

**MEDINA TOWNSHIP
BOARD OF ZONING COMMISSIONERS
CONTINUATION OF PUBLIC HEARING-DORATY TEXT
AMENDMENT/REGULAR MEETING
DECEMBER 16, 2008**

**CONTINUATION PUBLIC HEARING
Text Amendment-Bill Doraty 2925 Medina Rd.**

Chair Strogin called the public hearing to order at 7:32 p.m. Permanent Board members Strogin, Overmyer, Gardner, Jarrett and Williams were present. Alternate members Robert Erickson and Ken DeMichael were also in attendance.

The applicant is Bill Doraty. The proposed text amendment is of Section 603 E. Movement to allow inflatables without any time frame or restrictions. Secretary Ferencz read the recommendation of the Medina County Planning Commission.

Current Proposal: According to the Application, the applicant requests "to amend zoning text to read: 'allow inflatable devices like every other homeowner in the township— to Section 603 E of the Medina Township Zoning Resolution.

Section 603E of the Medina Township Zoning Resolution states:

"Movement — No sign shall employ any parts or elements which revolve, rotate, whirl, spin or otherwise make use of the motion to attract attention. No sign or part thereof shall contain or consist of flags, banners, posters, pennants, ribbons, streamers, spinners, balloons, and/or any inflatable devices, search light or other similar moving devices.

Such devices, as well as strings of lights, shall not be used for the purpose of advertising or attracting attention when not part of a sign."

Staff Comments:

1. Applicant states in his application, "We would like the opportunity to display an inflatable image at our store like every other home owner in Medina Township without restrictions of time or duration."
2. The application does not clearly state the proposed language in the manner in which it is to be inserted into Section 603E. If it is determined to be necessary to reword Section 603E to allow inflatable devices, that are increasingly more popular and commonly used in both commercial and residential districts, staff would suggest allowing holiday decorations, and adding a definition for holiday decorations in such a manner that would allow inflatable devices, or air-filled balloons. Differentiating them from inflatable devices used as signs would avoid any enforcement inconsistencies between commercial and residential usage.
3. A definition for Holiday Decoration Sign from *A Planners Dictionary*, PAS Report No. 521, a publication of the American Planning Association, is "Temporary seasonal signs, in the nature of decorations, clearly incidental to and customarily associated with nationally-recognized holidays and which contain no advertising message." Or, Seasonal Decoration is defined as "Any structure, not

displaying numbers or letters, used to display holiday symbols or insignias or themes, such as, but not limited to, decorated Christmas trees, air-filled balloons or figures, wood figures, cutouts, and similar constructions."

Staff Recommendation:

Staff recommends **APPROVAL WITH MODIFICATIONS** of the text amendment to Section . 603E of the Medina Township Zoning Resolution.

Chair Strogin stated at the CPC meeting there was a 45 minute discussion on the application. The first issue raised is that the applicant gave no formal verbiage to consider putting in to the zoning text. The applicant was to provide language for the Commission to consider putting in the Zoning Resolution. Second, they CPC also thought the application should be rejected at the Township level because it was incomplete. Chair Strogin continued that when she first saw the application she said hold it because it was not correct but somebody stepped in. took the application ad put it through and it got submitted to the CPC in an incomplete manner. Chair Strogin stated the CPC's approval was only to send it back to the Township to see if the applicant was going to provide the Township with some verbiage that he would want the Commission to consider or whether or not any of the Commission members wanted to change the way the code was written.

Mr. Bill Doraty addressed the Commission. He said he was not an attorney or capable of writing a code and felt that he and the Commission should be able to write the code together. Mr. Doraty stated he felt the Commission knew exactly what he was looking for out of this. Chair Strogin asked Mr. Doraty to explain. Mr. Doraty stated he was looking to be able to display inflatables at his car dealership at his discretion. He added he felt that was why he paid money to be located in a business district and to promote his business in a way that was fitting in the community. Mr. Doraty stated he knew Chair Strogin was not in favor of this but he could agree to disagree. He added that at the last couple of Township meetings it appeared there were many people in favor of his proposal. There were many people in the crowd that did not feel this would be a deterrent to the community. Mr. Doraty stated his proposal for inflatables was with no time-limit or restrictions though he did not feel that would be approved, but added that there had to be something mutually agreeable to the Township. Mr. Doraty commented that he would like to erect these inflatables on recognizable holidays and if that could be defined that would be productive.

Mr. Doraty stated at the CPC they seemed to have done some research and they had some pictures of examples of such inflatables. He added that he was using the inflatables for the holidays to promote the dealership. Mr. Doraty continued that there were two members of the CPC that opted not to approve the text amendment as it was not the proper application. Chair Strogin stated the first vote was to throw the application out as the application was not complete. Chair Strogin stated the procedure is when an individual or a businessman decides to come before a governmental entity and asks to

have the code changed they usually hire someone to write that piece of the code and bring it before the Township for consideration.

Returning to the discussion of the CPC, Chair Strogin stated some of the members asked the Director Patrice Theken why she even did a staff review that she should have rejected the application as incomplete and sent it back to the Township. Chair Strogin said that Patrice Theken stated she did not have the authority to say the application is incomplete that was the authority of the Township. Chair Strogin stated the Township tried to do that but someone circumvented the application and gave it back to Mr. Doraty to complete thinking they were doing the right thing.

Chair Strogin stated the first vote of the CPC was to throw out the application. It was a split vote in that it was not a unanimous vote of the CPC (Seven in favor to keep the application and review it and 2 in favor to return the application to the Township). Chair Strogin stated she contacted the Township's legal counsel Mr. Bill Thorne from the Pros. Office for his legal opinion on holiday decorations being used as advertisement for a business. His response in writing dated December 10, 2008 is as follows:

RE: Inflatables

"As I previously discussed with your Zoning Dept., the issue with inflatables whether at home, or business, is whether or not it is actually a sign as defined by your Code. Your code clearly provides that inflatable devices can be signs. However, for an inflatable device to be a sign, it is required to be used to attract attention to any object, product, place, person, institution, organization or business.

Your normal holiday decorations utilizing inflatables, in my opinion would not be a sign. Inflatables in a business district likewise could under the appropriate circumstances, simply be a holiday display, consistent with that normally found in residential areas. The question is therefore, is the display to celebrate the holiday, or is it really intended to draw attention to the business activity on the property. If it is intended to draw attention to the business, it is a sign and must meet the code."

Mr. Doraty asked why it was such a bad thing that he wanted to promote the business. Chair Strogin stated it was not a bad thing to promote the business but it should be done in compliance with the zoning Resolution. Mrs. Gardner stated she had an issue with the statement on Mr. Doraty's application which states, "to be allowed inflatables like every other homeowner in the Township." Mrs. Gardner added that was like you saying your business is a home. Mr. Doraty asked why he should be treated any differently? Mrs. Gardner stated because all the business districts are treated differently than residential. There are whole sections of the Zoning Resolution for Residential and others for Commercial. They are treated separately. Mr. Doraty stated in the Zoning Resolution it states that this sign is permissible in any zoning district. Mrs. Gardner stated she probably would not have a problem if Mr. Doraty had the inflatable on the ground as a holiday

decoration. Mr. Doraty stated it appeared the Township was asking him to promote his business the way the Township wanted. Mrs. Gardner responded that was not correct. She added that if the Township allowed everyone in a commercial area in the Township to promote their business in the manner Mr. Doraty was proposing, then the Township would have an inflatable on top of every building all year long. Chair Strogin interjected that the only person that was going to benefit from that was the gentleman from Inflatable Images. She added that there was nothing wrong with the gentleman from Inflatable Images trying to promote his business as well but it amazed her that a business owner would be convinced that his people cannot sell cars unless there is a balloon on the roof.

Mr. Doraty stated he disagreed as there is proven facts these inflatable work. He asked if the Township felt the Burger Kings of the world were fly-by-night businesses as they use them. Chair Strogin stated they use them where they are legal. Mr. Doraty stated the statement Chair Strogin made was that she could not believe a balloon could sell a car. Chair Strogin corrected Mr. Doraty in that she said she could not believe a business owner could be convinced that his people could not sell a car unless there is a balloon on the roof. Mr. Doraty stated he could sell cars and was the #1 KIA Dealership in the District and 38th in Country. What he does this year is not the same as last year as we are in an entirely different market. He continued that generals who fought wars 100 yrs. ago if they tried to fight the same today they would be slaughtered. It is a changing environment. Mr. Doraty continued that he was not asking Chair Strogin whether she agreed or not as he could agree to disagree. What he was saying is that there are flaws in the Zoning Resolution as it says this signage should apply to all zoning districts. He concluded that they were the grounds he was standing on.

Mr. Jarrett stated for clarification that the CPC had to go back and do a second vote. The reason was that the motion was not made in the affirmative so they retook the vote. The decision was to kick it back to the Township and let them correct the situation before it was sent for review by the CPC. Mr. Doraty asked for a work session with the Commission to potentially resolve this issue.

Chair Strogin stated she contacted Patrice Theken for clarification on the vote taken at the CPC. She read a letter dated December 15, 2008 which read,

"Movement – No sign shall employ any parts or elements which revolve, rotate, whirl, spin or otherwise make use of the motion to attract attention. No sign or part thereof shall contain or consist of flags, banners, posters, pennants, ribbons, streamers, spinners, balloons, and/or any inflatable devices, search light or other similar moving devices. Holiday Decorations shall not be considered signage.

Such devices, as well as strings of lights, shall not be used for the purpose of advertising or attracting attention when not part of a sign."Recommendation clarification provided by Staff upon request from the Zoning Commission (and not reviewed or approved by the Planning Commission):

the Commission would need to act very carefully in terms of legalities on previous issues. He added that Mr. Doraty should submit wording for the Township to consider in a proper manner. Mr. Overmyer interjected that this should not be difficult for Mr. Doraty to do given the resource of Mr. Schnell and his access to other community's codes and decisions.

Mr. Doraty stated he would prefer a work session with the Commission to come up with wording so as not to waste time. Mr. Jarrett stated that is correct. If every resident in the Township came in and wanted to change the code and wanted the Township to be involved in that process, the Commission would be so bogged down it would not get anything else done. Therefore it is up the applicant to come up with proposed wording for the Commission to consider and review. Mr. Overmyer stated the zoning text stands for a long time so is important that this process is done properly. Again Mr. Overmyer stated that Mr. Doraty has an ally and resource with Mr. Schnell as well as the CPC document to come up with proposed wording to present to the Commission.

Chair Strogin told Mr. Doraty not to bring in a City code for the Township to consider as what a City can control and authorize was different than what can be regulated in a Township. Mr. Doraty stated the Township has a thriving business district on Rt. 18 and 71. Chair Strogin stated that was true and was based on the zoning implemented for that district. Any issues were probably due to the economic climate or actions of the individual business owner and not the Township regulations. Mr. Williams commented that when other Townships are looking to draft their codes they often refer to Medina Township and use the community as a guide for their zoning language.

Mr. Doraty stated he would propose draft language to present to the Commission.

Mrs. Gardner made a motion to table the public hearing for the proposed text amendment by the applicant Mr. Doraty of Section 603 E. Movement to allow inflatables without any time frame or restrictions until the Zoning Commission's next regularly scheduled meeting to be held on January 20, 2009 at 7:30 p.m. with the proposed language to be submitted to the Commission by the submission deadline date. It was seconded by Mr. Overmyer.

ROLL CALL Gardner-yes, Overmyer-yes, Williams-yes, Jarrett-yes, Strogin-yes.
The public hearing was continued at 8:20 p.m.

REGULAR MEETING

Chairperson Strogin called the regular meeting of the Medina Township Board of Zoning Commissioners to order at 8:21 p.m. Permanent Board members Strogin, Overmyer, Williams and Gardner and Jarrett were present. Alternate members Robert Erickson and Ken DeMichael was also present.

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1. Section 603 provides general regulations for all zoning districts. Any signage described in this section pertains to all the zoning districts, so that if Section 603E does not allow inflatable devices, as well as strings of lights, and other items that are listed, then those items are not allowed in any zoning district. This is unreasonable.
2. Staff suggests adding Holiday Decorations in Section 308J, Supplemental Regulations, stating 1) Holiday Decorations are permitted in any zoning district without a zoning permit, and 2) Holiday Decorations attached to a building cannot exceed the building height restrictions for the district in which the Holiday Decorations are located. Holiday Decorations attached to a building may have to comply with the height and setback requirements of any building in the district in which they are located if the Township desires, although this may affect a Santa and sleigh and eight tiny reindeer on a dwelling roof.
3. Add a definition for Holiday Decorations to Article II. The definitions in the December 3, 2008 staff report were provided from *A Planners Dictionary*. An appropriate definition for this scenario, using the *Dictionary as a base*, would be "Holiday Decoration: Any ornamentation used to display holiday symbols or insignias or themes, such as, but not limited to, decorated Christmas trees, air-filled balloons (or inflatable devices) or figures, wood figures, cutouts and similar constructions".
4. In Section 603E add "Holiday Decorations shall not be construed as signage". 5. If the Township only makes revisions to the original application with wording similar to the request of the applicant, it would not need to be reviewed again by the Planning Commission. If the Township significantly revises the zoning resolution, as suggested in No. 2, 3 and 4 above, it should be reviewed by the Planning Commission as a new text amendment.

If additional assistance is needed, please do not hesitate to contact the Department of Planning Services."

Mr. Overmyer stated what Mr. Doraty was doing was actually writing a law for the Township. Therefore it would require legal advice. That is why the Township contacts their legal counsel which is the Pros. Office. Mr. Overmyer stated personally he did not have an issue with using anything within the restrictions of the holiday spirit but the Township has the right and responsibility to set certain levels of decorum for the entire community otherwise a business could possibly erect a 60 ft. tall 150 ft. wide sign. The Township therefore has the right to set limits on signage. He added he did not believe the Township had any limits on holiday decorations. The limits on Mr. Doraty are the same for every business in town. Mr. Doraty stated he felt that was wrong. Mr. Overmyer stated not if it was universal within the community. He added that he felt Mr. Doraty was a responsible businessman but the Commission was responsible to the entire community and limits needed to be set.

Mr. Overmyer continued he personally would listen to a proposed change to the zoning text if it were drafted correctly, formally and reasonably. Unlimited restrictions were not reasonable. Mr. Overmyer stated if Mr. Doraty was serious about changing the text he should invest in contacting an attorney to do so properly and this could be done with conversations with the CPC to draft language for consideration. Chair Strogin clarified that the CPC works for and with the Township so they would not be able to accommodate Mr. Doraty as he is the applicant. If the Township was drafting language the CPC could be involved but this was not the case. Therefore Mr. Doraty would need to contact his own attorney to draft proposed language and then submit it to the Township.

Mr. Leo Schnell from Inflatable Images stated the portion of his business that he makes off a dealership accounts for only a very small percentage. The main portion of their business was for Decoy pieces, Laser Tag Units and Disney. He added he has worked in many communities and cities and added this was a first that the businessman had to draft language for the city as most of the time it was the city or the Township that drafts the language in a workshop environment with the applicant. Mr. Schnell stated he was here to support Mr. Doraty. He added the use of inflatables has been won at the Federal level down to the State level. The issue is where does the Township want to go with inflatables. He added he could create dozens of different drafts and what he has seen locally and nationally is that it should be the Township's responsibility to draft language as to what they would want for their community not what Mr. Doraty wants individually. Chair Strogin stated it is just a start. What Mr. Doraty as the applicant presents does not guarantee in anyway that it will be approved in that form.

Mr. Williams stated he was of the understanding that no community in Medina County allows inflatables like Mr. Doraty was proposing. Mr. Schnell stated Medina allows them. Chair Strogin interjected no they do not. Mr. Schnell rebutted yes they do. He read their code and they allow them with restrictions. Chair Strogin stated she spoke with Greg from Medina City and he said not only does the City not allow them but they took an inflatable issue to court and won. Chair Strogin stated she knew that the Township's surrounding communities do not permit inflatables. As a matter of fact she added, when Mr. Doraty first put up the inflatable, Medina Township received calls from some of the surrounding Townships asking how did Medina Township allow that to be erected? Chair Strogin stated she understood business was difficult in this economic climate but the Commission had to protect the integrity of the Township.

Chair Strogin asked the other Commission members if they wanted to hold a work session on this issue? Mr. Overmyer stated for the Township to initiate a change there would need to be a compelling reason to change the code. If a resident wants to initiate a change to the zoning text then the responsibility lies with the resident to tell the Commission the specific changes they would like to make to the code. There is no reason for this board, representing the Community, to change the code. Mr. Jarrett stated he felt

The Zoning Commission minutes of their November 16, 2008 meeting were approved as amended. The Trustees meeting to review site plans and signage requests have not been confirmed as of this date. A letter would be sent to the applicants when the Trustees would hear their site plan/signage requests.

CONTINUANCE

Tri-County J.O.G./Next Step-3711 Pearl Rd.

Mr. Chris Canora and Ms. Lisa Rivendal represented Tri-County J.O.G./Next Step. Mr. Canora stated this is a work force agency focusing on youth 16-21 yrs. of age on how to get a job keep a job etc. They had other agencies in Summit County. Mr. Canora stated they were not requesting signage at this time. They currently have a window covering with their logo on it. One can see out and in the window. Chair Strogin stated the code allows for 20% window coverage for signage.

Ms. Gardner made a motion to approve the change of use for Tri-County J.O.G./Next Step located 2711 Pearl Rd. at as presented. It was seconded by Mr. Jarrett.
ROLL CALL-Gardner-yes, Jarrett-yes, Williams-yes, Overmyer-yes, Strogin-yes.

SITE PLANS

Westfield Bank-5000 Foote Rd.

Ms. Margaret Dellinger represented Westfield Bank. Westfield Bank wanted to take an additional 700 sq. ft. upstairs in the Hoffman Building for office space.

Mr. Overmyer made a motion to approve the expansion for Westfield Bank located at 5000 Foote Rd. in the Hoffman Building as presented. It was second by Mr. Williams.
ROLL CALL-Overmyer-yes, Williams-yes, Gardner-yes, Jarrett-yes, Strogin-yes.

Fenn Center addition- 3823 Pearl Rd.

Mr. Anthony Cerny from Architectural Design Studios represented Fenn Center and Jim Gowe 620 Construction. Mr. Cerny stated this is the old Fenn Plaza on Fenn Rd. and Rt. 42. The intent is to enhance the façade of the building to make it more attractive to potential tenants. Mr. Cerny stated the building is broken up into individual tenant space. The parking lot would be improved and landscaping incorporated. The idea is to improve the facility to attract long term, higher end tenants. Mr. Cerny stated there is a potential tenant who is interested in the back of the storage building and does not need frontage so they are considering removing the overhead door.

Chair Strogin asked if Mr. Cerny was aware the corner of the building was right on the gas line. Mr. Cerny stated the building was not right on the gas line but relatively close. Ms. Gardner stated it was close in that nothing could be expanded as was previously

requested to do. Mr. Cerny stated he was not requesting signage at this time but showed the probable location for signage.

Chair Strogin stated she spoke with Fire Chief Crumley and his only comments were that when tenants were ready to go in that he would need to inspect the spaces to make sure they are in compliance with the fire code.

Mr. Jarrett asked what the height was for the center cover entry and façade? ZI Ridgely stated per the key on the site plan it is 33 ft. Mr. Jarrett asked if the dumpsters in the rear would be covered? Mr. Cerny stated they were not and would remain as is. He added the dumpsters are currently behind the slated fence. Chair Strogin stated if the fence were removed the dumpsters would have to be enclosed.

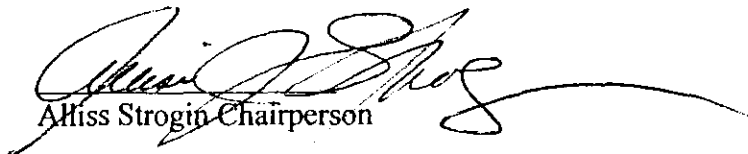
There was then discussion as to the height of the existing light poles. Mr. Cerny stated the light poles would remain. Chair Strogin stated the building itself was pre-existing, non-conforming. If the light poles were ever removed they would need to meet the existing code which currently is 20 ft. in height. Mr. Cerny stated if the poles were removed there would need to be many more new poles added and the parking lot would probably need to be reconfigured. The Commission stated they had no issue with existing light poles remaining but if they were removed they would need to meet the current code.

Mr. Overmyer made a motion to approve the alterations to Fenn Center located at 3823 Pearl Rd. as presented. It was seconded by Mr. Williams.
ROLL CALL-Overmyer-yes, Williams-yes, Gardner-yes, Jarrett-yes, Strogin-yes.

Having no further business before the Board, the meeting was officially adjourned at 8:50 p.m.

Respectfully Submitted,

Kim Ferencz, Zoning Secretary


Alliss Strogin, Chairperson