the Board decided. He was at the mercy of the Board and hoped to not spend the additional money to do something like that. Mr. Goodman would like to cut the driveway back to the lot line, which he thought would make the neighbors happy. He hoped that would also make the Board happy.

Unless he wanted a decision that evening, Board Member Ryan mentioned the applicant could ask the Board to table the variance request to determine exactly what was needed.

Mr. Goodman wanted a decision that evening.

Board Chairperson Siegfried said the Board would move forward with the request for a 3-foot variance.

Board Chairperson Siegfried opened the hearing to the public.

Mr. Cisco Mills, 4382 Brownstone Lane, was sworn in by Board Chairperson Siegfried.

For the safety of his children crossing the street, Mr. Mills thought it was important to not have cars parked on the roadway, especially with more traffic expected on the street. He thought the variance would provide a look that would work well for the neighborhood. He had seen the opposite, and it was not a good look.

Since no one else asked to testify, Board Chairperson Siegfried closed the public portion of the hearing; and the Board reviewed the Duncan Factors.

MOTION: Board Member Watkins moved to approve Variance #06-24-027 submitted by Jason Goodman at 4448 Luckystone Way in Medina, Ohio 44256 for a variance of 3 feet from the minimum setback of 3 feet from the side lot line for a driveway, per Section 410.8, Accessory Use Regulations. The property is located in the Cobblestone Park Subdivision, a Planned Neighborhood Development.

SECOND: Board Member Stouffer

ROLL CALL:

- Board Member Stouffer: Approved.
- Board Member Ryan: Disapproved. She would like to see the request for the absolute minimum. She had a problem approving a 100% variance with the idea of doing what the neighbor said later and possibly coming in six inches, four inches, or whatever. Although she saw a need for the request and understood it, she thought other options were available to try to lessen the request.
- Board Member Watkins: Approved.
- Board Member Heinly: Approved, and appreciated the homeowners being willing to work with their neighbors and the Board.
- Board Chairperson Siegfried: Approved. Even though it was a substantial request, she approved after taking into consideration the safety of not parking on the street and after hearing from the neighbors who agreed with the request.

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

2. PUBLIC HEARING: VARIANCE

Application No.: 06-24-028
Applicant/Owner: Frank James Michal, Trustee
7295 Wadsworth Road
Medina, OH 44256

- Parcel/Zoning District:** Parcel #030-11D-30-031
Rural Residential District
- Request:** Section 410.4, Lot Requirements
- 1) A variance of 87.68 feet from the minimum lot frontage of 175 feet and a variance of 114.25 feet from the minimum width at the building line of 175 feet; and
 - 2) A variance of .9099 acres from the 4-acre minimum lot size to create Parcel 2 that would be 3.0901 acres.

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

- Application #06-24-028, which included an aerial photograph of the subject property and surrounding area, and Lot Split Surveys with and without an aerial.
- Memo from Planning and Zoning Director Jeffers dated July 8, 2024 regarding the subject variance request and a *Deed of Correction/General Warranty Deed*, which was related to access.

Planning and Zoning Director Jeffers said the proposed size of Parcel 2 would be larger than the existing parcel.

Mr. Joe Burgoon, Lewis Land Professionals, was sworn in by Board Chairperson Siegfried.

Mr. Frank Michal was sworn in by Board Chairperson Siegfried.

Board Chairperson Siegfried asked if the applicant wanted to present any information in addition to what had been presented.

Mr. Michal said Mr. Burgoon knew all the dimensions and legalities. Mr. Michal built his home in 1993. His in-laws built a home at 7295 Wadsworth Road in 1991. Over the years, his father-in-law split 60 acres into different parcels; some of the parcels shared a driveway. His father-in-law gave his wife the property in the back because he could not afford to keep up with it.

After his wife suffered a traumatic brain injury, Mr. Michal transferred the property into his name. He purchased the property formerly owned by his in-laws when they could no longer afford to live there. With a shared driveway, it was essentially like one big lot. After his in-laws passed away, Mr. Michal was in the process of updating the house and considered selling it or moving into it.

Mr. Michal said sharing a driveway with Bob Gomola was not a problem; however, he had always wanted a separate driveway for his house at 7333 Wadsworth Road and a separate driveway on River Styx Road for 7295 Wadsworth Road. After consulting with real estate agents, he realized it would be difficult to sell a property with a shared

driveway. He decided it would be best for each parcel to have the option of having its own driveway.

Mr. Michal wanted the vacant parcel to remain in the CAUV program, which required a minimum of 10-acres. He wanted a little bit of land from the vacant parcel to make a driveway for 7295 Wadsworth Road. Property would be taken from the vacant parcel for the other properties to make sense. The requested variances would allow Mr. Michal to build driveways when he was ready to do so. Obviously, he could not do anything until the variances were granted. He thought the proposed changes would increase property values in the area.

Mr. Michal referred to the front dimension of 87 feet as shown on the lot split survey. He could not do anything about that – it was just how the lot was carved up over the years. A gas well, which Mr. Michal owned and covered both houses, was the only reason for the little triangle of land.

Mr. Michal said the adjoining properties were once owned by his father-in-law, who split and sold properties and gave the money to his daughter.

Board Member Ryan asked how the proposed lot splits would help Mr. Michal put in the proposed driveways.

Mr. Michal pointed out the existing parcel at 7333 Wadsworth Road had a circular driveway that did not conform; it did not fit within the boundaries of the property. He intended to take the driveway around the back of the house and down to Wadsworth Road, which would eliminate using the driveway through the little triangle of land. The proposed parcel would be 3 acres.

Mr. Michal intended to take a driveway for 7295 Wadsworth Road out to River Styx Road. The proposed driveway for that parcel would be beyond the pine trees and along the ravine, which would be more hidden and less obvious. From an aesthetic perspective, he did not want a gravel driveway going straight up the hill.

Board Member Ryan asked if Mr. Michal had contacted ODOT (Ohio Department of Transportation).

Mr. Michal had not approached ODOT.

Board Member Ryan thought he may want to do that sooner rather than later.

When he started the process, Mr. Michal did not know what was necessary.

Mr. Burgoon said ODOT would grant driveways to existing parcels on state routes and could not deny access.

Board Member Ryan asked if that was the case when there was an existing drive.

Mr. Burgoon said ODOT would question that, but he thought they would provide access.

Board Member Ryan said the terrain was rough.

Mr. Burgoon acknowledged it was, but he said ODOT did not care about rough terrain. ODOT cared about site distances and things like that.

Board Member Ryan was just curious; it was not something the Board had to consider.

Board Member Ryan asked Planning and Zoning Director Jeffers if a variance had previously been issued for the frontage.

Planning and Zoning Director Jeffers could not find any variances for the lot. The lot split had been done in-house. The notes in the file indicated the split was allowed because it was being made into a non-buildable lot.

Board Member Ryan wondered why it had been deemed an unbuildable lot.

Mr. Burgoon said the survey from 2002 was stamped by Montville Township. The note basically read that it was a back lot transfer only; and without the required frontage, it was not a buildable lot.

Planning and Zoning Director Jeffers said the current zoning code would not allow that to happen, which was why the applicant was requesting the variances for the lot split/combination.

Board Member Watkins asked about access to the gas well.

Mr. Michal said the gas well was not serviced – it did not have oil, pumps or tanks. It was just a wellhead and pipes to the houses. Mr. Michal owned the gas well. When he purchased the well in the 1990s, he was told it could last one day or 1,000 years. So far, it had been a good deal.

Board Chairperson Siegfried opened the hearing to the public.

Mr. Larry Cramer, 7300 River Styx Road, was sworn in by Board Chairperson Siegfried.

Mr. Cramer asked if new driveways were only proposed out to Wadsworth Road.

Mr. Michal said a driveway was proposed along his frontage on River Styx Road.

Mr. Kramer had questions or concerns in that regard. He noted the parcel number listed on the notice he received as a contiguous property owner did not list the parcel number for the property on which a driveway was proposed on River Styx Road.

Planning and Zoning Director Jeffers said that parcel was not listed because a variance was not needed for the proposed driveway.

Ms. Cynthia Cramer, 7300 River Styx Road, was sworn in by Board Chairperson Siegfried.

Ms. Cramer was concerned about the proposed lot splits in relationship to the easement they had for water. She wondered if the easement would be delineated. She did not know where the well was located.

A discussion ensued among the people in attendance. Board Chairperson Siegfried explained questions were to be addressed to the Board, which would allow appropriate meeting minutes to be prepared.

When the property was gifted to his wife, Mr. Michal said there was an easement for the old farmhouse that the Hollopeters bought in 1958, which was part of the original 60 acres. Several years ago, when he was doing some clearing in the woods, Mr. Michal caught/cut the waterline, which was in the area directly behind the old barn. Mr. Michal said a ravine and a creek ran between what he wanted to take and the waterline.

When Mr. Michal caught/cut the waterline, the Cramers came up and said they did not have any water. At that time, Mr. Michal was not aware of the waterline or an easement and did not know what they were talking about.

Mr. Michal showed them where the wellhead was located. He knew the direct route, which did not come remotely close to the area that he was talking about. From a geological and topographical standpoint, his proposal would not affect their water source.

Mr. Michal identified the location of the well on the survey in relationship to the location of the proposed driveway. He said the proposed location would not have any bearing whatsoever on the Cramers' water.

Board Chairperson Siegfried suggested Mr. and Mrs. Cramer obtain a copy of the easement.

Mr. Cramer said he had a copy of the easement. He did not think there were any objections whatsoever regarding the water. He did not think it was an issue.

Mr. Cramer wanted to know exactly how Mr. Michal planned to lay out a possible future driveway down to River Styx Road. Would trees border the driveway?

Board Chairperson Siegfried appreciated Mr. Cramer's question, but that was not an issue before the Board that evening. However, a permit would be required for the driveway.

Planning and Zoning Director Jeffers said Montville Township required the apron and driveway to be 3 feet off of the side property line, and the driveway was required to be a minimum width of 12 feet. As a courtesy, property owners were asked to provide a buffer for gravel driveways, which could become noisy.

Mr. Michal said the variance requests did not mean that he would soon be putting in a driveway, but he wanted to have the ability to put in a driveway if he sold the property. He did not want to spend \$30,000 to \$50,000 on a driveway yet. However, the proposed driveway would not come even remotely close to the property line. It would be pretty much dead center right down to River Styx Road.

Based on a lot width of 175 feet, Mr. Michal said the driveway would be at least 75 feet from the Cramers' property line; and there was already overgrowth, brush and trees.

Before putting in the driveway, Board Member Ryan suggested Mr. Michal reach out to the Cramers to provide an opportunity for them to voice any concerns they may have, which may prevent problems later on.

Mr. Cramer thought the driveway would be fine and well into the future. He did not have any objections whatsoever. Mr. Michal had answered his questions. It may just be a matter of dust kicking up, but he was certain they would work it out – he was not concerned.

Since no one else asked to testify, Board Chairperson Siegfried closed the public portion of the hearing; and the Board reviewed the Duncan Factors for the first variance request.

- 1) A variance of 87.68 feet from the minimum lot frontage of 175 feet and a variance of 114.25 feet from the minimum width at the building line of 175 feet.

MOTION: Board Member Stouffer moved to approve Variance Application #06-24-028 submitted by Frank James Michal, Trustee at 7295 Wadsworth Road in Medina, Ohio 44256 for a variance of 87.68 feet from the minimum lot frontage of 175 feet and a variance of 114.25 feet from the minimum width at the building line of 175 feet per Section 410.4, Lot Requirements, on Parcel #030-11D-30-031, which is located on Wadsworth Road and owned by Frank James Michal. Variances are requested so that the properties in the Rural Residential District can be split to eliminate shared driveways.

SECOND: Board Member Heinly

ROLL CALL:

- Board Member Watkins: Approved.
- Board Member Heinly: Approved.
- Board Member Stouffer: Approved.
- Board Member Ryan: Approved.
- Board Chairperson Siegfried: Approved.

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

- 2) A variance of .9099 acres from the 4-acre minimum lot size to create Parcel 2 that would be 3.0901 acres.

The Board reviewed the Duncan Factors for the second variance request.

MOTION: Board Member Ryan moved to approve Variance Application #06-24-028 submitted by Frank James Michal, Trustee at 7295 Wadsworth Road in Medina, Ohio 44256 for a variance of .9099 acres from the 4-acre minimum lot size, per Section 410.4, Lot Requirements, to create Parcel 2 that would be 3.0901 acres when Parcel #030-11D-30-031 on Wadsworth Road is split to eliminate shared driveways in the Rural Residential District on the properties owned by Frank James Michal.

SECOND: Board Member Stouffer

ROLL CALL:

- Board Member Ryan: Approved. It was making an already nonconforming lot, less nonconforming.
- Board Member Watkins: Approved.
- Board Member Heinly: Approved.
- Board Member Stouffer: Approved.

Board Chairperson Siegfried: Approved, for the same reasons Board Member Ryan indicated.

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

3. ZONING UPDATES

Proposed Mixed-Use Overlay District Regulations

The Medina County Planning Commission would review the amendments at its August meeting. The Zoning Commission set its public hearing for August 14, 2024.

ADJOURNMENT:

MOTION: Board Member Ryan moved to adjourn the July 15, 2024 Board of Zoning Appeals meeting.

SECOND: Board Member Heinly

A collective oral vote was taken.

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

The July 15, 2024 meeting of the Montville Township Board of Zoning Appeals was adjourned at 8:21 p.m.

Respectfully submitted,

Bonnie Schwehm
Zoning Secretary

Signature _____
Chairperson

Date _____