



# CITY of MEDINA

## Board of Zoning Appeals

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### Board of Zoning Appeals

Meeting Date: July 10, 2014

Meeting Time: 6:00 pm

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

Absent: Mark Williams

Minutes: The minutes of the May 8, 2014 meeting were presented for approval. Mr. Bigam made a motion to approve the minutes as submitted. Mr. Pinskey seconded the motion.

Vote:

Humpal	<u>Y</u>
Klink	<u>Y</u>
Pinskey	<u>Y</u>
Bigam	<u>Y</u>
Approved	4-0

New Business:

1. Z14-09      820 W. Smith      The Shelly Company      VAR  
Jonathan Mendel gave a brief overview of the case. Mr. Mendel stated this is a request from The Shelly Company for a 40 foot height variance from Section 1113.05(m)(B)(5) to permit 90 foot tall accessory structures associated with the proposed asphalt plant instead of the maximum allowed 50 foot height limit.

Mr. Mendel stated the subject property site is located along the industrial corridor of W. Smith Road. Mr. Mendel stated this area is a mix of small to large scale industrial uses range.

Mr. Mendel stated the site is currently a concrete plant for Medina Supply which is owned by The Shelly Company. Mr. Mendel stated the applicant proposes adding an asphalt plant to the existing operations currently at the site. Mr. Mendel stated the proposed 90 foot silos would be in the southern half of the subject property. Mr. Mendel stated the intended location of the silos is approximately 2,000 ft. from the Smith Road frontage to the south. Mr. Mendel stated this is a determination of practical difficulty.

Mr. Mendel stated the scope for the Board of Zoning Appeals this evening per the City Law Department is a 50 foot variance for an accessory structure and its appropriateness.

Mr. Mendel reviewed the following factors for consideration:

1. *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 the proposed accessory structures are the industry standard for asphalt plants.

2. *Whether the variance is substantial;*

Mr. Mendel stated the variance is substantial since the applicant requests an 80% increase to the maximum allowed height for accessory structures (50 feet versus 90 feet).

3. *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 character of the neighborhood is a high intensity developed industrial area with similar industrial properties surrounding the applicant's property.

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

Mr. Mendel stated delivery of governmental services will not be affected.

5. *Whether the property owner purchased the property with knowledge of the zoning restrictions;*

Mr. Mendel stated it is not known if the applicant had prior knowledge of the restrictions.

6. *Whether the property owner's predicament feasibly can be obviated through some method other than a variance; and/or*

Mr. Mendel stated the predicament cannot be obviated through a method other than a variance, because the proposed accessory structures are necessary for the operation of the proposed asphalt plant.

7. *Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance.*

Mr. Mendel stated in general, the spirit and intent of the accessory structure height limitation requirements is to limit accessory structures from dominating a site, but in this particular case proposed structures will not likely dominate the site.

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 a 40 foot height variance from Section 1113.05(m)(2)(B)(5) to permit 90 foot tall accessory structures associated with the proposed asphalt plant instead of the maximum allowed 50 foot height limit.

Mr. Humpal asked the Court Reporter to swear in all attendees wishing to give testimony.

Present for the case was Chad Reel, Vice President of HMA Operations. Mr. Reel stated he is in charge of the northeast division of the company which is all the asphalt plants in northeast Ohio.

Mr. Reel stated he appreciates the concerns of the Williams on the Lake Business and family members. Mr. Reel stated Kokosing Materials Asphalt plant in Medina will be relocating to the site at 820 W. Smith Road. Mr. Reel stated Medina Supply currently at the location has silos of 65 feet. Mr. Reel stated the current Kokosing location has silos of approximately 65 feet. Mr. Reel stated the reason for the variance request to allow 90 foot silos is if the silos were to be updated, 90 feet is the top end of the silo height.

Mr. Reel stated the company is looking at 65 foot silos. Mr. Reel stated the plant will use up to date technology. Mr. Reel stated the plant is a closed system with minimal smells and sounds.

Mr. Reel stated Owens Corning which is near the site, has stronger smells than an asphalt plant.

Mr. Reel stated the stacks have no smoke emissions. Mr. Reel stated they are heating up aggregate and removing the moisture. Mr. Reel stated the emissions are steam with very little particulate. Mr. Reel stated the EPA tests the plant several times per year for emissions.

Mr. Reel stated the current plant sits on N. State Street, north of Rt. 18 approximately one mile away from the subject property.

Mr. Reel stated Kokosing's equipment, including towers will be relocated to the subject site.

Mr. Humpal asked why the variance is needed if the existing towers are 60 feet. Mr. Reel stated if the Shelly Company wanted to replace the silos with the newest ones, they would be 90 feet.

Mr. Reel stated he is asking for the variance to allow for the tallest ones in the event the company decides to purchase new. Mr. Reel stated the silos would provide more storage. Mr. Pinsky asked if three shorter silos could be used rather than 2 taller ones. Mr. Reel stated it is an option.

Mr. Klink asked if they have considered moving the silos further north on the property. Mr. Reel stated he has looked at it but the proposed location makes it efficient with the existing loading pit on the site.

Mr. Bigam stated he feels it makes more sense to move it closer to Smith Road which is more industrial. Mr. Reel stated Medina Supply Ready Mix takes up the north side of the road.

Mr. Pinsky asked if there has been any feedback from residents about the existing towers at Kokosing. Mr. Reel stated he cannot speak for Kokosing. Mr. Reel stated he is not aware of any complaints at this property.

Mr. Humpal asked if the asphalt plant is a permitted use in the industrial area. Mr. Mendel stated it is not and will require Conditional Use Approval by the Planning Commission this evening.

Mr. Mendel stated BZA is not reviewing the use but is reviewing the height of the structure.

Mr. Humpal asked if an aircraft warning is required for a 90 ft. silo. Mr. Mendel stated he believes it is not.

Jennifer Nau, Assistant Manager at Williams-On-The Lake, commented. Ms. Nau provided photos of the area in order to show how a 90 foot silo would impact their site. Ms. Nau stated Williams On-The-Lake is asking that the conversation be tabled in order for their business to have further discussions with The Shelly Company. Ms. Nau stated the proposed location will directly impact their business. Ms. Nau stated there is courtyard area in the southwest corner of the property. Ms. Nau stated this is where wedding ceremonies are held nearly every Saturday afternoon in the summer.

Ms. Nau stated the proximity of the center of the courtyard and the center of where the structures will be built is approximately 100 yards or 300 feet. Ms. Nau stated it will directly impact the line of site for wedding photos.

Ms. Nau stated the structures that are currently on the site are approximately 50 feet in height and are sufficiently hidden when the trees are bloomed in the spring and summer.

Mr. Humpal asked if Williams-On-The Lake and Shelly Company have begun conversations. Ms. Nau stated they have not.

Clarence Watkins, engineer who assisted Shelly Company in the preparation of the documents. Mr. Watkins stated Shelly is attempting to add this product line to this property. Mr. Watkins stated there is currently a stone yard, concrete plant, and railroad tracks all the way around the property. Mr. Watkins stated those services will remain in operation. Mr. Watkins stated Shelly is attempting to do a joint venture with Kokosing and bring the asphalt plant to this property in an economy of scale since they both need aggregates and rail service.

Mr. Watkins stated there are not many options for the location of the asphalt plant on the property because of the other operations on the property that will remain there. Mr. Watkins stated it is being proposed at the south end because it is the available location on the property for a plant of this size.

Mr. Humpal asked the number of silos being planned for the site. Mr. Reel stated two.

Mr. Mendel stated the new zoning code and map take effect on July 23<sup>rd</sup> at which time, the Williams-On-The-Lake Property will be rezoned C-3. Mr. Mendel stated the property is currently zoned C-2.

Mr. Humpal asked if there will be a conveyor on the new tower. Mr. Reel stated yes. Mr. Klink asked if the top of the silo is 65 feet and if the conveyor will add additional feet to the height. Mr. Reel stated 65 feet is the top of the conveyor.

Mr. Humpal asked the seasonal operation of the asphalt plant. Mr. Reel stated it is April through the end of November. Mr. Reel stated the plant will sometimes operate on a Saturday but not very frequently and not late.

Mr. Reel stated the typical hours are 6:00 am to 5:00 pm. Mr. Bigam asked if there is lighting on the top of the silos. Mr. Reel stated yes but they are not bright. Mr. Reel stated he is not sure if Kokosing uses lights. Mr. Reel stated they are used for security reasons and have an orange glow.

Mr. Pinskey stated his opinion is the silos should be 50 feet which is compliant with the zoning code. Mr. Pinskey stated this is because there is an established entertainment venue in the vicinity.

Mr. Pinskey asked if 50 foot towers would disrupt the business. Mr. Reel stated he does not know if it is possible because he does not know of any manufacturer that makes 50 foot silos. Mr. Reel stated it would probably require additional silos which is more capital into the project.

Mr. Watkins stated the existing concrete plant has a 65 foot tower so it is not unusual to have a zoning code that has a variance to existing conditions and then only infrequently does it become a point of discussion. Mr. Watkins stated he is not trying to be dismissive of the zoning code, but the existing facilities do not meet the zoning code requirements. Mr. Watkins stated it would be a hardship for Shelley to try and build an asphalt plant at

that height and they could not operate the concrete plant at that height. Mr. Watkins stated they are trying to operate an asphalt plant in an industrial district. Mr. Watkins stated all asphalt plants and all concrete plants in Medina require a Conditional Use so that the city has the opportunity to have a discussion at the Planning Commission. Mr. Watkins stated the Shelley Company is asking to expand their operation with a different type of product. Mr. Watkins stated this is what is needed to make asphalt at that site.

Mr. Pinskey asked if it would be acceptable to wait for a decision from the Board of Zoning Appeals pending the outcome of the Planning Commission. Mr. Mendel stated it can go either way. Mr. Humpal stated if the variance is denied, the Planning Commission would have no need to hear the case.

Mr. Watkins stated this property is zoned Industrial to accept these types of facilities. Mr. Watkins stated Shelley is requesting to operate a plant in the City of Medina in a zoning district that would typically accept this type of operation. Mr. Watkins stated there is no other location to put this type of plant. Mr. Humpal stated with a lease arrangement, the plant can remain where it is. Mr. Watkins stated the reason for the move is for the synergy and economy of scale.

Mr. Watkins stated Kokosing is still going to operate this plant but on Shelley's property.

Ms. Nau stated she would like to mention again that the 90 foot silos will impact their business. Ms. Nau stated they do approximately 40 wedding receptions per year with approximately 30 of them having wedding ceremonies as well. Ms. Nau stated the visual impact could have the potential to cause a significant loss.

Mr. Humpal stated he is not inclined to approve 90 feet. The board members agreed. Mr. Reel stated with the trees there will not be a large portion of the silo showing.

Ms. Nau stated Williams-On-The-Lake has had a great relationship with Shelley Company through the years and they would like to have a conversation with them prior to any approvals.

Mr. Humpal stated that is a Planning Commission issue and the Board of Zoning Appeals is here to review the height variance only.

Mr. Reel stated he is changing his request to a 65 foot silo.

Mr. Pinskey made a motion to approve a 15' height variance to Section 1113.05(m)(2)(B)(5) to permit two 65 foot tall accessory structures associated with the proposed asphalt plant instead of the maximum allowed 50 foot height.

The motion was seconded by Mr. Klink

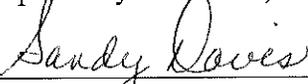
Vote:  
Klink

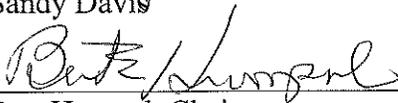
Y

Pinsky	<u>Y</u>
Humpal	<u>Y</u>
Bigam	<u>Y</u>
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