CITY of MEDINA
Board of Zoning Appeals

Board of Zoning Appeals

Meeting Date: October 10, 2019

Meeting Time: 5:30 pm

Present: Bert Humpal, Paul Roszak, Rob Henwood, Brandilyn Fry, Mark Williams, Jonathan Mendel, (Community Development Director), Sandy Davis (Administrative Assistant)

Absent: None

Mr. Henwood made a motion to approve the minutes from the September 12, 2019 meeting as submitted. The motion was seconded by Mr. Williams.

Vote:	
Roszak	Y
Humpal	Y
Henwood	Y
Williams	Y
Fry	abstain
Approved	4-1 abstention

The Court Reporter swore in all attendees, board, and staff.

Old Business: None

Announcements: Mr. Mendel stated the parking deck is under construction and is anticipated to be completed by the beginning of May 2020.

Mr. Mendel stated he handed out two submittals to the board. One is for Z19-17 and one is for Z19-18.

New Business:

1. Z19-17 517 Woodland William Maxwell VAR

Mr. Mendel gave a brief overview of the case. Mr. Mendel stated this is a variance request from Section 1121.05 of the Planning and Zoning Code to allow an addition 18.25 feet from the north property line instead of the minimum required 40 feet.

Mr. Mendel stated the property is zoned R-1, Low Density Urban Residential.

Mr. Mendel stated the property is located at the southwest corner of Woodland Drive and Strawberry Lane.

Mr. Mendel stated the applicant proposes an addition to the existing garage. Mr. Mendel stated the addition would encroach into the north corner side yard and, since the house is located on a corner lot, the house is required to meet the minimum front yard setback facing both streets. Mr. Mendel stated the applicant requests a variance from section 1121.05 of the Planning and Zoning Code to allow an addition 18.25 feet from the north property line along Strawberry Ln. when a 40 foot setback is required.

Mr. Mendel stated the existing house currently has a 31.5 foot nonconforming setback from the Strawberry Ln. frontage.

Mr. Mendel stated the applicant shall show by a preponderance of the evidence that the variance is justified, as determined by the Board. Mr. Mendel stated the Board shall weigh the following factors to determine whether an area variance should be granted:

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

Mr. Mendel stated the existing site can still be used as a single family residential dwelling with accessory garage parking without granting a variance.

B. Whether the variance is substantial;

Mr. Mendel stated the house is located on a corner lot. Section 1113.05(d) requires properties meet the minimum front yard setbacks facing both streets. Mr. Mendel stated the proposed 18.25 ft. setback for the garage addition is 54% less than the minimum required 40 ft. and is 42% less than the existing nonconforming 31.5 ft setback.

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

Mr. Mendel stated the essential character of the neighborhood may not be altered. Mr. Mendel stated due to the angle of this stretch of Strawberry Ln., the houses most

proximate to the proposed addition are at a distance that may avoid substantial detriment.

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

Mr. Mendel stated the variance would not adversely affect the delivery of governmental services.

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

Mr. Mendel stated the code requirements have been in effect for a significant time period.

F. Whether the property owner's predicament feasibly can be obviated through some method other than a variance; and/or

T Mr. Mendel stated the owner's predicament could be feasibly be obviated without a variance since the property could accommodate at least a two car detached garage in the rear yard.

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

Mr. Mendel stated the likely intent of the requirements is to provide a standard and predictable amount of development and site disturbance for a given parcel and to maintain a specific amount of private open space along the public rights-of-way.

Mr. Mendel stated the BZA must weigh the above seven factors for the requested variance and determine if a practical difficulty exists that would merit a variance from section 1121.05.

Present for the case were property owners Bill Maxwell and his wife Bonnie Maxwell, 517 Woodland Drive, Medina, Ohio.

Mrs. Maxwell stated there is an existing foundation that was probably meant to finish off the 2 car garage but when they built the house they build only a 1 car garage but the foundation is still there. Mrs. Maxwell stated they are requesting to go 6 feet past that existing foundation.

Mr. Henwood asked the applicant if she has considered other configurations that would conform more closely to the existing zoning. Mr. Maxwell stated the only way it can go is out so he thinks it is where it can go. Mr. Henwood asked Mr. Mendel if this is a

legally non-conforming structure. Mr. Mendel stated it is an existing non-conforming structure and is presumed to be legal when constructed.

Mrs. Maxwell stated in the neighborhood there are 4 houses with 1 car garages and the rest are 2 cars. Mrs. Maxwell stated there is only 1 with the detached barn but they have a big back yard and they use their garage as part of their home.

Mr. Williams asked Mr. Mendel where the 2 car detached garage could fit on the site per his staff report. Mr. Mendel stated it would be to the west/rear yard from the house. Mr. Mendel stated there is ample space to build a 2 car garage and it already has a driveway where a garage could be added at the end of it.

Mr. Roszak asked if the footprint of the addition the same length of the existing garage. Mr. Maxwell stated the existing garage is 16 ft. wide and he is asking for a larger footprint. Mr. Maxwell stated they would like to make the proposed addition match the front of the house and the same height as the house. Mrs. Maxwell stated the back of the house would be the same. Mrs. Maxwell stated they would put matching siding on the new addition. Mrs. Maxwell stated they will replace the front brick with stone. Mrs. Maxwell stated they found the same siding to match.

Mr. Henwood stated he is concerned that the variance request is substantial and he is not comfortable with it.

Mr. Humpal asked if the garage could be made closer to 10' in width. Mrs. Maxwell stated they would like to use the extra space for storage.

There was a discussion about the roof line.

Brandilyn Fry stated for full disclosure that she is the neighbor of this property. Mrs. Fry stated she does not think a detached 2 car garage would fit the character of the neighborhood because the houses in this neighborhood have attached garages. Mrs. Fry stated she does not have a problem with the request from the perspective of a neighbor.

Mrs. Fry stated the foundation on the side of the house has been deteriorating for a while and is an eye sore so she is glad to see this done.

Mr. Roszak stated he agrees with Mrs. Fry and is familiar with the site and feels this would be an improvement and he is in favor of it.

Mr. Williams stated he has concerns about the aesthetics. Mrs. Fry stated as an architect, she feels it will break up the front of the house and add visual appeal.

Mr. Humpal asked for comments from adjoining property owners. There were no comments.

Mr. Roszak made a motion to approve the variance request from Section 1121.05 of the Planning and Zoning Code to allow an addition 18.25 feet from the north property line instead of the minimum required 40 feet as presented based on the finding that it does not alter the essential character of the neighborhood and the adjoining properties will not suffer substantial detriment as a result of the variance.

The motion was seconded by Mr. Williams.

Vote:

Roszak	Y
Humpal	Y
Williams	Y
Henwood	N
Fry	abstain
Approved	3-1abstension, 1 nay

2. Z19-18 Greg & Jeanette Meder 830 E. Washington VAR

Mr. Mendel gave a brief overview of the case. Mr. Mendel stated this is a variance request from Section 1113.05(n) of the Planning and Zoning Code to permit the keeping of goats on the residential property at 830 E. Washington St. when goats are not a permitted type of farm animal under Section 1113.05(n).

Mr. Mendel stated the applicant currently houses goats at their R-1 zoned property at 830 E. Washington St. Section 1113.05(n) of the Planning and Zoning Code permits keeping a narrow range of farm animals on residential properties. Mr. Mendel stated these include "chicken, ducks, rabbits, and similar animals". Mr. Mendel stated goats are not considered a 'similar animal' to chicken, ducks or rabbits as goats can be much larger and have greater potential to be a nuisance.

Mr. Mendel stated there are seven factors that the BZA should consider when evaluating whether or not a practical difficulty exists. Mr. Mendel stated these factors are outlined below, along with a discussion of how these factors apply to the application in question.

Mr. Mendel stated the applicant shall show by a preponderance of the evidence that the variance is justified, as determined by the Board. The Board shall weigh the following factors to determine whether an area variance should be granted:

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

Mr. Mendel stated the subject property can keep chickens, ducks and rabbits and similar animals

B. Whether the variance is substantial;

Mr. Mendel stated the variance is substantial. This would be a '100%' variance as goats are not a permitted farm animal under 1113.05(n).

C. *Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;*

Mr. Mendel stated the applicant's property is adjacent to residential zoning and occupancy on all sides, but is also situated at the intersection of an arterial road and a collector road.

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

Mr. Mendel stated the variance would not adversely affect the delivery of governmental services.

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

Mr. Mendel stated the current code was in effect when the applicant purchased in the property in 2016

F. *Whether the property owner's predicament feasibly can be obviated through some method other than a variance; and/or*

Mr. Mendel stated the owner's predicament could be feasibly obviated by housing the goats at another site where such animals would be permitted, which would not be within the City of Medina.

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

Mr. Mendel stated the intent of permitting the keeping of "chicken, ducks, rabbits, and similar animals" was to allow animals that are generally the same scale, size and impact as typical houses pets, such as dogs and cats.

Mr. Mendel stated the BZA must weigh the above seven factors for the requested variance and determine if a practical difficulty exists that would merit a variance from section 1113.05(n).

Mr. Humpal asked how the request came about. Mr. Mendel stated it was through a code enforcement action by the city. Several photos were presented by the applicant showing the structure.

Mr. Henwood asked if there are existing goats on the site. Mr. Mendel stated yes but he does not know how many.

Present for the case were applicants and owners Greg & Jeannette Meder, 830 E. Washington Street. Mrs. Meder stated she researched online to see if goats are permitted prior to purchasing them and did not see anything that stated they were prohibited. Mrs. Meder stated the goats had been there for approximately 2 months before the zoning inspector saw them. Mrs. Meder stated there were no complaints. Mrs. Meder stated she was told they must be grandfathered in to have them. Mrs. Meder stated what she found online was incorrect. Mrs. Meder stated they have 3 goats, all brothers, dehorned and fixed. Mrs. Meder stated they are pigmy goats and will stay the size they are now. Mrs. Meder stated they are smaller than their dog and are housed in the barn in the photos. Mrs. Meder stated the barn is away from the street and is custom made and delivered on site. Mrs. Meder stated they are part of their family and a comfort to her husband who has a medical condition.

Mr. Henwood asked if the applicant put in a request for a reasonable accommodation for a service animal or an emotional support animal. Mr. Mendel stated he has not received any documentation to that effect.

Mr. Meder stated they received a request from the Samaritan Center to bring the goats in for the residents to see. Mrs. Meder stated she is looking into getting them certified as "comfort animals". Mrs. Meder stated it takes a while to get this done.

Mr. Humpal stated there was a letter distributed to the board from an adjoining property owner. Mr. Mendel stated the letter was from Mr. & Mrs. Mion who live on the north side of Washington Street.

Juan Ramirez and his wife Diana Ramirez, 198 Guilford Blvd., commented. Mr. Ramirez stated they are in support of the request. Mr. Ramirez stated these are very small goats and they are super clean and the Meder's take good care of them and keep the property very clean.

Christina Hines, 900 E. Washington Street, commented. Ms. Hines stated she is in support of the request and they love the goats. Ms. Hines stated the Meder's keep the yard and goats very clean and well taken care of.

Mr. Humpal reminded the board about a case a few years ago for a request for a Llama that was approved. Mr. Mendel stated they have received no complaints about the llama.

Mr. Humpal asked if the motion could have restrictions to the animal, number of animals, type of animals, this owner only, etc.

Mr. Mendel stated if the board approved a variance strictly approving these specific animals, it would be a judgement call for staff to verify they are the same goats.

Mr. Mendel stated it is reasonable for the board to restrict the approval to these owners.

Mr. Williams stated his concern is for the goats getting lose in such a busy traffic area. Mr. Williams stated a large dog could pose the same concern so he has no problem with this request.

Mr. Roszak stated his only concern is it is a very visible corner lot and it may generate more goats in the city without permission or may cause more requests for the Board of Zoning Appeals.

Mrs. Meder stated numerous people have stopped and love the goats and she has told them all that permission is needed from the city to have the goats.

Mrs. Meder stated they are only out twice a day for a two hours and she or her husband are out with them when they are out. Mrs. Meder stated they are never left out unattended.

Mr. Mendel stated the condition of the sod should be looked at to keep it from going to dirt from the animals. Mr. Mendel stated a ground cover such as a thick layer of mulch could be done.

Mr. Henwood stated his concern is that this is not permitted in this district and he is not comfortable with the request.

Mr. Roszak suggested the requirement that the first 10 feet inside the fence be maintained as lawn to be in keep with the neighborhood. Mr. Mendel stated enforcement and management by the applicants could be difficult. Mr. Mendel stated a nice border in dark mulch or such could look good in that area. Mr. Mendel stated there are no requirements for sod or grass, it just needs to be a ground cover.

Mrs. Meder stated they were planning on covering the ground with a large chunk all natural bark next year. Mrs. Meder stated the path worn is from their dogs and not the goats.

Mr. Williams made a motion to approve the request for a variance from Section 1113.05(n) of the Planning and Zoning Code to permit the keeping of goats on the residential property at 830 E. Washington St. when goats are not a permitted type of farm animal under Section 1113.05(n). Mr. Williams stated the approval is based on the finding that the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance because the animals are in scale with many breeds of dogs or cats or smaller. The approval is subject to the following:

1. The approval is restricted to the Meder's and to these particular animals and not renewable without another variance.

The motion was seconded by Mrs. Fry.

Vote:

Roszak	Y
Humpal	Y
Williams	Y
Henwood	N
Fry	Y
Approved	4-1

3. Z19-19 John & Suzanne Sharpe 529 W. Friendship VAR

Mr. Mendel gave a brief overview of the case. Mr. Mendel stated this is a variance request from Section 1125.05 to permit the creation of a new lot at 529 W. Friendship Street that is 55 feet wide instead of the minimum required 75 feet in the R-3 district. Mr. Mendel stated the property is zoned R-3, High Density Urban Residential.

Mr. Mendel stated the subject site is located on the north side of the 500 block of W. Friendship St.

Mr. Mendel stated the applicant owns the two vacant lots at 529 W. Friendship Street. Mr. Mendel stated the two existing lots are 82.5 feet wide (west lot) and 55 feet wide (east lot). Mr. Mendel stated the city acquired the lots through tax foreclosure a few years ago and demolished the house in 2013 and turned the lots over to the Development Corporation who then sold them to another owner who in the last several months, sold them to the current owners, John & Suzanne Sharpe.

Mr. Mendel stated the applicant proposes re-platting to move the lot line between the two lots further to the west, so that the west lot would be 55 feet wide and the east lot 82.5 feet wide. Mr. Mendel stated although this is the same dimensions of the existing lots, the re-platting would technically create two new lots. Mr. Mendel stated new lots must comply with the minimum 75 foot width of the underlying R-3 zoning district.

Mr. Mendel stated the applicant shall show by a preponderance of the evidence that the variance is justified, as determined by the Board. Mr. Mendel stated the Board shall weigh the following factors to determine whether an area variance should be granted:

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

Mr. Mendel stated the two existing lots are buildable for a single family dwelling as-of-right.

B. Whether the variance is substantial;

Mr. Mendel stated the variance may not be substantial. Mr. Mendel stated although the actual variance constitutes a lot width 26.7% smaller than the minimum required

75 feet, the proposal does not change the increment of lot widths already present for the north side of the 500 block of W. Friendship St.

C. *Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;*

Mr. Mendel stated the essential character of the neighborhood may not be altered as the rhythm and number of lots along this block face is not substantively changing.

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

Mr. Mendel stated the variance will not adversely affect the delivery of governmental services.

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

Mr. Mendel stated the R-3 district minimum lot width requirement was in place when the applicant purchased the property.

F. *Whether the property owner's predicament feasibly can be obviated through some method other than a variance; and/or*

Mr. Mendel stated the owner's predicament could feasibly be obviated without a variance by not changing the current configuration of the subject lots.

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

Mr. Mendel stated the likely intent of the requirements is to provide a standard and predictable amount of development and unit density on any given street and also to be consistent with infrastructure capacity.

Mr. Mendel stated the BZA must weigh the above seven factors for the requested variance and determine if a practical difficulty exists that would merit a variance from Section 1125.05.

Present for the case were property owners John and Suzanne Sharpe, 326 W. Washington Street.

Mrs. Sharpe stated the Sophia Huntington Parker farm house is being physically moved by Building Blocks Preservation Group, a non-profit, from 347 N. Huntington to this lot at 529 W. Friendship. Mrs. Sharpe stated the concern she did not share in her submittal is they want to put the house on the easterly lot and currently it cannot fit there. Mrs.

Sharpe stated it is an "L" shape lot and will not fit on 55' width. Mrs. Sharpe stated the reason for the extended width is all the utilities are already on the other lot where the house was removed and there was never a house on the west lot. Mrs. Sharpe stated it would cost a substantial amount to move the services over to the west side. Mrs. Sharpe stated if they combined the lots and split them evenly, they would still have a substandard lot and they would like to be able to retain one parcel and donate the other to the project with their own funds. Mrs. Sharpe stated they would like to keep the other lot as a buildable lot with plans to put a memorial garden on it for Sophia Huntington.

Mrs. Sharpe stated they are doing this out of their own funds to save the house which is 183 years old.

Mrs. Fry asked if some of the lots across the street are much narrower. Mr. Mendel stated there are a number of lots directly across the street that are 45' wide. Mr. Mendel stated by code, if the lot is substandard to the underlying zoning district, they are buildable with specific requirements for setbacks and such.

Mr. Mendel stated the average lot width in the 500 block of Friendship is 67.5' and on the south side of Friendship the average lot width is 67.5' and on the south side of Friendship the average lot width is 60.25'.

Mrs. Sharpe stated in 2015 the board granted the same type of variance for 2 other lots on West Union. Mrs. Sharpe stated the lot sizes were flipped and they were requesting a substandard area below the required 8,000 sq. ft. minimum. Mrs. Sharpe stated the subject lot is above that at 9,075 sq. ft. but the width is not there.

Skip Baron, 536 N. Broadway commented. Mr. Baron stated he is working with the applicants on the project and restoring the house.

Mr. Henwood asked why the applicant does not create one conforming lot. Mrs. Sharpe stated with non-profits, if the founder donates something to the non-profit, it cannot be a tax write-off and is considered a contribution. Mrs. Sharpe stated while they want to have them be 2 parcels so they can retain one parcel to put a garden and not give the whole thing away. Mrs. Sharpe stated they spent $36,000 for the lots and they will not get anything back for that at all. Mrs. Sharpe stated that does not include all the money they have personally put in with the non-profit which just started. Mrs. Sharpe stated she and her husband are fronting all of the money. Mrs. Sharpe stated they went forward and purchased the two lots even before winning the bid for the house. Mrs. Sharpe stated she would like to retain something from it and build a garden and have it be a buildable lot. Mr. Sharpe stated they are losing ownership of a property.

Mr. Henwood suggested creating one of the lots as a legally conforming lot and one as a substandard lot. Mrs. Sharpe stated that is what they are doing. Mr. Henwood stated rather than having the small one require a larger variance, why not make the large one a little smaller and the smaller one a little larger so they both conform better.

Mr. Mendel explained what Mr. Henwood is suggesting in more detail. Mrs. Sharpe stated they need more width for the house to fit. Mr. Baron stated reducing the width would not allow the house to fit.

There was a lengthy discussion about reconfiguring the lot sizes to make them both closer to conforming to the code requirements. The discussion included estimates of setbacks, driveway widths, and the width of the actual house. Mr. Baron stated a 5 foot side lot setback is very close to the adjoining property. Mrs. Sharpe stated the garage that the neighbor has is right on the lot line which may be a problem if they are 5 feet from the side lot line. Mr. Baron stated that is not very desirable.

Mr. Williams stated this variance is just pushing the problem to the lot next door and Mr. Sharpe indicated there is a chance that lot could be sold and a house built on it. Mr. Williams stated his concern is the other lot that would be created. Mrs. Sharpe stated her understanding is the variance would give the permission to have the other lot be a buildable lot on the 55' width.

Mr. Williams stated when things come to the board, the board has the chance to fix some of the things from the past which created the narrow lots. Mr. Williams stated that is why the board looks to make the lots closer to meeting today's code.

Mrs. Sharpe stated she intends to do this garden and she does not intend to sell the lot but they are not going to be building on the lot but would like to protect it just in case.

Mrs. Sharpe stated if they make the side yard setback 5 feet and it ends up not being enough, she and her husband will need to come back to the board and spend more money to request another variance. Mrs. Sharpe stated the house has to be removed from the property by November 1st. Mrs. Sharpe stated a foundation plan has not been done yet because they had to wait for the decision this evening. Mr. Sharpe stated the engineering and plans are being held up in anticipation of this variance decision. Mr. Sharpe stated because of the style of the home, it is really wide. Mrs. Sharpe stated the house will be rehabilitated under the Building Blocks Preservation Group, "Your Historic Home" program. Mrs. Sharpe stated investors put in sweat equity on the house and rehab it to their specifications and purchase the home. Mrs. Sharpe stated the house will go to private ownership.

Mr. Roszak stated he is ok with the request. Mr. Humpal stated he is ok with the request. Mr. Williams stated he will not vote against the request but feels the board is kicking the problem down the road. Mr. Henwood stated he commends the Sharpe's for their efforts and their desire to preserve the home but he believes there is an opportunity here to make a more conforming lot and we are not doing that.

Mrs. Sharpe asked if they need the extra footage could they have a special meeting to extend the lot and not have to file another application fee.

Mrs. Sharpe stated 75' is cutting it close and it makes her nervous. Mr. Henwood asked Mrs. Sharpe to make an effort to make it come closer to conforming.

Mr. Sharpe stated there are other considerations coming into play and they would like to be as far away from the corner house as possible. Mr. Baron stated he does not recommend 75' and feels they need the 82' to make the plan appropriate and give adequate clearance on both sides of the house.

Mr. Humpal made a motion to approve the variance request from Section 1125.05 to permit the creation of a new lot at 529 W. Friendship Street that is 55 feet wide instead of the minimum required 75 feet in the R-3 district based on the finding that the neighborhood may not be altered as the rhythm and number of lots on the block is not substantially changing.

The motion was seconded by Mr. Roszak.

Vote:	
Roszak	Y
Humpal	Y
Williams	Y
Henwood	N
Fry	Y
Approved	4-1

Mr. Mendel announced that beginning in November, the board will test out switching the Board of Zoning Appeals meeting to begin at 7pm and the Planning Commission at 6pm.

Having no further business, the meeting was adjourned.

Respectfully submitted,

Sandy Davis

Sandy Davis

Bert Humpal

Bert Humpal, Chairperson