



# CITY of MEDINA

## Board of Zoning Appeals

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### Board of Zoning Appeals

Meeting Date: September 12, 2019

Meeting Time: 6:00 pm

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

Absent: Brandilyn Fry

Mr. Henwood made a motion to approve the transcript submitted from Medina Court Reporters of the August 29, 2019 meeting as submitted. The motion was seconded by Mr. Williams.

Vote:

Rozsak	<u>abstain</u>
Humpal	<u>Y</u>
Henwood	<u>Y</u>
Williams	<u>Y</u>
Schultz	<u>Y</u>
Approved	4-1 abstention

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

Old Business: None

New Business:

1. Z19-15 Foundry Holdings LLC 333 Foundry VAR

Mr. Mendel gave a brief overview of the case. Mr. Mendel stated this is a variance request from Section 1147.10(f) of the Planning and Zoning Code to permit a 108 square foot, 6 foot tall sign on the building roof when a roof sign is strictly prohibited and also a variance request from Section 1147.14(d) of the Planning and Zoning Code to permit six wall signs with a total of 246 sqft when only one sign and 125 sqft of sign area are permitted and two projecting signs totaling 25.5 sqft.

Mr. Mendel stated the property is zoned I-1, Industrial.

Mr. Mendel stated the property is located at the northwest corner of Bronson Street and Foundry Street.

Mr. Mendel stated the applicant seeks variances from Sections 1147.10(f) and 1147.14(d) to brand the subject property and inform visitor of the various businesses located within.

Mr. Mendel stated the proposed roof sign is 6 feet tall (above the roof), 108 sqft and located on the northeasterly corner of the building. Roof signs are specifically prohibited.

Mr. Mendel stated in addition, the applicant proposes six new wall signs on the south building façade totaling 240 sqft, and two projecting wall signs totaling 25.5 sqft (one on the southwest corner of the building and one on the northwesterly portion of the building. Mr. Mendel stated the Board shall weigh the following factors to determine whether an area variance should be granted:

1. ***Construction of a conforming sign would obstruct the vision of motorists or otherwise endanger public health.***

Mr. Mendel stated construction of conforming signage could be designed for the subject property. Mr. Mendel stated neither the proposed signage nor conforming signage would obstruct the vision of motorists or endanger public health.

2. ***A conforming sign would be blocked from the sight of passing motorists due to existing buildings, trees, or other obstructions.***

Mr. Mendel stated conforming signage could likely be designed for the subject property, but, due the size, orientation and location of the property, the proposed signage may provide necessary visibility.

3. ***Construction of a conforming sign would require removal or severe alteration to significant features on the site, such as removal of trees, alteration of the natural topography, obstruction of a natural drainage course, or alteration or demolition of significant historical features or site amenities.***

Mr. Mendel stated conforming signage would not require the removal of site features as the site is large with sizable frontages on Bronson St. and Foundry St.

4. ***A sign that exceeds the allowable height or area standards of this Ordinance would be more appropriate in scale because of the large size or frontage of the premises or building.***

Mr. Mendel stated the proposed wall signs on the building's south side will exceed the maximum allowed 125 sqft of sign area by 100% (proposed – 225 sqft, max. allowed – 125 sqft).

Mr. Mendel stated the proposed roof sign and projecting wall signs are prohibited sign types for this property and need to be evaluated within the context of the proposed sign area and the scale of the subject site/building.

5. ***The exception shall not adversely impact the character or appearance of the building, lot or the neighborhood.***

Mr. Mendel stated the proposed wall signs on the south side of the building may not adversely impact the building lot or neighborhood due to the subject property site orientation and size.

Mr. Mendel stated the proposed projecting signs may not adversely impact the character due to their relatively small size and location within the subject site.

Mr. Mendel stated he proposed roof sign may impact the character of the site and/or neighborhood due to its prominence and visibility.

6. ***The variance sought is the minimum necessary to allow reasonable use, visibility, or readability of the sign.***

Mr. Mendel stated conforming signage could allow reasonable visibility and readability of the applicable signage for the services provided on the site.

7. ***The variance will be consistent with the general spirit and intent of this Ordinance.***

Mr. Mendel stated sign regulations are established in the Planning and Zoning Code to promote clarity in sign communications; to balance sign communications; to promote a harmonious relationship between sign types, sign locations and land uses; and to protect the public health, safety and welfare from the hazards resulting from indiscriminate placement.

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 variances from Section 1147.10(f) and 1147.14(d).

Present for the case was Tony Cerny, Architectural Design Studios, 620 E. Smith Rd., Medina, Ohio.

Mr. Cerny asked for clarity on the variance request from Mr. Mendel. Mr. Mendel stated there are 6 wall signs that meet the design requirements of the sign code. Mr. Mendel stated the projecting signs project farther than allowable so instead of adding a third variance, the variance is for eight signs with six walls signs and two projecting wall signs.

Mr. Humpal made the suggestion that the roof sign be discussed as one variance and voted on by itself since it is under a separate code section and all the other signs can be in a combined variance. Mr. Mendel stated the wall signs all fall under one section of the code so 1 variance would be fine whether it is a projecting sign or not, it falls under 1147.14(b) of the Planning and Zoning Code.

Mr. Cerny gave a presentation of the sign package with a short history of the building through the years as well as each sign and how it relates to the businesses inside the facility.

Mr. Cerny stated the residential neighbors will not be able to see most of the signage going onto the building. Mr. Cerny stated the signage is geared towards people coming in off of Medina Street and the parking lot to the back.

Mr. Cerny stated there will be multiple businesses inside the facility. Mr. Cerny stated Franklin Brewery does not technically have a façade facing the street and future businesses will not necessarily have direct street frontage. Mr. Cerny stated he does not think that should mean they shouldn't be offered the opportunity to have signage for their business. Mr. Cerny stated they are working within the general intent built into the code for other areas that are similar in character and need when talking about commercial businesses.

Mr. Cerny stated they have not proposed a ground sign at the street out front. Mr. Cerny stated the roof sign is set back from the road and identifies the parking lot as part of the complex. Mr. Cerny stated the roof sign design is consistent with the history of the building as an industrial complex.

Mr. Greg Cordray, part business owner, 3983 Meadowvale Court, Akron, Ohio commented. Mr. Cordray also gave a brief history of the building and how he came to acquire it as well as the progression of the business.

Mr. Henwood stated he feels the projecting signs should be discussed separately from the other wall signs as they are not the same circumstance even though they are in the same code section.

Mr. Mendel stated they can be discussed separately if the board wishes.

Mr. Humpal asked for comments from the public.

George Sam, 402 E. Washington Street, Medina, Ohio commented. Mr. Sam stated he is present representing Main Street Medina and stated Main Street Medina is supportive of the request and the project.

Barbara Dzur, representing the City of Medina Economic Development Department, stated the City Economic Development Department supports the variance requests.

Bethany Dentler, Director, Medina County Economic Development Corporation, stated the MCEDC is also in support of the variance requests.

Caroline Scheiner, 534 Bronson Street, Medina, Ohio commented. Ms. Scheiner stated she has lived there since 1988 and has never been robbed, or assaulted. Ms. Scheiner stated the neighborhood is not as dangerous as it is being portrayed.

Ms. Scheiner gave a brief history of the neighborhood through the years and how it has improved.

Ms. Scheiner stated the subject property is located in a residential neighborhood. Ms. Scheiner stated the karting was ok but now there will be a full service bar which is referred to as entertainment and a brewery. Ms. Scheiner stated there are 3 daycare centers on her street in the vicinity. Ms. Scheiner stated she feels it is important the board follow what they should be following in the code. Ms. Scheiner stated the applicant already has two conditional use variances for having an entertainment facility for something zoned industrial. Ms. Scheiner stated that has already happened. Ms. Scheiner feels the rules are being changed for someone special. Ms. Scheiner stated the houses on Foundry would be overpowered by the roof sign. Ms. Scheiner stated there are not many people on Foundry that own their homes and the notices that were sent out were mostly for rentals in which the landlord does not have an interest as long as they get their rent money.

Ms. Scheiner stated the shopping center properties in the city still manage to follow the sign guidelines. Ms. Scheiner stated she served on the Medina Community Design Committee as well as a Trustee. Ms. Scheiner stated they reviewed the signage for many businesses. Ms. Scheiner asked if we should expect more variance requests in the future for the other businesses that will go into the building. Ms. Scheiner stated she totally disagrees with this request.

Rick Stevenson, 1011 N. Street, Medina, Ohio commented. Mr. Stevenson stated he owns a hardware store on the square. Mr. Stevenson spoke about the dynamic of businesses in the area. Mr. Stevenson stated if you help a business in this town, you help all the other businesses in the area. Mr. Stevenson asked the board to consider this request.

Curtis Perkins, 5604 Lafayette Road, Medina, Ohio commented. Mr. Perkins stated he owns several properties in that area. Mr. Perkins stated the applicant has done a great job with the building and it is appreciated. Mr. Perkins stated the property taxes on his properties have increased.

Mr. Perkins asked if the lights on the roof will be flashing or solid. Mr. Cerny stated they will not flash. Mr. Perkins stated he does not see a problem with the site from Medina Street but he is concerned about the roof sign and asks that the board deny the roof sign. Mr. Perkins stated he feels it is overbearing and he does not like it. Mr. Cerny stated it is too big as well as the smaller version that was suggested. Mr. Perkins stated the roof sign is prohibited by code and he is looking out for his Medina Street properties.

Mr. Williams asked if the property had 10 tenants, could they have a shopping center tower sign. Mr. Mendel stated that is a different category of signs. Mr. Mendel stated the applicant has stated they have no intention of having a ground sign for the property. Mr. Mendel looked at the code and stated a shopping center sign would not be applicable in the I-1 district.

Mr. Henwood stated he thinks this is a slippery slope as it is something that is specifically not permitted. Mr. Henwood stated essentially the board is potentially considering what would be more appropriate as a use variance. Mr. Henwood stated if the property were to be rezoned to a district that would permit such a sign as being suggested by Mr. Williams, the applicant has asked to consider this more as a commercial building. Mr. Henwood stated the criteria for a use variance is much more burdensome on the applicant.

Mr. Henwood stated that allowing the board to consider this variance for something that is strictly prohibited does a disservice to the process and there would be a much heavier burden for the applicant if this was a use variance for this signage. Mr. Henwood stated for that reason, he thinks the variance request is inappropriate.

Mr. Mendel explained how this is not applicable as a use variance. Mr. Mendel stated he does not believe any of the signage could be classified as a land use. Mr. Mendel stated a land use variance allowance in the code is for land uses. Mr. Mendel stated the land use is Commercial Recreation. Mr. Mendel stated signs are signs and are not a land use.

Mr. Humpal asked if there will be additional sign variances required as more businesses are added to the facility. Mr. Mendel stated he will need to review and evaluate the signage at that time so he cannot say at this time.

Mr. Mendel stated this facility is allowed one ground sign 6 ft tall and 40 sq ft in area by code regardless of multiple tenancy.

Mr. Henwood asked the applicant if additional variances will be requested if additional tenants come into the building. Mr. Cordray stated his intention is to beautify the building and additional signs are not important to him. Mr. Cordray stated the signage is

to complete the look of the building. Mr. Cordray stated new tenants may want signage but he does not want more signage and wants the building to look good. Mr. Cordray stated the only thing he thinks may be appropriate is something small. Mr. Henwood stated that did not answer his question. Mr. Cordray stated there will be no additional requests for variances for other things to go on the outside of the building.

There was a lengthy discussion about the size of the roof sign and how it looks from different vantage points in the area. Mr. Mendel stated the roof sign is proposed to be uplit or downlit from exterior lights and not internally illuminated. Mr. Cordray stated the light will be just enough to see it and not illuminate a large area. Mr. Cordray stated it can be dimmed down also. Mr. Roszak asked the hours the sign will be lit. Mr. Cordray stated the sign would be lit only when the operation is open, approximately Friday and Saturday until 11:00pm. Mr. Williams stated it could be as late as 2:30am according to the liquor license obtained. Mr. Cordray stated they are willing to shut the light off and he does not want it to disturb the neighbors at all.

Mr. Henwood asked how far the roof sign is set back from the right of way. Mr. Mendel stated it is 193 feet from the west curb of Foundry Street.

Mr. Humpal stated he has difficulty with the roof sign after hearing comments from area residents this evening. Mr. Henwood stated he has difficulty with the roof sign because it is not permitted, period. Mr. Henwood stated he will not vote to approve the roof sign. Mr. Roszak stated he is excited about the signage and he is not opposed to the signage. Mr. Henwood stated he would like to see a proposed compromise from the applicant. Mr. Cordray stated he will do whatever is best for the community. Mr. Henwood asked the applicant if he would consider a smaller sign. Mr. Cordray stated yes. Mr. Cordray stated if it is scaled down, it does not look in proportion to the building size. Mr. Mendel showed an alternative roof sign rendering which was smaller, approximately 12 feet long.

Mr. Cordray stated the smaller sign is not in scale with the building.

Mr. Roszak stated he thinks the roof sign is in scale with the building and suggested the applicant to come back with photos from other distances and sizes and table the roof request. Mr. Cordray stated he is happy to do that. Mr. Williams stated he does not like the smaller sign proposal for the roof. Mr. Cordray requested to table the request for the roof sign variance until the October 10<sup>th</sup> meeting.

Mr. Henwood suggested considering the projecting sign separately from the wall signs. Mr. Henwood stated they all fall under "wall signs" in the code but the signs are significantly different enough to warrant separate consideration.

Mr. Williams stated he has no problem with the sub-classifications of the wall signs. Mr. Williams stated it looks like 250' off Medina Street and Bronson Street corner and it is set back behind where the tower protrudes. Mr. Williams said all of those signs do not affect the street or adjacent properties.

Mr. Henwood asked for an image of what can be seen from Medina Street as approaching the facility. Mr. Mendel put the image on the overhead projector.

There was a brief discussion around the photos of the site from different distances.

Mr. Williams asked if the arrow in the rendering will be lit with flashing lights. Mr. Cordray stated no they will not flash.

Mr. Mendel stated the square footage of all the signs is 225 sq. ft. and the maximum allowed is 125 sq. ft. Mr. Henwood stated that is a significant increase.

Mr. Henwood stated the "Spirits, Games, Hang" has been stated by Mr. Cerny as an architectural feature and not a sign. Mr. Henwood stated that is nonsense. Mr. Cordray stated he agrees.

Mr. Henwood asked Mr. Cordray if there is any flexibility in his proposal to comply more with the regulations. Mr. Cordray stated he sees it as "our" building and if the board wants something smaller, than make it smaller. Mr. Cordray stated the impact is for it to look good but the smaller the signs are, the less appealing the building is.

Mr. Henwood stated the "Spirits, Games, Hang" sign is low hanging fruit. Mr. Cerny stated he disagrees. Mr. Roszak stated it identifies the purpose of the building.

Mr. Henwood stated the board doesn't regulate aesthetics other than what is codified in the ordinance. Mr. Cerny stated he understands but that does not mean you can't give it consideration. Mr. Henwood stated they can consider it but the applicant is asking the board to approve it on aesthetic value and the board does not have any teeth to do that. Mr. Cerny stated the question is which signs are you willing to give up and which signs are you willing to make smaller that will have the least negative impact for what you are trying to accomplish.

Mr. Henwood stated he is looking for a show of good faith and be willing to make some effort to comply. Mr. Henwood stated he can't speak for anyone but himself on the board.

Mr. Roszak stated he feels what was presented is in scale to the building and if it is reduced by 5% or 10%, there would be no purpose other than to show willingness to give a little or what is best for this complex. Mr. Henwood stated the citizens of Medina have followed a process and elected to select rules that represent their wishes for the community. Mr. Henwood stated the board's job is to, when someone can demonstrate a practical difficulty, we consider a variance if the request warrants it. Mr. Henwood stated he does not take that responsibility lightly. Mr. Henwood stated the citizens of Medina have spoken about how they want to rule and regulate their community. Mr. Henwood stated it is not his place to decide that does not make sense. Mr. Henwood stated in looking for a conciliatory response, he is looking for the appropriate amount of respect for the process and the residents of Medina.

Mr. Cerny stated asking for a compromise could encourage applicants to ask for more than they need in anticipation of having to compromise to get the project they want. Mr. Henwood stated your moral compass is your own. Mr. Cerny stated it is not uncommon but is not the intent that was brought this evening.

Mr. Roszak state he personally is comfortable with the wall signs as presented. Mr. Williams stated he is as well.

Mr. Williams made a motion to approve the variance request to Section 1147.14(d) of the Planning and Zoning Code to permit six walls signs with a total of 246 sq. ft. when only one sign and 125 sq. ft. of sign area is permitted and two projecting signs totaling 25.5 sq. ft. based on the finding that the criteria for a sign that exceeds area and standards for this ordinance would be more appropriate in scale because of the large size the facility.

The motion was seconded by Mr. Roszak.

Vote:

Rozzak	<u>Y</u>
Humpal	<u>Y</u>
Williams	<u>Y</u>
Henwood	<u>N</u>
Schultz	<u>Y</u>
Approved	4-1

Mr. Mendel stated tonight is the notice for the public for Case Z19-15 and the public has been put on notice at this meeting that the roof sign will be back before the board on October 10<sup>th</sup>. Mr. Mendel stated if it goes beyond the October 10<sup>th</sup> date, a new notice will be sent out.

2. Z19-16                      Sean Richards                      930 W. Liberty Street                      VAR

Mr. Mendel gave a brief overview of the case. Mr. Mendel stated this is a variance request from Section 1137.05 of the Planning and Zoning Code to permit an addition setback 8 feet from the rear (south) property line instead of the minimum required 30 feet. Mr. Mendel stated the property is zoned C-3 Commercial and is located on the southerly side of the 900 block of W. Liberty Street.

Mr. Mendel stated the applicant proposes a 2,400 sqft addition to the existing building. Mr. Mendel stated this addition is proposed with an 8 foot rear setback from the south property line instead of the minimum required 30 feet.

Mr. Mendel stated this development proposal will be reviewed by the Planning Commission for Site Plan compliance at the September 12, 2019 meeting in regards to the exterior building materials.

Mr. Mendel stated the request is subject to determination of a practical difficulty as principal building and accessory structure height variances are requested. 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. 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 an addition is possible on the site that meets the minimum rear setback.

B. *Whether the variance is substantial;*

Mr. Mendel stated the proposed 8 foot rear setback is a 73% reduction to the minimum required 30 foot 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 proposed addition is fully to the rear (south) of the existing building and adjacent to existing buildings on the property immediately to the south. Mr. Mendel stated the existing buildings on the neighboring property appear to be about 5 to 0 feet from the shared property line.

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

Mr. Mendel stated the variances 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 it is not known whether the owner knew the restrictions when he purchased the property in July 2019.

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 obviated as there is area on the property to build a similar addition and accommodate the desired additional square footage.

*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 building scale and size to the character of the commercial areas of the City.

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 variance from Section 1137.05.

Present for the case was the property owner Sean Richards, 1099 Continental Drive, Medina, Ohio. Mr. Richards stated the long barn along the back of the property is currently on the property line in the rear. Mr. Richards stated he believe the setback is 30' for a main structure and 20' for an accessory structure. Mr. Richards stated he thinks with the 8' setback and the barn being so close, it is a dead area anyways.

Mr. Richards stated he does not have a plan for the building at this time but it is not going to be a restaurant. Mr. Richards stated he is looking to build a garage and shop to have somewhere to keep equipment and start a business. Mr. Richards stated he has a full time job as a Manager at Panther on Rt. 18 and this is a side gig for him. Mr. Richards stated he was not in the market but this came up as a real estate opportunity and he would like a home base to start a business someday.

Mr. Humpal asked if the Fire Marshall approved this or does he need to review it. Mr. Mendel stated the building permit review will require some significant requirements on that south side of the building and will be addressed by the building code.

Mr. Williams asked why the size and proximity. Mr. Richards stated the existing building is 35' wide so the 40' would give it a kick-out on each side to look proportional and the depth is to get the most he can out of the alteration. Mr. Richards stated it is only \$1,500 to go another 8' out so the cost is minimal for the amount of space added to the property.

Mr. Humpal asked if the neighbors have been notified. Mr. Mendel stated all adjacent property owners and property owners across the street have been notified.

Mr. Roszak asked the applicant if he has a use for the existing building or the proposed addition. Mr. Richards stated no, originally this was a real estate transaction and the property includes a house which he plans to rehab and rent out to pay for the outbuilding renovations.

Mr. Roszak asked the age of the building in the rear and if it received a variance for the setback.

Mr. Mendel stated it is too old to tell.

Mr. Richards showed a photograph of the back part of the building which he stated would be removed and the addition would attach to the other part of the building and go back landing 8' from the back of the steel structure that runs all the way down.

Mr. Henwood stated it is a pretty substantial variance.

Mr. Humpal stated he has no difficulty with it as long as there are no building or Fire Marshall issues or objections from the neighbors.

Mr. Williams stated he has a hard time establishing a practical difficulty for a building the applicant has no purpose for. Mr. Williams stated he understands the dream but the size of the building and the location poses no practical difficulty and there has been no practical difficulty presented. Mr. Williams stated for that reason, he cannot vote yes for this.

Mr. Roszak stated he agrees. Mr. Roszak stated he can't get his head around it because he does not know what the purpose of this whole site.

Mr. Schultz stated he has a different perspective. Mr. Schultz stated if this applicant's business plan does not pan out, the next person that acquires this building would have a much better opportunity for whatever they can put in there. Mr. Schultz stated he has no issue with it.

Mr. Richards stated the restaurant use has not worked in the past. Mr. Richards stated adding a shop and garage could open the doors to a dealership or auto repair, storage, wholesale, or whatever the code would allow. Mr. Richards stated he bought the property in July and it was a real estate transaction as he was looking to purchase a property with a barn. Mr. Richards stated he is open to negotiation on it.

Mr. Williams stated if there was a purpose for the variance, he would not have a problem with the request. Mr. Williams stated if there was a plan or layout for the proposed building then he could make the case for a practical difficulty.

Mr. Henwood made a motion to deny a Variance request from Section 1137.05 of the Planning and Zoning Code to permit an addition setback 8 feet from the rear (south) property line instead of the minimum required 30 feet based on the finding that the property owner can yield a reasonable return and would the property would be of beneficial use without a variance, and the variance is substantial and the property owner's predicament could be solved by other means other than the variance.

The motion was seconded by Mr. Williams.



