

MEDFORD TOWNSHIP ZONING BOARD OF ADJUSTMENT

16 February 2022

6:00 p.m.

**Public Safety Bldg.-91 Union Street
& via Zoom On-Line Conference**

Attorney Patrick Varga called the meeting to order at 6:05 p.m. and read the Statement of Conformance with the Open Public Meetings Act and the Municipal Land Use Law.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: Cocivera, Hamilton, Meehan, Pullman, Rickards, Simmers, Wolf, Stefanoni, Morrison
Absent: None
Professional Staff: Attorney Patrick Varga, Engineer Christopher Noll, Planner Michelle Taylor, Secretary Beth Portocalis, Zoning Assistant Krystle Garrison

EXECUTIVE SESSION

Mr. Pullman made a motion for an Executive Session at 6:06 pm. Vice Chairman Rickards seconded. The meeting reconvened at 7:00 pm

CORRESPONDENCE

1) Ms. Portocalis read an email dated February 16, 2022 from Christopher Norman, Attorney for applicant Joseph Orlando (SPR-5757) requesting the application be carried to the next meeting.

MOTION: Vice-Chairman Rickards made a motion to carry the application to the March 2022 meeting without the need to re-notice. Mr. Hamilton seconded. The voice vote was unanimous in favor.

2) Ms. Portocalis read an email dated February 4, 2022 from Brian Bonelli, Applicant (ZVE-1105), requesting that his application be continued to the March meeting in order to have a new survey completed.

MOTION: Mr. Wolf made a motion to continue the application to the March 2022 meeting with the requirement to re-notice. Vice Chairman Rickards seconded. The voice vote was unanimous in favor.

MINUTES:

January 19, 2022 Re-Organization and Regular Meeting – Mr. Pullman made a motion to approve the January 19, 2022 Zoning Board Meeting Minutes. Mr. Simmers seconded the motion. A unanimous voice vote in favor carried the motion. (Meehan abstained)

January 19, 2022 Executive Session – Mr. Pullman made a motion to approve the January 19, 2022 Zoning Board Executive Session Minutes. Mr. Simmers seconded the motion. A unanimous voice vote in favor carried the motion. (Meehan abstained)

REPORTS: None

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RESOLUTIONS TO BE MEMORIALIZED:

RESOLUTION #2022-6 APPOINTING JERRY DASTI, ESQ. AS BOARD ATTORNEY:

Mr. Hamilton made the motion to approve; Mr. Pullman seconded. The roll call vote was unanimous in favor. (7-0)

RESOLUTION #2022-7 APPOINTING CHRISTOPHER NOLL, PE/PP AS BOARD ENGINEER:

Mr. Hamilton made the motion to approve; Mr. Wolf seconded. The roll call vote was unanimous in favor. (7-0)

RESOLUTION #2022-8 APPOINTING MICHELLE TAYLOR, PP AS BOARD PLANNER:

Mr. Hamilton made the motion to approve; Mr. Simmers seconded. The roll call vote was unanimous in favor. (7-0)

Kathleen Rieck, 10 Woodland Avenue, Block 3803//Lot 4, ZVE-1106

RESOLUTION #2022-09

Memorialization of Bulk Variances granted for retroactive approval of a screened porch requiring side yard setback relief: 23.73' proposed, 30' required; and rear yard setback relief: 38.65' proposed, 50' required. **Zone: GD**

Recorded Vote

Ayes: Hamilton (M), Pullman, Rickards, Simmers (2), Wolf, Morrison, Cocivera
Nays: None
Abst.: None
Motion carried: 7 - 0 - 0

James Jefferson, 35 Jackson Road, Block 4801.01//Lot 9, ZVE-1011

RESOLUTION #2022-10

Memorialization of bifurcated application granting both d(1) and d(2) Use Variances for retroactive approval to permit expansion of previously granted nonconforming uses to maintain both residential and commercial use on the property in a commercial zoning district. The commercial use was expanded to permit a massage therapy business as a "personal services" use complimentary to the existing personal fitness training use. Applicant is required to come back before the Board within six months to seek site plan, design waiver and bulk variance approvals for the structures on the parcel. **Zone: CC**

Recorded Vote

Ayes: Hamilton (M), Pullman (2), Rickards, Simmers, Wolf, Morrison, Cocivera
Nays: None
Abst.: None
Motion carried: 7 - 0 - 0

APPLICATIONS/OFFICIAL:

John & Leslie Wright, 194 S. Lakeside Drive E., Block 4903//Lots 145.02 & 146, ZVE-1109,
Bulk Variance required for non-conforming lot to demolish existing sun room totaling 150 sf and construct a three-season room addition with porch totaling 400sf one side yard setback relief 15' required, 16.9' existing, 11.65' proposed; second side yard setback relief 15' required, 19.3' existing, 19.3' proposed; rear yard setback relief 50' required, 25.8' existing, 36.36' proposed. Seeking Building Coverage relief 12% permitted, 13.8% existing, 16% proposed. **Zone: GD**

SWORN: John & Leslie Wright, Owners
Christopher Norman, Esq., Attorney, Platt Law Group

Mr. Norman opened the testimony by detailing the application and highlighting that Mr. & Mrs. Wright purchased the home in October 2020 and plan to move in from another home in Medford once renovations are completed. The traditional ranch dwelling was built in 1959 and is approximately 2500 square feet. An existing 150sf sunroom blocks the entire view of the lake from other areas of the house. The applicant proposes to demolish this part of the house and construct a new three season room and porch totaling 400 square feet. Since the property is situated on a cove on Birchwood Lake, the new sunroom and porch will be situated so as provide lake views from all areas of the dwelling, and to allow it to fit within the current layout. The addition exterior will match the dwelling.

Mr. Norman reviewed Exhibit A-16; a display board of the photos provided to Board members. Additional photos were provided and marked as Exhibit A-17.

Mr. Norman stated the trees that were cut as indicated by the remaining tree stumps were cut before the Wright's purchased the property. They plan to remove the stumps, but no additional trees will need to be removed to facilitate the proposed addition.

Mr. Pullman asked if the two lots have been consolidated. Mr. Norman stated they are not, but the applicant is willing to do so.

Mr. & Mrs. Wright stated that their neighbors have voiced no objections to the proposed additions, and in fact are happy that the lot and dwelling are being improved.

Mr. Norman closed by stating that Mr. & Mrs. Wright agree to the comments in Mrs. Taylor's February 1st, 2022 review letter, and do plan to landscape the entire yard after the construction is completed.

Mrs. Taylor stated she has no comments in addition to those in her letter, and reiterated that the proposed location for the new addition and porch is the only logical place given its layout.

Mr. Noll had no comments, as there is no wetlands or wetlands buffer impacts, nor any effect on the grading to the lake.

PUBLIC: Mr. Hamilton made a motion to open the public portion. Mr. Simmers seconded. The voice vote was unanimous in favor.

Lynne Duncan – 14 South Lakeside Drive W. Mrs. Duncan stated that she has lived next door to the Wrights at another property, and they are excellent neighbors and will improve the aesthetic of the property. She is in favor of approving the application.

Mr. Hamilton made a motion to close the public portion. Mr. Simmers seconded. The voice vote was unanimous in favor.

MOTION: Mr. Hamilton made a motion to approve the application as submitted with the condition to consolidate the two lots. Vice Chairman Rickards seconded.

Recorded Vote:

Ayes:	Hamilton, Meehan, Pullman, Simmers, Wolf, Rickards, Cocivera
Nays:	None
Abst.:	None
Motion carried:	7 - 0 - 0

Star Sprinkler Systems, Inc., 108 Chairville Road, Block 809//Lot 4, ZVE-1108
(Carried from the January 19, 2022 meeting)

Seeking d (1) Use Variance to permit storage of material, equipment and commercial vehicles associated with an irrigation business on a residential parcel. Storage yards are not a permitted use in the Highway Management (HM) Zone District or upon preserved farmland. **Zone: HM**

SWORN: Glenn & Jaime Whelan, Applicants
Jeffrey Baron, Esq., Attorney, Baron & Brennan, PA
Robert Scott Smith, PP, PLS, Planner & Surveyor-Key Engineers, Inc.

Mr. Baron opened the testimony by describing the property as 22.6 acres owned by John & Annette Conte. The Conte's entered into the State & Burlington County Farmland Preservation Program, with 21+ acres being deed restricted for farmland use only, and 1.176 acres exempted as an exception area with no restrictions. The driveway onto the parcel also has no restrictions.

The exception area contains a dwelling which is being rented to tenants by the Conte's, and a barn. The surrounding farmland is being farmed by another local farmer. Mr. & Mrs. Conte are both elderly and were not able to attend this meeting.

Mr. Whelan was next to testify. He has lived in the Centennial neighborhood in Medford since 1979, and owned & operated Star Sprinklers for 40 years. He has located his trucks and irrigation supplies on the exception area at the Conte Farm for 27 years. He has looked at other areas to operate the business, but has not found a site that is both appropriate and affordable. He rents the open ground area and the open barn for use by the irrigation business.

Mr. Whalen continued that his business operates weekdays from 7 am to around 5 pm and some Saturday mornings for approximately 8-9 months a year. During the winter months he plows snow to keep his employees working. He has five employees, and no new employees will be hired if the application is approved. He has eight pick-up truck vehicles: 1 personal use/1 is his brother's personal vehicle/4 pick-ups used by the employees to and from worksites/2 pick-ups with plows used for snow plowing only; 4 open trailers used to haul irrigation piping to jobsites, and one skid steer. The piping is delivered to this location usually 1-2 times a year. Mr. & Mrs. Conte do not drive so they park no vehicles. Mr. Simmers asked if Mr. Whalen has a lease with the Conte's, and if it includes language upon the passing of Mr. & Mrs. Conte. He stated no, it's been a "handshake" month by month arrangement since the beginning. There was back and forth discussion amongst Board members and Mr. Whalen and Mr. Baron; with Mr. Baron stating he would draft a lease agreement as a condition of approval.

Mr. Whalen also stated no lighting is required/requested, nor is any signage. He concluded his remarks by adding that over the years he has removed quite a bit of debris generated by the farming and residential use which had been dumped in the woods at the rear of the property; some of which was at the request of the County Farmland staff who conduct annual inspections to insure the Farmland Preservation rules and regulations are being adhered to.

Mr. Baron added that the HM Zone District does permit this type of business, when 10 acres is provided. The farm is over 22 acres, but acknowledged the irrigation business is concentrated on the exception area.

Mr. Smith was next to testify. He described Exhibit A-8; the variance site plan submitted with the application. His firm prepared a new survey, which he described in detail for the Board. All vehicles, equipment and materials were within the exception area when the survey was taken. Upon questioning by Board members, he said the concrete enclosures were salt bins installed when Mr. Whalen was contracted by the Township several years ago to plow roads north of Route 70. The bins are no longer utilized, and Mr. Baron added that the applicant is willing to remove them if so required by the Board as a condition of approval.

Mr. Smith next described a display board of photos of existing site conditions. This was marked as Exhibit A-16; and Board members were each given an 11' x 17" copy of same. These photos show the distance to other homes in the adjoining parcels, which are all a significant distance away. Mr. Smith reiterated that the farm is inspected annually by the County with no documented violations. He acknowledged that there is other equipment on the site which is farm related and not a part of Star Sprinkler's business operations.

Upon further questioning by Board members, Mr. Whalen acknowledged there is some metals that are being stored for scrap. These were found in the woods and around other areas of the farm. To date, Mr. Whalen and his staff have removed two 30-yard dumpsters of trash from the parcel. Since the Conte's can no longer maintain the farm, he and his staff are assisting them.

Discussion then ensued based upon a statement from Chairman Cocivera that use approvals if so granted by the Board will run with the land, so the Board must be cognizant that future owners/operators of an irrigation business may not be as willing as Mr. Whalen to maintain other areas of the farm. In reply, Mr. Baron stated that his client is willing to voluntarily accept a condition to waive entitlement to only Mr. Whalen. He added that should Mr. Whalen's son take over the business, they would come back to the Board to seek approval to operate under the same conditions that may be imposed by the Board. An exchange between Mr. Varga and Mr. Baron confirmed that this is legal under the MLUL if the applicant accepts this condition voluntarily.

Mr. Baron also added that Mr. & Mrs. Whalen would also agree to conditions that the operation will not expand within the exception area or the farm; the concrete walls/bins will be removed; continued efforts will be made to clean up dumped waste on the farm; provide additional landscaping as per Mrs. Taylor's recommendations in her review letter; and fire insurance will be obtained to insure that the dwelling and the barn can be rebuilt if damaged or destroyed by fire.

Mr. Smith then continued his testimony by discussing the Traffic Impact Statement. He utilized the Skeet Road counts collected by Burlington County in 2019 since Chairville Road becomes Skeet Road south of Route 70. He stated much of the Skeet Road traffic heading north turns onto Route 70 during the AM peaks, and turns onto Skeet Road from Route 70 to head south during the PM peak. Any single family dwelling is expected to generate nine trips, so since the irrigation business has eight vehicles, his conclusion was there would be no impact on the traffic.

Mr. Smith, as the applicant's planner, concluded his testimony by describing the positive and negative criteria required for a d(1) use variance. Towards the positive criteria, he noted the use itself is screened from both Chairville Road and Route 70 by virtue of its location. Other positives include the provision of light, air and open space since further development of the site is restricted; the provision of space and open space since the irrigation business use is located to the rear of the lot; a desirable visual environment is created based on use of the original barn building and the clearing of dumped materials on the farm; and the conservation of open space and natural resources by way of 22 acres of the site being actively farmed. As to the negative criteria, Mr. Smith stated the operation of the business does not use any added lighting, generates no excessive noise, and there are no disturbances on the site the majority of the day. The business is not a substantial detriment to the area, and is not contrary to the zone district plan since the use is permitted, albeit 10 acres is required.

Mr. Baron cited case law (Burbridge vs. Mike Hill) that found that aesthetic improvements can be a justification for granting a use variance. Mr. Varga noted for the Board that this case was based upon a pre-existing/non-confirming expansion of use.

Mrs. Taylor asked who is farming the property. Mr. Baron responded that the farmland is being leased to a local farmer who also farms other properties in Medford. Mrs. Taylor noted her concern that the house has a cesspool and no septic, and this may affect the water quality as the Rancocas Creek runs in the back of the parcel. She also stated that within the 1+ acre exception area, the dwelling occupies approximately 10,000sf, with the irrigation business operations

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occupying almost an acre. She referenced her December 15, 2021 letter and corrected the sentence that the County has no interest in the exception area. She stated she is not convinced that this site is suitable, for instance were the cesspool to fail where would a new septic system be located? The applicant is not recommending a buffer or fence to restrict movement on the property. This use is more intensive than a farm operation. Mrs. Taylor concluded her comments by stating that national standards call for a contractor's storage yard to be at least 2.5 acres to operate, and this business is operating basically on one acre.

Mr. Noll commented on the traffic impact statement testimony, which confirms the trip generation from the business use is smaller than the residential use. National RSIS standards state 10 trips per day for residential property; but the zoning is HM (Highway Management) which does permit more intensive commercial uses which would generate even more traffic than this business as has been testified.

Mr. Baron summarized the testimony by stating this is a very unique parcel. It is a positive commercial use for the Township since there are no negative impacts. A reasonableness assessment would not equate this to a storage facility operation; and it advances the principles of zoning as the applicant's planner stated, even though Mrs. Taylor disagrees. The irrigation operation has been on the site for well over 25 years, with no complaints from neighbors, nor any violations issued by the County Farmland office.

Mr. Varga advised the Board that by granting the use variance, the applicant's testimony must conclude that this parcel is particularly suited for the business itself, which is the basic testament of zoning.

PUBLIC: Mr. Pullman made a motion to open the public portion. Mr. Wolf seconded. The voice vote was unanimous in favor.

No one from the public was present in person or on Zoom.

Vice-Chairman Rickards made a motion to close the public portion. Mr. Pullman seconded. The voice vote was unanimous in favor.

MOTION: Mr. Hamilton made a motion to approve granting the Use Variance to permit an irrigation business with storage areas within the exception area to continue to operate; with the conditions (1) the applicant will waive entitlement voluntarily for a concession for the irrigation business to continue operations only while owned by Mr. Whalen based upon the applicant's representation during testimony; and (2) inclusive of the applicant's concessions placed on the record during the testimony. Mr. Meehan seconded the motion.

Recorded Vote:

Ayes:	Hamilton, Meehan, Pullman, Cocivera
Nays:	Rickards, Simmers, Wolf
Abst.:	None
Motion denied:	4-3- 0 (*Use Variances require at least five affirmative votes)

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GENERAL PUBLIC:

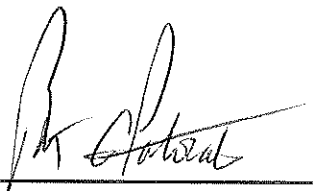
Vice-Chairman Rickards made a motion to open the general public portion of the meeting. Mr. Meehan seconded the motion. The voice vote was unanimous in favor.

No one was present or on Zoom.

Mr. Pullman made a motion to close the general public portion of the meeting. Mr. Simmers seconded the motion. The voice vote was unanimous in favor.

MOTION FOR ADJOURNMENT:

Mr. Hamilton made a motion to adjourn the February 2022 Zoning Board of Adjustment meeting at 9:48 pm. Vice Chairman Rickards seconded the motion. The voice vote was unanimous in favor.



Beth Portocalis, Zoning Board Secretary & Recording Secretary