

MEDFORD TOWNSHIP ZONING BOARD OF ADJUSTMENT

17 May 2023 - 7:00 p.m.

Public Safety Building - 91 Union Street

Attorney Patrick Varga called the meeting to order at 7:00 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, Pullman, Rickards, Simmers, Umba, Morrison
Absent: Hamilton, Meehan, Wolf
Professional Staff: Attorney Patrick Varga, Planner Michelle Taylor, Secretary Ann Bell

CORRESPONDENCE: Ms. Bell read a letter from Christopher Norman, Esq., Attorney for Applicant Joseph Orlando (144 & 148 Old Marlton Pike), requesting that his application be carried to the June meeting, without the requirement to re-notice. Chairman Cocivera asked if anyone in attendance was present for this application. There was none.

Mr. Pullman made a motion to carry the application to the June 2023 meeting without the requirement to re-notice. Mr. Simmers seconded the motion.

Recorded Vote

Ayes: Pullman, Simmers, Umba, Morrison, Rickards, Cocivera
Nays: None
Abst.: None
Motion carried: 6 - 0 - 0

MINUTES:

April 19, 2023 Regular Meeting – Mr. Simmers made a motion to approve the April 19, 2023 Zoning Board Regular Meeting Minutes. Mr. Pullman seconded the motion. A unanimous voice vote in favor by the other members carried the motion.

REPORTS: None

RESOLUTIONS TO BE MEMORIALIZED:

Resolution # 2023-11, James & Mary Madewell, 8 Springhouse, 805.02/4, ZVE-1143
Bulk Variance approval for an in-ground pool with a rear yard setback of 7.5' where 15' is required and 32.1% overall lot coverage where 30% is the maximum permitted

Recorded Vote

Ayes: Pullman (2), Simmers, Rickards (M), Cocivera
Nays: None
Abst.: None
Motion carried: 4 - 0 - 0

Resolution #2023-12, Justin & Alison Higman, 506 Fairview, 3202.14/25, ZVE-1145

Bulk Variance approval for a 24'x42' 8" deep in-ground pool with surrounding pool deck in the rear yard exceeding overall lot coverage, where lot coverage of 38.1% was approved and 30% is the maximum permitted.

Recorded Vote

Ayes:	Pullman (M), Simmers (2), Rickards, Cocivera
Nays:	None
Abst.:	None
Motion carried:	4 - 0 - 0

Resolution #2023-13, Atlantic Builders (Pogozelski), 16 S Lakeside Dr W, 3106/35, ZVE-1147.

Bulk Variance approval for an addition to the rear of the existing dwelling requiring overall lot coverage relief, where 32.5% was approved and 30% is the maximum permitted.

Recorded Vote

Ayes:	Pullman (2), Simmers (M), Rickards, Cocivera
Nays:	None
Abst.:	None
Motion carried:	4 - 0 - 0

Resolution #2023-14, Paul & Mary Manion, 31 Fairview Road, 3202.23/1, ZVE-1144

– Use variance approval for an art studio, complimentary art education businesses and storage in the existing structure; with no site improvements; and a parking variance providing for 23 parking spaces and ADA compliance; with the following conditions: (1) follow all recommendations of the Board Engineer's & Board Planner's review letters, (2) deliveries only by box trucks or cargo vans, (3) address the landscaping; (4) monument sign to remain the same size by changing the copy only and obtaining a permit from the Zoning Officer; (5) no outdoor activities other than use of picnic tables to be located in the rear of the building by staff and participants; (5) any trash enclosure/dumpster is to be properly screened; and (6) no commercial use of the existing kitchen area for catering.

Recorded Vote

Ayes:	Pullman (M), Simmers (2), Rickards, Cocivera
Nays:	None
Abst.:	None
Motion carried:	4 - 0 - 0

APPLICATIONS/OFFICIAL:

Michael & Traci DiNicola, 14 Schoolhouse Dr, 2701.12/23, ZVE-1150 – Seeking Bulk Variance approval for the side yard setback relief of 26’ where 30’ is required for an addition to the dwelling.

SWORN: Michael DiNicola, Owner

Mr. DiNicola opened his testimony by stating that he had purchased the property about one year ago as his retirement home. He plans to open up the kitchen area and areas of the lower level to create a better flow. An existing powder room is to be relocated. The proposed addition requires a minor side yard setback variance; 26’ already exists but the addition will extend the length (bump out). No changes to the exterior siding color or lighting are proposed.

The Board was provided with plans and had no other questions of the applicant. Mrs. Taylor had no comments except if any Board members had specific questions.

PUBLIC:

Dan Wilhelm-16 Schoolhouse Drive. He stated he resides next door and has no objections to the proposed bump-out addition.

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

MOTION:

Mr. Pullman made a motion to approve the application as submitted. Mr. Simmers seconded.

Recorded Vote:

Ayes:	Pullman, Simmers, Umba, Morrison, Rickards, Cocivera
Nays:	None
Abst.:	None
Motion carried:	6 – 0 – 0

Axel Johnson, 3 Bradford Court, 5501.02/15, ZVE-1151 – Bulk Variance request for lot coverage of 21.89% where required is 20% to construct a deck.

SWORN: Axel Johnson, Owner

Mr. DiNicola opened his testimony by stating that he had purchased the property about one year ago. The as built with the dwelling and deck was 21.6% existing upon purchase. It has an irregular shape, and he would like to make it more rectangular. To do so requires an additional 145 sf of decking; however, all but 60 sf will be located on existing impervious coverage. The decking will

be constructed with composite materials. He may add some down lighting, and if so, it will remain on the property and now affect any adjoining properties.

The Board was provided with plans and had no other questions of the applicant. Mrs. Taylor had no comments except if any Board members had specific questions.

PUBLIC: No one from the public spoke.

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

MOTION: Mr. Pullman made a motion to approve the application as submitted, with the condition to only use down lighting. Mr. Simmers seconded.

Recorded Vote:

Ayes:	Pullman, Simmers, Umba, Morrison, Rickards, Cocivera
Nays:	None
Abst.:	None
Motion carried:	6- 0 – 0

Timothy Sheldon, 6 Roxbury Drive, 5107/21, ZVE-1152 – Bulk Variance request for 6' fence in the rear yard on a reverse frontage parcel, proposed to be located 30 feet from the property line where 50 feet is required.

SWORN: Timothy Sheldon, Owner

Mr. Sheldon opened his testimony by explaining that his property backs up to Stokes Road, so it is classified as a reverse frontage lot. He is proposing to install 6' high wood privacy fencing in line with other properties alongside of his. These fences as existing are 30 feet from the property line. No additional side yard or front yard fencing is being proposed. Being that he is proposing to install exactly what his neighbors have done, there would be no detriment to the neighborhood.

Mrs. Taylor explained that Mr. Sheldon's property is encumbered by a 50-foot wide conservation easement in the portion along Stokes Road. However, there are similar fences along the entire neighborhood of the properties backing up to Stokes Road. If Mr. Sheldon were to install his fence 50' back instead of 30', it would look out of place. She surmised the fencing location of 30' might have been part of the original approvals of the subdivision. She opined that she has no issues with the proposed fence location setback of 30' or the wood privacy fence style since it is the same and consistent with the neighborhood.

Upon questioning by Board members, Mr. Sheldon agreed to relocate the fence should it be determined the 30', location is in violation of the conservation easement.

PUBLIC: No one from the public spoke.

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

MOTION: Ms. Umba made a motion to approve the application as submitted, with the condition that the fence be relocated out of the conservation easement area if it is later determined to be in violation of the easement. Mr. Morrison seconded.

Recorded Vote:

Ayes:	Pullman, Simmers, Umba, Morrison, Rickards, Cocivera
Nays:	None
Abst.:	None
Motion carried:	6 – 0 – 0

Valerie Whitham, 5 Ohio Trail, 2206/22, ZVE-1153 – Bulk Variance for the side yard setback to enclose the existing carport.

SWORN: Valarie Whitham, Owner
Jeff Reynolds, Contractor

Mr. Reynolds opened the testimony by describing the open carport on the side of the parcel. He acknowledged it is non-conforming at 13.3' from the side yard property line, but stated from its approximate age it is thought to be original to the dwelling. He explained that it is the only real storage area on the property; and in its existing state being open it is visual to neighbors. The proposal is not to make it larger; only to enclose the walls and making it a detached garage.

The dwelling is brick with white clapboard, and the enclosed carport/detached garage will match the dwelling. The door will be 7' high by 9' wide and will be white. The structure will have downspouts, but they will not flow towards the adjoining property. The sconces will be down lit.

Upon questioning by the Board, Mr. Reynolds confirmed the driveway will not be enlarged or altered in any way.

The Board was provided with plans and renderings had no other questions of the applicant. Mrs. Taylor had no comments other than noting that a detached garage matching the dwelling would be more visually attractive than the existing carport.

PUBLIC: No one from the public spoke.

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

MOTION: Mr. Morrison made a motion to approve the application as submitted. Ms. Umba seconded.

Recorded Vote:

Ayes:	Pullman, Simmers, Umba, Morrison, Rickards, Cocivera
Nays:	None
Abst.:	None
Motion carried:	6 – 0 – 0

Darrin & Jennifer Gould, 11 Chairville, 808/7.03, ZVE-1146 – Use Variance to allow dual use as a counseling office and as a residential dwelling.

SWORN: Robert Baranowski, Esq., Hyland, Levin Shapiro
James Miller, PP, JA Miller Planning Consultants
Joseph Mancini, PE, Tri-State Engineering & Surveying
Jennifer & Darrin Gould, Owners

Mr. Baranowski opened the testimony by distributing four new exhibits to Board members. He continued by explaining that the counseling business is a permitted use in the Highway Management (HM) zone. Given that the area dedicated to the counseling business is not significant since Mrs. Gould works alone with no other counselors or support staff, the Gould's wish to reside at the property. Residential use is not permitted in the HM zone, and neither is the dual use of the property. Therefore, a Use Variance is required. He went on to explain that because of Covid, Mrs. Gould met and continues to meet with many of her clients on-line, which reduces the number of visits to the property.

Mrs. Gould was next to testify. She explained how her counseling business operates. She sees 6-8 patients a day. Her hours are 9 am – 9 pm; but sees most of her clients after 3:00 pm. Seventy percent (70%) are seen online; the other 30% in person. She does not have Friday or weekend hours. There are no "walk-up" appointment times offered. Each session is 52 minutes, but are scheduled to start on the hour so no two clients are present at the same time and only one vehicle requires parking access.

Mrs. Gould confirmed she does not offer group sessions in person, and is willing to accept a condition prohibiting them. Her daughter is her administrative assistant, but does all of her work on-line. She confirmed she has no plans to add staff. She concluded that she is not licensed to prescribe drugs, so there is none on site.

Mr. Gould was next to testify. He described the floor plans contained in Exhibit A-12, focusing on how the business operates in relation to the residence/home. He explained that the two offices are set up so that one is used for in-person sessions and the other for on-line sessions. Chairman Cocivera asked about ADA accessibility; and Mr. Gould responded that since Mrs. Gould does not accept Medicare or Medicaid, ADA accessibility is not required. That being said, the Zoom sessions would allow any disabled person to receive counseling. Mr. Gould added that he has looked into ramps, and they are not very expensive. Mr. Varga counseled the Board members that ADA compliance is not a Zoning Board issue under their purview, and if it is required, the Construction Code Official will determine it.

Mr. Gould continued his testimony by explaining the site plan (Exhibit A-10) with the accompanying photos (Exhibit A-13). He did acknowledge that the property has security cameras and motion sensor lights. This was in response to the almost daily occurrence of people turning around in their driveway.

Mr. Gould concluded his testimony by going over the fence plans contained in Exhibits A-14 and A-15. He stated that variance relief is needed in their current configuration, as the property has two front yards being located on the corner with Route 70. He explained the main reason for the fence is privacy from Route 70, as well as differentiating the parking for the counseling business and parking and rear yard use for the residence.

Mr. Miller was next to testify. He reiterated the testimony on the two uses of the property. He went on to explain the variety of uses permitted in the HM Zone, not including residential, but the structure was initially built as a residence. As per Mrs. Taylor's review letter dated March 17, 2023, he stated he concurs with her opinion that d(2) use variance relief is required. In addition to the fencing, the existing business sign also requires bulk variance relief.

Mr. Miller continued by describing the municipal land use context, and two variance proofs required to meet and grant the d(2) use variance, including the appropriateness of the site and it being well suited to accommodate both uses. The parcel is .877 acres, and has substantial area not required to operate the business as per the previous testimony. The Residential Site Improvement Standards (RSIS) requires 1.5 parking spaces, with three spaces provided for the business and 4 parking spaces for the residence. The Medford code requires 2.5 parking spaces. In addition, Mr. Miller stated that the HM zone permits expansion of pre-existing, non-conforming uses. With the other residential properties in close proximity, Mr. Miller concluded by opining that the applicant has satisfied the criteria for the Board to grant the use variance.

In regards to the c(2) bulk variance for the existing business monument sign, Mr. Miller explained that it is 8.6 square feet (26" x 48') where 7.5 square feet is permitted. The sign was existing from the previous business owner, and the Goulds simply refaced it. Being that it is located in the right-of-way of Chairville Road; the Goulds will relocate it out of the ROW by the required 5 feet. The size needs to remain so that it can be seen from Chairville Road, but to date has been no detriment. There is a solar spotlight on both sides of the sign, but they only illuminate the sign itself.

Mr. Miller next described the c(2) bulk variances requested for the fencing, as shown on Exhibit A-15. There is a 100-foot setback requirement for the dwelling, but 78 feet exists. In addition, the lot is unusually shaped facing Route 70, and a 420' right-of-way exists. No trees will need to be removed to install the fence. The benefit will be privacy for the Goulds, as well as better circulation. In regards to the negative criteria, the location is a rural area of the Township with a lower intensity use that the zone permits, and is consistent with the master plan zoning and satisfies the criteria.

Medford Township Zoning Board of Adjustment Meeting Minutes
17 May 2023
8

The Board and the applicants discussed the accessory structures on the property. There is a 62.5 square foot lean-to shed, a 16' x 16' pergola, and a 144.5 square foot shed. Since this is a commercially zoned area and not a residential district, there are no set minimum or maximum number of accessory structures.

Mrs. Taylor summarized the key points contained in her March 17, 2023 review letter. Specifically, she noted that both the Restricted Commercial (RC) and Community Commercial (CC) zones allow residential flats above commercial uses. For comparison, Mrs. Gould's counseling practice is more closely aligned with a Home Occupation as defined in the Land Use ordinances due to the very low intensity of the use and traffic generation. Additionally, in both the 1990 and 1996 Master Plans, this property was included in the Growth Management North residential zone district, and was changed to HM in the 2008 Master Plan update. She concluded by stating that she has no objections or concerns with the proposed plans, and commended the applicant for addressing the comments in her letter.

Mrs. Taylor added that Mr. Noll's concerns with trip generation and ADA accessibility were addressed in testimony.

Vice Chairman Rickards asked about a rope that is across the driveway. Mr. Gould explained it is to prevent turnarounds. After discussion, Mr. Gould agreed to remove it.

PUBLIC: No one from the public spoke.

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

MOTION: Vice Chairman Rickards made a motion to approve the Use Variance, and grant the bulk variances for the oversized monument sign, contingent upon it being relocated per testimony, the fencing plan consistent with Exhibit A-15, and the three accessory structures presently on the property. Mr. Pullman seconded.

Recorded Vote:

Ayes:	Pullman, Simmers, Umba, Morrison, Rickards, Cocivera
Nays:	None
Abst.:	None
Motion carried:	6 – 0 – 0

EXECUTIVE SESSION: None

ADDITIONAL ACTION(S) BY THE BOARD: None

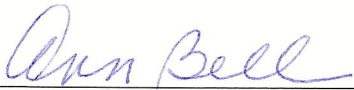
Medford Township Zoning Board of Adjustment Meeting Minutes

17 May 2023

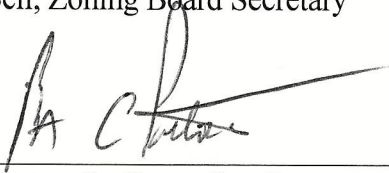
9

MOTION FOR ADJOURNMENT:

Vice Chairman Rickards made a motion to adjourn the May 17, 2023 Zoning Board of Adjustment meeting at 8:48 pm. Mr. Simmers seconded the motion. The voice vote was unanimous in favor.



Ann Bell, Zoning Board Secretary



Beth Portocalis, Recording Secretary

THE UNIVERSITY OF CHICAGO PRESS
CHICAGO, ILL. 60607

THE UNIVERSITY OF CHICAGO PRESS

THE UNIVERSITY OF CHICAGO PRESS
CHICAGO, ILL. 60607

THE UNIVERSITY OF CHICAGO PRESS
CHICAGO, ILL. 60607

THE UNIVERSITY OF CHICAGO PRESS
CHICAGO, ILL. 60607