



# CITY of MEDINA

## Board of Zoning Appeals

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### Board of Zoning Appeals

Meeting Date: May 14, 2015

Meeting Time: 6:00 pm

Present: Bert Humpal, Jim Bigam, Kris Klink, Mark Williams, Mark Pinskey  
Jonathan Mendel, (Community Development Director), Justin Benko (Associate  
Planner), Sandy Davis (Administrative Assistant)

Absent: None

Announcements: None

Minutes: Mr. Williams made a motion to approve the April 9, 2015 minutes as  
submitted. The motion was seconded by Mr. Bigam.

Vote:

Humpal	<u>Y</u>
Bigam	<u>Y</u>
Klink	<u>Y</u>
Williams	<u>Y</u>
Pinskey	<u>abstain</u>
Approved	4-1

Old Business: None

New Business:

1. Z15-09 1131 Mallet Hill Ct. Michael Glatz VAR  
Justin Benko gave a brief overview of the case. Mr. Benko stated this is a Variance  
request to Section 1155.01(C) of the Planning and Zoning Code to allow a six foot tall  
fence in the front yard when a three feet tall fence is permitted by code.

Mr. Benko stated the site is located on the south side of Mallet Hill Court. Mr. Benko  
stated Sturbridge Drive is located to the north, Brandywine Drive is located to the south,  
Route 57 is located to the west, and Sunhaven Drive is located to the east. Mr. Benko  
stated the site is adjacent to residential zoning on all sides.

Mr. Benko stated the applicant has proposed a six feet tall fence for the rear yard that continues into the northwesterly front yard and stops fifteen feet from the sidewalk. Mr. Benko stated the house is located on a corner lot, and per Code section 1113.05(D), properties are required to meet the minimum front yard setbacks facing both streets.

Mr. Benko stated the existing site can still be utilized as a single family residential dwelling without the grant of a variance. Mr. Benko stated the fence is three feet or 150% of what is allowed by code. Mr. Benko stated the essential character of the neighborhood may not be altered. Mr. Benko stated the property is located on the interior angle of a half cul-de-sac on Mallet Hill Drive. Mr. Benko stated this created a large side yard for the subject property. Mr. Benko stated due to the curvature of the road, the houses most proximate to the proposed fence are at a distance that may avoid substantial detriment.

Mr. Benko stated the variance would not adversely affect the delivery of governmental service and the property owner purchased the house in December of 2014 and was aware of the zoning restrictions.

Mr. Benko stated the fence could be limited to the rear yard or reduced in size to three feet.

Mr. Benko stated the intent is to maintain an open look in front and corner lot side yards throughout the City by limiting fence heights within the front yards to maximum 3 feet tall, open designs.

Present for the case was property owner Michael Glatz 1131 Mallet Hill Court. Mr. Glatz stated he is aware of the code requirement of 3 feet but he applied for the variance because most of his yard is on the right hand side of his property and extending it out from the right side of the house would allow him to have more room for his dogs and family.

Mr. Klink asked if the house is in the Montville Farms development. Mr. Glatz stated he is not sure. Mr. Benko stated it is off of Brandywine Drive. Mr. Klink stated he lives in the same neighborhood in Montville Farms. Mr. Klink stated he believes there is a neighborhood covenant of no fences allowed. Mr. Klink stated over the years, it was not enforced. Mr. Klink asked Mr. Glatz if he signed any paperwork when he purchased the house that stated no fences. Mr. Glatz stated he was not given anything of that nature when he purchased the home. Mr. Glatz stated there are similar existing fences in the neighborhood, which are shadowbox style.

Mr. Humpal asked if the fence across the street was granted a variance. Mr. Benko stated he is not aware of a variance either way for that fence. Mr. Pinskey asked the height of the fence. Mr. Benko stated the fence across the street may have been put in before the code changed to 3 ft. in the front yard.

Mr. Williams asked where the fence will be on the property. Mr. Glatz used the aerial photograph to demonstrate where the fence would be installed.

Mr. Humpal asked for adjoining property owner comments. There were no adjoining property owner comments.

Mr. Pinsky asked if the fence would set a precedence for future fences in the neighborhood. Mr. Benko stated it does not.

Mr. Pinsky made a motion to approve a variance to Section 1155.01(C) of the Planning and Zoning Code to allow a six foot tall fence in the front yard when a three feet tall fence is permitted by code. The approval is based on the finding that the variance would not affect the essential character of the neighborhood and the delivery of government services would not be adversely affected.

The motion was seconded by Mr. Bigam.

Vote:

Klink	<u>Y</u>
Williams	<u>Y</u>
Pinsky	<u>Y</u>
Humpal	<u>Y</u>
Bigam	<u>Y</u>
Approved	5-0

2. Z15-10 696 Lafayette Fraternal Order of Eagles #224 VAR

Mr. Benko gave a brief overview of the case. Mr. Benko stated this is a Variance request to Section 1147.07(j) of the Planning and Zoning Code to allow a ground sign with electronic message center in the Transitional Corridor Overlay District (TCOV) where electronic message center signs are not permitted.

Mr. Benko stated the site is located on the south side of Lafayette Road. Mr. Benko stated Ryan Road is located to the west, and Oak Street is located to the east.

Mr. Benko stated the proposed LED ground sign complies with the size and height requirements in the sign code. Mr. Benko stated the proposed sign is a full color LED sign. Mr. Benko stated LED signs within the city are restricted to a single color. Mr. Benko stated the applicant has indicated that they intend to purchase the full color sign but will limit the sign to a one color display.

Mr. Benko stated construction of a conforming sign would not obstruct vision of motorists. Mr. Benko stated the proposed sign complies with size and height requirements.

Mr. Benko stated conforming signage would not be blocked from the sight of passing motorists due to existing trees or other obstructions.

Mr. Benko stated although LED signs are prohibited, if approved, this would be the fourth LED sign within the TCOV (two of the signs are fixed price gas station signs). Mr. Benko stated case Z14-07 granted a variance to Gioninno's Pizzeria for an LED sign. Mr. Benko stated this property is also located on Lafayette Road. Mr. Benko stated the variance may have an effect on the character of the neighborhood because this would be just the second LED sign located in this portion of the TCOV. Mr. Benko stated the variance will not negatively impact the building as the sign should be an attractive upgrade.

Mr. Benko stated the change to an electronic message center sign will not alter the size of the sign. Mr. Benko stated the electronic message center sign should allow for additional content and readability of the sign.

Present for the case was Carl May, sign contractor from Medina Signs. Mr. May stated the proposed is to erect a free standing sign. Mr. May stated the sign complies with all the setback requirements, size requirements, and the only variance being requested is for the digital sign. Mr. May stated the intent is to have full color once full color is permitted in the sign code but until then, the color will be limited to meet the existing code of one color.

Mr. Mendel stated the LED sign on Reagan Parkway was Conditional Sign approval by the Planning Commission and a variance request to the Board of Zoning Appeals to have a full color sign as opposed to a single color sign. Mr. Mendel stated in that case it was permitted as a Conditional Sign with approval from Planning Commission but could only be one color. Mr. Mendel stated that is why they came before the Board of Zoning Appeals for full color. Mr. Mendel stated this request is for a electronic message center where they are explicitly prohibited in the overlay district. Mr. Mendel stated they are going to operate it as a single color sign. Mr. Mendel stated a text amendment will go before the Planning Commission this evening to allow full color LED signs. Mr. Mendel stated electronic message centers would still be prohibited in the Historic District, Multi-Use District, and the Transitional Corridor Overlay district.

Mr. Bigam stated the Fairgrounds sign is in a more residential area than the proposed sign and it is blue and white with messages that change quite frequently. Mr. Bigam stated he is ok with the proposal since the applicant is willing to comply with the currently regulations. Mr. Bigam mentioned that the Fairgrounds sign changes at different time increments and needs to be checked by the staff for compliance to the code. Mr. Mendel stated staff will look into it.

Mr. Mendel stated the Fairgrounds is not in the TCOV.

Mr. Humpal asked for comments from the public. There were no comments from the public. Mr. Williams stated he would like to sunset the sign at 11:00 p.m. Cliff Marcelas,

Trustee at the Eagles stated the Eagles is open until 1:00 a.m. but he has no objections to sun-setting the sign at midnight.

Dave Sterrett from Medina Signs stated sun-setting the sign is possible however there are events that carry over longer than 1:00 a.m. Mr. Sterrett stated the traffic in and out of the driveway will be heavier at that time and the sign being on would draw attention to the traffic pulling out of the drive.

Mr. Pinskey asked if there are any policies on sun-setting LED signage. Mr. Mendel stated the code does not state specific times. Mr. Mendel stated the board has the ability to look at each individual sign and determine the sun-setting hours based on its location.

Mr. May stated the signs automatically dim at night.

Mr. Klink made a motion to approve a variance to Section 1147.07(j) of the Planning and Zoning Code to permit a ground sign at 696 Lafayette Road, Medina Eagles #2224, with an electronic message center in the Transitional Corridor Overlay District (TCOV) with the condition that the sun-setting of the sign be at 1:00 a.m.. Mr. Klink stated the approval is based on the finding that the construction of the conforming sign would not obstruct the vision of motorists and the proposed sign complies with the sign and height requirements.

The motion was seconded by Mr. Pinskey.

Vote:

Humpal	<u>Y</u>
Bigam	<u>Y</u>
Pinskey	<u>Y</u>
Williams	<u>Y</u>
Klink	<u>Y</u>
Approved	5-0

3. Z15-11 1060 E. Smith Rd. Terry Bahre VAR

Mr. Benko gave a brief orientation to the case. Mr. Benko stated this is a request for a variance to Section 1113.05(L) of the Planning and Zoning Code to permit an accessory structure that is 16 ft. in height where 15 ft. tall accessory structures are allowable by code.

Mr. Benko stated the site is located on the south side of East Smith Road, east of Timber Trail and west of the city limits.

Mr. Benko state the applicant is requesting to construct a 1020 sq. ft. detached garage building at the site. Mr. Benko stated the property already contains a small detached shed which will be removed during construction. Mr. Benko stated the Planning and Zoning Code permits a maximum square footage of 1032 sq. ft. for all accessory structures on this property with a fifteen feet height maximum. Mr. Benko stated the applicant was

previously granted a variance for the garage in case Z11-15; however, the garage was not built and the variance expired. Mr. Benko stated the applicant has stated the proposed garage will have the same overall height as what was approved in 2011 although standard trusses will be used instead of gambrel trusses. Mr. Benko stated the applicant has also proposed to access the building by extending a paved driveway. Mr. Benko stated the Planning and Zoning Code requires a hard surface (concrete or asphalt) drive for detached garages.

Mr. Benko stated a detached garage can still be built without the granting of a variance. Mr. Benko stated the variance may not be substantial. Mr. Benko stated the garage is only one foot or 8% taller than what code allows. Mr. Benko stated the adjacent properties may be impacted as the structure is beyond code allowances. Mr. Benko stated this could be mitigated with buffer planting. Mr. Benko stated the project was previously granted a variance in 2011; the only change to the proposal is that standard trusses will be used instead of gambrel trusses. Mr. Benko stated this will make the accessory structure look more like a standard detached garage as opposed to a barn.

Mr. Benko stated the code regulations for accessory structures remained the same in the June 2014 zoning code update; therefore, the applicant was aware of the accessory structure regulations.

Mr. Benko stated the proposed detached garage could be reduced to a height of fifteen feet.

Present for the case was property owner Terry Bahre, 1060 E. Smith Road. Mr. Bahre stated he would like the garage to house his small dump truck.

Mr. Benko oriented the Board on where the paved drive would come into the garage. Mr. Benko stated there are no issues with setbacks.

Mr. Klink asked why the applicant is asking for the extra one foot. Mr. Bahre stated he has a Model A that he would like to re-built in the garage. Mr. Bahre stated he would like to store the dump truck on one side and put a lift on the other side which is why the additional one foot is needed.

Mr. Mendel stated there is twelve feet between the side of the house and the side lot line. Mr. Bigam asked if there is a tree line on that side of the property. Mr. Bahre stated there is a line of arborvitae along the property line which are 12 feet tall and belong to the neighbor.

Adjoining property owner John Coke, 1070 E. Smith Road commented. Mr. Coke was sworn in by the court reporter. Mr. Coke stated he is concerned about the garage being angled towards his house. Mr. Mendel stated the discussion this evening is for the one foot height variance. Mr. Mendel stated the applicant only needs to meet the code requirements for the driveway and the building of the garage. Mr. Mendel stated the orientation of the garage is not part of the Board of Zoning Appeals review requirements.

Mr. Mendel stated the garage is coming for a variance because of the commercial vehicle which has been parked in the driveway which is against code. Mr. Mendel stated the garage will allow a commercial vehicle between 7,000 and 14,000 lbs. to be parking indoors per code. Mr. Mendel stated the plan will also require explicit storm water management on that side of the house due to the installation of the driveway.

Mr. Williams made a motion to approve a Variance to Section 1113.05(L) of the Planning and Zoning Code to permit an accessory structure that is 16 ft. in height at 1060 E. Smith Road as submitted. Mr. Williams stated the approval is based on the finding that the variance would not be substantial and the essential character of the neighborhood would not be substantially altered.

The motion was seconded by Mr. Klink.

Vote:

Humpal	<u>Y</u>
Bigam	<u>Y</u>
Pinsky	<u>Y</u>
Williams	<u>Y</u>
Klink	<u>Y</u>
Approved	5-0

Mr. Humpal stated the board will change the agenda and hear case Z15-13 first and then Mr. Humpal will recuse himself from case Z15-12.

4. Z15-13 1231 N. Court St. Verizon Wireless Store VAR

Mr. Benko gave a brief orientation to the case. Mr. Benko stated this is a request for a variance to Section 1147.14(F) of the Planning and Zoning Code to permit a temporary sign that is 24 sq. ft. when a maximum of 12 sq. ft. is allowed.

Mr. Benko stated the applicant is seeking the variance for an “Open During Construction” temporary sign for the Verizon Wireless Store. Mr. Benko stated there is a waterline construction project occurring in front of the store and all along N. Court Street.

Mr. Benko stated construction of conforming signs would not obstruct the vision of motorists or otherwise endanger public health.

Mr. Benko stated the larger temporary sign may be more appropriate in scale due to the interim site disturbance caused by the waterline construction project. Mr. Benko stated the waterline construction project should be completed by June 30, 2015. Mr. Benko stated this is a separate from the scheduled road widening of State Route 42 which is scheduled to begin July of 2016. Mr. Benko stated the temporary sign is still regulated by the time duration requirements in code section 1147.14(J) which limits temporary signs to a maximum of fifteen days four times per year.

Mr. Benko stated the character of the neighborhood may not be impacted. Mr. Benko stated any size variance expires as of January 1, 2016.

Mr. Benko stated the variance sought is not the minimum necessary to allow reasonable use, visibility, or readability of the sign; however, the increase may improve the visibility of the sign during the waterline construction project which ends June 30, 2015.

Mr. Benko stated the BZA must weigh the above seven factors for the requested variance and determine if a practical difficulty exists that would merit a variance from Section 1147.14(F) with a proposed condition that the area variance expires on January 1, 2016.

Present for the case was Richard Stump, LAAD Sign and Lighting, 164 Annadale Avenue, Akron, Ohio. Mr. Stump stated the company is asking for a larger temporary sign for during the waterline construction. Mr. Stump stated the 15 day time period will elapse at the end of that time.

Mr. Humpal asked for comments from the public. There were no comments from the public.

Mr. Williams made a motion to approve a variance to Section 1147.14(F) of the Planning and Zoning Code to permit a temporary sign that is 24 sq. ft. with four 15 day consecutive periods ending on June 30<sup>th</sup>, 2015 with the permit expiring on January 1, 2016.

The motion was seconded by Mr. Bigam.

Vote:

Humpal	<u>Y</u>
Bigam	<u>Y</u>
Pinskey	<u>Y</u>
Williams	<u>Y</u>
Klink	<u>Y</u>
Approved	5-0

5. Z15-12 720 W. Smith Rd. Medina County Fairboard VAR

Mr. Humpal recused himself from the case and left for the evening. Mr. Benko gave a brief orientation to the case. Mr. Benko stated this is a request for a variance to Section 1145.09(A)(1) of the Planning and Zoning Code to delay the required parking lot paving.

Mr. Benko stated the Medina County Fairboard has submitted a site plan for review by the Medina Planning Commission at their May 14, 2015 meeting for a new office building. Mr. Benko stated this will consist of 4,230 sq. ft. of office space and a new parking lot. Mr. Benko stated the applicant has submitted a variance request from Section 1145.09(A)(1) to delay the required paving of the parking lot until CDBG (Community Development Block Grant) funds become available.

Mr. Benko stated the overall use of the new fairgrounds office would not be affected.

Mr. Benko stated the variance is substantial pending the length of the paving delay and is effectively a 100% variance from regulations.

Mr. Benko stated the character of the neighborhood is a developed industrial area. Mr. Benko stated the replacement of the existing Fairground office with a new building may mitigate the impact of the gravel parking area on the neighborhood. Mr. Benko stated the current Fairground Office has a paved parking area. Mr. Benko stated the properties owned by Gowe Leasing across the street have had significant improvements to the front paved parking areas in recent years. Mr. Benko stated this would be the only property in the industrial section of W. Smith Road with an unpaved front parking lot.

Mr. Benko stated the applicant could pave the proposed parking lot at the time of construction or provide a timeline for the delay of the paving. Mr. Benko stated the applicant could move the parking area behind the building. Mr. Benko stated the design review guidelines in Chapter 1109 states that "Parking, to the extent feasible, shall be located behind the front wall of the building."

Mr. Benko stated Industrial zoned properties are permitted to have gravel parking areas behind the front wall of the building, and although the Fairgrounds is zoned Public Facilities, the surrounding properties are zoned industrial making the gravel parking lot in the rear more consistent with the neighborhood.

Mr. Benko stated the spirit and intent of the code section is to prohibit or minimize the use of gravel parking and to assure a consistent look in the front yard of buildings in a given neighborhood within the city.

Present for the case was Michael Gall, Vice-President of the Medina County Fairboard, 2236 Substation Road, Medina. Mr. Gall stated when they applied for the variance, they were pending CDBG (Block Grant) application funds. Mr. Gall stated that has since not occurred due to time restraints. Mr. Gall stated they are currently seeking donations for the funds. Mr. Gall stated the parking lot, while it does not affect the construction of the building or the operation of the building, the delay of the paving is mostly financial. Mr. Gall stated they are limited in how much they can borrow to build the new facility.

Mr. Gall stated the parking lot will be completed in the 2016 paving season. Mr. Gall stated there is no intent to leave the parking lot gravel for any extended period of time. Mr. Gall stated sometime within 2016 when the Fair does the budget this fall, they will need to incorporate the money to pave the parking lot. Mr. Gall stated Standard Welding has gravel up to Smith Road and State Road and there are multiple parking lots in the industrial area that are still gravel. Mr. Gall stated he understands that some of those sites have been grandfathered in. Mr. Gall stated they will utilize part of the parking lot from the old office which will probably be removed within the next few years.

Mr. Bigam asked if there is an anticipated time in 2016 to pave the parking lot. Mr. Gall stated it will be in the 2016 budget so it will be paved in the 2016 paving season.

Mr. Gall stated the construction of the new building will not begin until after the Fair this year. Mr. Gall stated the new building will be bid in the next few weeks. Mr. Gall stated the proposed new building should be completed by December of 2015.

Mr. Bigam stated there are several gravel parking lots in that area now. Mr. Klink asked for a comfortable completion date from the applicant. Mr. Gall stated September 1, 2016 would be a comfortable date. Mr. Benko stated if the paving is not done by that date, it would be a routine maintenance issue and they would be sited in Municipal Court.

Mr. Gall stated it is not a heavily used parking lot. Mr. Williams asked if the adjacent parking lot could be used for the parking lot. Mr. Gall stated he would fall short of his ADA requirements. Mr. Gall stated there is a concrete slab in front of the building that helps meet the ADA requirements with a van access and a handicap parking spot in front of the building. Mr. Gall stated in the bid documents, the concrete slab is base bid since it is necessary for occupancy of the facility. Mr. Gall stated the remainder would be left unpaved for up to a year due to financial reasons. Mr. Gall stated there are existing concrete aprons.

Mr. Bigam asked if there is an application pending for CDBG funds with the city. Mr. Gall stated there is not. Mr. Gall stated since the Fairgrounds is located in the city, it must apply for city CDBG funds. Sandy Davis, CDBG Administrator, asked how the project would be qualified for the CDBG funds. Mr. Gall stated the intent is to qualify the project with ADA accessibility.

Mr. Bigam stated that the timeframe for the paving is not dependent on grant funds but on the specific date of September 1, 2016. Mr. Williams stated that is agreed and should be reflected in a motion.

Mr. Williams asked for comments from the public. There were no comments from the public.

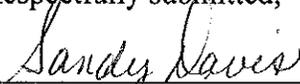
Mr. Bigam made a motion to approve a variance to Section 1145.09(A)(1) of the Planning and Zoning code to delay the required parking lot paving subject to the condition that the paving be completed no later than September 1, 2016, at 720 W. Smith Road, Medina County Fairgrounds. Mr. Bigam stated the approval is based on the finding that the variance would not substantially alter the character of the neighborhood and the variance is not substantial due to the time limit being placed on the paving of the parking lot.

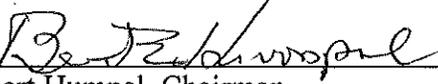
Mr. Klink seconded the motion.

Vote:  
Bigam                    Y  
Pinsky                   Y  
Williams                Y  
Klink                     Y  
Approved                4-0

Having no further business, the meeting was adjourned.

Respectfully submitted,

  
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Sandy Davis

  
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Bert Humpal, Chairman