

RECORD OF PROCEEDINGS

Minutes of

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Etna Township Board of Zoning Appeals

Held

March 1,

2023

VA23-01 Kretzmann/Dorsey 10350 Watkins Road
VA23-02 Maronda/Plank Law Palmer Road
Organizational Meeting

The meeting was called to order by Chairman Reis at 5:01 p.m. on March 1, 2023, at the Township Hall. The roll call showed members Sarah Benoit, Shannon Mills, Greg Reis, Trent Stepp, and Eric Nickolas, present, along with Clerk Laura Brown.

Chairman Reis explained how the hearings will be conducted and the following people were sworn in: Zoning Inspector John Singleton, Craig Moncrief, and Richard Dorsey. Alex Rudolph with Maronda was sworn in during the Adjudicatory Hearing.

VA23-01 Kretzmann/Dorsey 10350 Watkins Road

The adjudicatory hearing was called to order by Chairman Reis at 5:02 p.m.

The nature of the hearing for area variance VA-23-01 submitted by Richard Dorsey for property located on 10350 Watkins Road is from Section 902 Medium-low Density Residential District (R-2) C. General Requirements of the R-2 District and Article 10 Section 1005 Accessory Structures Table 1005B.

John Singleton, Zoning Inspector, reviewed the written Staff Report. The occupant of the home, Mr. Dorsey, is requesting a reduction in the required separation distance between the garage and the principal structure from ten feet to seven feet. Mr. Dorsey wants to construct a covered ramp so he can take his wife from the house to the garage without taking her out into the weather. The shed will be removed since it is where the garage will be built. There are no issues with the square footage limitation. The only variance request is for the distance between the buildings.

Richard Dorsey was present to answer any questions. The applicant lives in the home, which is owned by Larry and Linda Kretzmann, who are aware of this request. Larry Kretzmann signed the application.

Trent Stepp moved to close the public testimony portion of the hearing at 5:08 p.m. The motion was seconded by Sarah Benoit and passed by unanimous affirmative vote.

Sarah Benoit moved to approve the Area Variance VA-23-01 submitted by Richard Dorsey for property located on 10350 Watkins Road from Article 10 Section 1005 Accessory Structures Table 1005B to reduce the ten-foot requirement under separation from principal structure to seven (7) feet because the Standards for 'Practical Difficulty' (Section 512.B. of the Zoning Resolution) have been met. The motion was seconded by Shannon Mills and passed by unanimous affirmative vote.

VA23-02 – Maronda Homes for Palmer Road

The adjudicatory hearing was called to order by Chairman Reis at 5:11 p.m.

The nature of the hearing for area variance VA-23-02 submitted by Maronda Homes, Inc. of Ohio for 21 +/- Acre property located on Palmer Road, north of the Willow Creek Condominiums, east of 14196 Palmer Road is from Section 903 Single Family Residential District (RS) and Section 1023 Required Lot Frontage.

John Singleton, Zoning Inspector, reviewed the written Staff Report. The zoning of this property was amended on October 4, 1999, from Agricultural District to Medium Density Residential District (R-3) by Resolution 99-10-04-05. The initial construction plans were submitted in 2003, the first plat was approved in 2005, and recorded on July 20, 2005. The first five buildings were constructed between 2006 and 2009. About two years ago Mr. Singleton was contacted that the applicant was planning to resume construction. Based on the opinions of the Licking County Prosecutor's office and Planning Commission it was determined Maronda Homes could continue with the original plan based on the 2005 approvals. Maronda resumed construction in 2022 in accordance with the original plan.

John Singleton presented the variance request to make a change to the approved plan to sell fee simple lots with each unit. The entire development is private roads and per Section 1023 of the Zoning Resolution all frontage is required to be on a public road. The issue is the R-3 Zoning District no longer exists in the Zoning Resolution and the R-3 Zoning Districts were re-zoned to RS so any changes result in the requirement to meet the RS zoning regulations. The R-3 was originally removed in 2006 and the Zoning Map was updated in 2014 to reflect that change.

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An addition to their list of variances they are requesting a variance from Section 903.C.3.a no building shall be erected or enlarged to exceed 2 ½ stories or 35 feet and Maronda is requesting that to be three stories or thirty-five feet; from Section 903.C.3.b frontage from 70' to 24', lot area from 14,520 sf to 1,560 sf, lot ratio from 3:1 to 5:1, lot depth from 120' to 65'; from Section 903.C.3.c front yard setback from 25' to 6'; from Section 903.C.3.d side yard setback from 12' to 0'; and from Section 903.C.3.e rear yard setback from 25' to 20'. This is to match the existing plan that was approved under the R-3 zoning in 2005. Maronda will also need the variance from Section 1023 Required Lot Frontage regarding an existing public street to allow frontage onto the private street.

If the variances are granted, the plan will reduce the number of units by twenty-four which also results in a lower number of buildings. By lowering the number of units, they would be reducing the number of buildings by at least four.

If the variances are denied, they can still build the remainder of the development with all forty-one buildings and two hundred and twenty condominiums based on the original approved plan.

Either way, the development will be required to go through the TRC review process with the Licking County Planning Commission. There they will be required to update stormwater calculations and drainage among other regulations that have been updated since the original plan was approved.

Consideration should be given to the fact that with the requesting of variances from almost all the requirements of the RS zoning, and the fact that multi-family dwellings are not a permitted use in the RS zoning district, this is more of a re-zoning through variance than a variance.

The current construction is under the previous plan.

Craig Moncrief with Plank Law Firm represented the applicant, Maronda Homes. Mr. Moncrief presented two exhibits; Exhibit A titled Willow Creek #040 A thru F and Exhibit B which is a front view of a finished condominium unit. Maronda Homes is requesting several Area Variances. This is a townhouse style development with each individual unit. Mr. Moncrief reviewed the history that was previously presented by Mr. Singleton. Mr. Moncrief referenced a drawing of the Development Plan that was approved in 2005 to construct two hundred and twenty condominium units with over forty-one buildings. In this plan the individuals will own units with a condo association, but you do not own a slice of land. From 2006 to 2009 there were five buildings constructed with private roads. Maronda is proposing to complete the development and Mr. Moncrief presented a drawing of the proposed development with one hundred and ninety-six units with fee simple lots. The difference is ownership of the individual condominiums. The fee simple lots can help the owners with loans. Mr. Moncrief stated this will have to be reviewed and approved by the Licking County Planning Commission regarding splitting lots and private roads. The Planning Commission requested Maronda request the variance with Etna Township first. The buildings meet the requirements but when you split the units off this creates zero setbacks. Maronda believes this will be a higher quality development. Alex Rudolph with Maronda Homes was present. The drawings presented by Mr. Moncrief were submitted as Exhibit C as the Development Plan approved in 2005 and Exhibit D as the proposed development for the record.

The board discussed the lot will be a minimum of twenty-four feet wide per unit. The variance request for rear yard setback is only to allow for the porch on the rear of the unit. The dimensions of the units were discussed. Alex Rudolph with Maronda was sworn in for discussion. The height of the rooftop of the unit will not be over nine feet.

The board discussed if it would make sense to request a rezoning versus all the variances. Craig Moncrief explained there are non-conformities from when the development was approved under the R-3 zoning with certain rights vested because construction has started. Legally Maronda can submit to rezoning the property, but variances are another way of doing it.

Chairman Reis made sure the applicant is aware of the seven criteria that must be met to grant a variance. Mr. Moncrief submitted responses to those criteria in his application. Mr. Moncrief does not feel the variances are substantial because they do not really change the development. The variance is technical in nature. The development can still be completed under the original plan. As of today, it is essentially one parcel and each building of six units is given its own parcel number but not necessarily parcel lines. The individual owns basically in between the walls. The property owner is notified when the township rezones a property. The request this evening is to have lots that front on a private road with the condo association takes care of the road and yard maintenance. John Singleton reported the private roads have created issues in the past because of snow removal and maintenance of them. This depends on the ownership of the road.

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Eric Nickolas discussed the impact on the schools for this development. Craig Moncrief explained this will reduce the number of units.

These will be three bedroom units with two and a half baths like the current plans.

John Singleton explained the process that Maronda has the right to continue to build out if there is not a change in the plan. The change to fee simple lots is considered a substantial change which brings this back to the RS zoning. Mr. Moncrief agreed with Mr. Singleton and agreed that this is why they need the variances. Maronda can continue to build what was submitted back in 2006 without any variances.

Alex Rudolph explained this is really for the potential buyer because when you build a condominium it limits the types of loans available with larger down payments for the buyer. When you do a fee simple townhome then FHA lending becomes available and opens more buyer options with lower down payments.

What is proposed is a higher quality architecture building with more brick.

Public Testimony

Gary Burkholder of 254 Trail East was sworn in at 5:51 p.m. This is testimony against the variances. Mr. Burkholder feels these variances will be in direct conflict with the Licking County Planning Commission subdivision regulations. Mr. Burkholder was out on the site today. He stated private roads are not well maintained and referenced Cumberland Links Apartments and Colony Estates.

Sarah Benoit confirmed these roads are going to remain Private Roads with or without the variances. John Singleton explained they would need to grant a variance to allow the frontage onto a private road. If the variances are denied, they can continue to develop with Private Roads. Craig Moncrief discussed options that the township could take them over if they are not maintained and if these variances are granted Maronda will have to go to Licking County Planning Commission regarding approval of the private roads. These will have to be built to the county standards whether they are private or public roads.

Trent Stepp confirmed that a variance being granted will make the property conforming. One building would be non-confirming and would require a variance for the twenty-five-foot front yard requirement if these variances are granted. John Singleton confirmed that the building is being constructed under the existing plan and is conforming to the existing plan. The variance request under Item 6 does not stand alone and is only required if the other variances are granted.

Trent Stepp moved to close the public testimony portion of the hearing at 6:01 p.m. The motion was seconded by Sarah Benoit and passed by unanimous affirmative vote.

The board reviewed the seven standards when determining area variances. This is a change in marketing approach and buyer density in opposed to a hardship. Whether the variances are substantial was discussed and when driving through the development it will not be noticeable. The square footage of the units was discussed and whether this would be substantial. The current building does not have a side yard between units and whether this would be substantial. The height variance request was discussed comparing the current height permitted in the development to the variance request to three stories. The essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance was discussed and most of the look of the neighborhood would not change with less density. If the variance would not adversely affect the delivery of governmental services was discussed. Whether schools are a governmental service was discussed and this density would be less than what is already approved. Maronda Homes purchased the property under one zoning district and the township rezoned the property and whether the R-3 would have allowed this. Maronda Homes would have been notified of the rezoning in 2013. The property owner's predicament feasibly can be obviated through some method other than a variance by building what is currently approved. There is a building under construction under the old plan. The spirit and intent behind the zoning requirement would not be observed and substantial justice done by granting the variances. The township removed the R-3 zoning district. The high-density development is recommended in the current comprehensive plan. The board did confirm that the applicants Statement in Support was provided to them regarding the seven standards.

The request is for a total of nine variances.

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Eric Nickolas moved to approve Area Variance VA-23-02 submitted by Maronda Homes, Inc. of Ohio for 21 +/- Acre property located on Palmer Road north of the Willow Creek Condominiums, east of 14196 Palmer Road from Section 903 Single Family Residential District (RS) and Section 1023 Required Lot Frontage because the Standards for 'Practical Difficulty' (Section 512.B. of the Zoning Resolution) have been met under Section 903(C)(3)(a) requires every building to be a maximum of two and one-half stories or 35 feet, applicant is requesting a variance to provide three-story dwellings on the Property, Section 903(C)(3)(b) requires every lot to have a minimum width of 70 feet, applicant is requesting a variance to provide an attached, fee-simple, multi-unit dwelling development with a minimum lot width of 24 feet, Section 903(C)(3)(b) requires every lot to have a minimum lot area of 14,250 square feet, applicant is requesting a variance to permit lots that are a minimum of 1,560 square feet, Section 903(C)(3)(b) requires every lot to have a depth of no more than 3 times its width, applicant is requesting a variance to permit lots with a depth of no more than 5 times its width. Section 903(C)(3)(b) requires every lot to have a depth of no less than 120 feet. Applicant is requesting a variance to provide lots with a depth of 65 feet, Section 903(C)(3)(c) requires a front yard setback of no less than 25 feet, applicant is requesting a variance to legitimize an existing building, containing 6 dwelling units, which was constructed 6 feet from the right-of-way line. All new buildings will meet the front yard setback requirement, Section 903(C)(3)(d) requires a minimum side yard setback of 12 feet on each side of a building, applicant is requesting a variance to reduce the minimum side yard setback to 0 feet, Section 903(C)(3)(e) requires a rear yard setback of no less than 25 feet, applicant is requesting a variance to permit a rear yard setback of no less than 20 feet. The variance shall only apply to rear yard patios and porches, all livable space shall comply with the 25-foot rear yard setback requirement, and Section 1023 requires lots to have the required frontage (lot width) as measured along the edge of the road right-of-way of an existing public street, the applicant is requesting a variance to permit the lots to front on private streets on the Property. The motion was seconded by Sarah Benoit. The roll call was as follows: Sarah Benoit, yes; Shannon Mills, no; Greg Reis, no; Trent Stepp, no; and Eric Nickolas, no; motion defeated 4-1.

Trent Stepp moved to deny Area Variance VA-23-02 submitted by Maronda Homes, Inc. of Ohio for 21 +/- Acre property located on Palmer Road, north of the Willow Creek Condominiums, east of 14196 Palmer Road from Section 903 Single Family Residential District (RS) and Section 1023 Required Lot Frontage because the Standards for 'Practical Difficulty' from Section 512.B. of the Zoning Resolution have not been met. The motion was seconded by Shannon Mills. Discussion: Trent Stepp stated the areas that hang him up are the fourteen thousand two hundred and fifty square feet to fifteen hundred and sixty square feet, the twelve-foot side yard setbacks to zero feet, creating front yard rear yards eliminating side yards without public roads in his opinion is not something that is minor but is substantial which causes the practical difficulty standard to not be met. The roll call was as follows: Eric Nickolas, yes; Trent Stepp, yes; Greg Reis, yes; Shannon Mills, yes; and Sarah Benoit, no; motion passed 4-1.

Trent Stepp moved to close the adjudicatory hearing at 6:28 p.m. The motion was seconded by Sarah Benoit and passed by unanimous affirmative vote.

Organizational Meeting

The public meeting was called to order by Chairman Reis at 6:29 p.m. The roll call showed all members were still present.

The meeting was turned over to Clerk Laura Brown for chairman nominations.

Greg Reis, Eric Nickolas, and Shannon Mills all nominated Trent Stepp for Chairman. The nominations were closed. Roll call was as follows: Sarah Benoit – Trent Stepp, Shannon Mills – Trent Stepp, Greg Reis – Trent Stepp, Eric Nickolas – Trent Stepp, and Trent Stepp – Trent Stepp. Trent Stepp will serve as the Chairman for 2023.

The meeting was turned over to Chairman Stepp.

Greg Reis nominated Shannon Mills for Vice Chairman. Eric Nickolas nominated Sarah Benoit for Vice Chairman; Roll call: Sarah Benoit – Shannon Mills, Shannon Mills – Shannon Mills, Greg Reis – Shannon Mills, Trent Stepp – Sarah Benoit, and Eric Nickolas – Sarah Benoit. Shannon Mills will serve as the Vice Chairman for 2023.

Greg Reis moved to appoint Laura Brown as the Board of Zoning Appeals Clerk. The motion was seconded by Eric Nickolas and passed by unanimous affirmative vote.

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Sarah Benoit moved to authorize the Board of Zoning Appeals Clerk to contact the Licking County Prosecutor's Office for administrative purposes only. The motion was seconded by Greg Reis and passed by unanimous affirmative vote.

Greg Reis moved to use the Pataskala Post, Pataskala Standard and Newark Advocate as the designated media for public notices. In addition, all notices are to be posted on the calendar on the township website. The motion was seconded by Sarah Benoit and passed by unanimous affirmative vote.

Shannon Mills moved to approve the 2023 submission deadline of noon on the first Tuesday of the month and a monthly meeting to be held at 6:00 pm on the fourth Tuesday of the month. When there is a scheduling conflict the clerk will notify the chairman and the board members to move the meeting to another day. The motion was seconded by Eric Nickolas and passed by unanimous affirmative vote.

The meeting cancellation process and procedure for members informing the board of scheduling conflicts was discussed. The Board of Zoning Appeals will continue with the same procedure for members informing the Board of scheduling conflicts regarding meetings and hearings.

The board discussed setting up emails for the Board of Zoning Appeals members to use instead of their personal emails. The members also discussed video recording of the meetings and what is legally permitted.

Trent Stepp moved to request Laura Brown to create email accounts, at her leisure, and distribute those to the Board of Zoning Appeals. The motion was seconded by Sara Benoit. Discussion: Laura Brown will set up Gmail accounts for the members who wish to have Gmail accounts set up. The motion passed by unanimous affirmative vote.

Shannon Mills left the meeting at 6:40 p.m.

Greg Reis moved to set a policy rule that the Board of Appeals communicate to the township through the Chairman and the liaison to the Board of Trustees. The motion was seconded by Eric Nickolas. Discussion: The information would be more consistent, and they can determine what the clerk will release prior to the adjudicatory hearings. This was discussed with the Licking County Prosecutor's office and whether a release would need to be signed. The motion passed by unanimous affirmative vote.

Gregg Reis moved to adjourn the meeting at 6:44 p.m. The motion was seconded by Sarah Benoit and passed by unanimous affirmative vote.


Laura Brown, Clerk


Trent Stepp, Chairman



81 Liberty Street
P.O. Box 188
Etna, Ohio 43018-0188


Phone 740/927-7717 Fax 740/927-1699


Members: Sarah Benoit-Shannon Milles-Eric Nickolas-Greg Reiss-Trent Stepp
Alternates: Tommy Hunt


FINAL ORDER


The Etna Township Board of Zoning Appeals held an adjudicatory hearing on March 1, 2023, to consider the Area Variance request VA-23-01 submitted by Richard Dorsey for property located on 10350 Watkins Road is from Section 902 Medium-low Density Residential District (R-2) C. General Requirements of the R-2 District and Article 10 Section 1005 Accessory Structures Table 1005B.


The board moved to the Area Variance VA-23-01 submitted by Richard Dorsey for property located on 10350 Watkins Road from Article 10 Section 1005 Accessory Structures Table 1005B to reduce the ten-foot requirement under separation from principal structure to seven (7) feet because the Standards for 'Practical Difficulty' (Section 512.B. of the Zoning Resolution) have been met. The motion passed by unanimous affirmative vote.


Sarah Benoit


Eric Nickolas


Shannon Mills


Greg Reiss


Trent Stepp

The Final Order was approved and signed: April 25, 2023

The Final Order was mailed/mailed to applicant on: May 10, 2023



81 Liberty Street
P.O. Box 188
Etna, Ohio 43018-0188

Phone 740/927-7717 Fax 740/927-1699

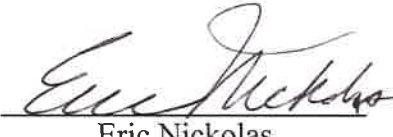
Members: Sarah Benoit-Shannon Milles-Eric Nickolas-Greg Reis-Trent Stepp
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FINAL ORDER

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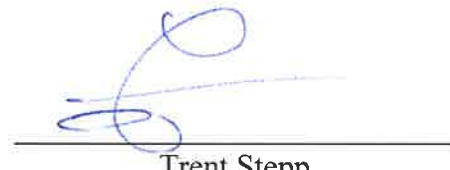
The board moved to deny Area Variance VA-23-02 submitted by Maronda Homes, Inc. of Ohio for 21 +/- Acre property located on Palmer Road, north of the Willow Creek Condominiums, east of 14196 Palmer Road from Section 903 Single Family Residential District (RS) and Section 1023 Required Lot Frontage because the Standards for 'Practical Difficulty' from Section 512.B. of the Zoning Resolution have not been met. Discussion: Trent Stepp stated the areas that hang him up are the fourteen thousand two hundred and fifty square feet to fifteen hundred and sixty square feet, the twelve-foot side yard setbacks to zero feet, creating front yard rear yards eliminating side yards without public roads in his opinion is not something that is minor but is substantial which causes the practical difficulty standard to not be met. The motion passed 4-1.


Sarah Benoit


Eric Nickolas


Shannon Mills


Greg Reis


Trent Stepp

The Final Order was approved and signed: April 25, 2023

The Final Order was mailed/mailed to applicant on: May 10, 2023