

**Miami Township
Board of Zoning Appeals
Monday, March 4, 2019**

Members of the Board of Zoning Appeals present:

John Broz, Chairman
Gregory Clatterbuck
James Hamilton

Members of Miami Township Staff present:

Kyle Hinkelman, Deputy Director
Alex Carlson, Planner

Others Present:

Susan Rindler, 7527 South Union Road
Maurice Rindler, 7527 South Union Road
Tom Rindler, 460 South 9th Street
Mike Battaglia, 187 Cushwa Drive

GENERAL MEETING

Mr. Broz called the meeting to order at 6:00 PM.

Action on minutes from February 4, 2019

Mr. Hamilton motioned to approve the minutes from February 4, 2019. Mr. Clatterbuck seconded the motion and the vote was all ayes. The motion passed.

THE OATH

Mr. Broz administered the Oath of Truth to the following people:

Alex Carlson
Tommy Reed
Maurice Rindler
Mike Battaglia

NEW BUSINESS

1. Case # BZA 835-19 Variance – 7527 Miamisburg-Centerville Road

Mr. Hamilton stated the variance case to be heard was BZA #835-19 filed by Maurice Rindler.

Mr. Carlson came forward and stated that the application had been properly filed, the case was properly advertised, and the surrounding property owners notified.

Mr. Carlson explained that the request is for a variance from Article 38, Section 3804 to construct an accessory structure in the side yard. He further noted that property and surrounding properties are zoned "A" Agricultural.

Mr. Carlson explained that currently the required setback is 6' for detached accessory structures that are placed in the rear yard and a detached structure would not be permitted in the side yard. He noted however if a garage was attached to the home it would only need to meet a 30-foot side yard setback requirement. He explained that the applicant has stated that the existence of a swale in the rear yard would prevent installation in that location.

Mr. Carlson explained how each of the findings of fact determine existence of a practical difficulty and explained that staff was recommending approval of this variance.

Mr. Clatterbuck asked if there were trees between this and the neighbor's property and Mr. Carlson confirmed that there were.

Mr. Hamilton asked if the structure is built as requested if it would meet the 50-foot rear setback and Mr. Carlson confirmed that it would.

Mr. Maurice Rindler came forward, confirmed he was sworn in, and reiterated that the swale in the rear yard would make it difficult to maneuver equipment in and out of an accessory structure in the rear yard.

Mr. Clatterbuck asked if Mr. Rindler knew of the zoning requirements when he purchased the property and Mr. Rindler stated he did not.

Mr. Mike Battaglia came forward and confirmed he was sworn in. He proceeded to inform the board of all the difficulties and obstacles that would develop if the garage was required to be constructed in the rear yard.

Mr. Hamilton asked if there was anyone else present to speak regarding this case and there were none.

The Board discussed the case.

The Board of Zoning Appeals proceeded to vote on the following findings of fact:

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

Sinder	Clatterbuck	Hamilton	Broz	
-	Y	Y	Y	

B. The variance is substantial;

Sinder	Clatterbuck	Hamilton	Broz	
-	Y	Y	Y	

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

Sinder	Clatterbuck	Hamilton	Broz	
Y	Y	Y	Y	

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

Sinder	Clatterbuck	Hamilton	Broz	
-	N	N	N	

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

Sinder	Clatterbuck	Hamilton	Broz	
-	N	N	N	

F. The property owner's predicament can feasibly be obviated through some other method than a variance;

Sinder	Clatterbuck	Hamilton	Broz	
-	N	N	N	

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

Sinder	Clatterbuck	Hamilton	Broz	
-	N	N	Y	

Mr. Clatterbuck made a motion that based on the findings of fact and the testimony presented, that the Board of Zoning Appeals finds the existence of a practical difficulty and recommends approval of BZA #835-19 to allow the construction of a detached garage in the location shown on the provided site plan.

Mr. Hamilton seconded the motion and the vote was all ayes. The motion passed.

OTHER BUSINESS

ADJOURN

Mr. Hamilton made a motion to adjourn the meeting at 6:27 p.m., Mr. Clatterbuck seconded the motion, and the vote was all ayes. The motion was passed and the meeting was adjourned.

Respectfully Submitted,
Nicole Kessel, Recording Secretary



Chairperson

4-15-10
Date