

**MEDINA TOWNSHIP
BOARD OF ZONING COMMISSIONERS
REGULAR MEETING
MARCH 17, 2009**

Chairperson Strogin called the regular meeting of the Medina Township Board of Zoning Commissioners to order at 7:33 p.m. Board members Overmyer, Szunyog, Jarrett, Erickson and Strogin were in attendance. Alternate Board members Jim Apana and Michelle Kurda were also in attendance.

The Zoning Commission minutes to their January 17, 2009 meeting were approved as amended. The Trustees have scheduled site plan reviews to be heard on April 2, 2009 at 7:00 p.m. A letter would be sent to the applicants when the Trustees would hear their site plan/signage requests.

Continuation of the Public Hearing-Bill Doraty Proposed Text Amendment

There was no one present representing Bill Doraty. The Board decided to move on with their regular meeting and when that business was completed would continue the public hearing for Mr. Doraty if the applicant or his representative was present.

REGULAR MEETING

SITE PLANS

Dr. Kozik and Nguyen-3443 Medina Rd. Suites 104 & 105

Mr. Sampat from LS Architects represented Drs. Kozik and Nguyen. Mr. Sampat stated this was an existing office complex and Dr. Kozik and Nguyen would be operating in the building. Dr. Kozik was a pediatrist and Dr. Nguyen was an oral surgeon. They would be sharing labs, restrooms and other such common areas. The square footage that would be occupied by these practices would be 3,675 sq. ft. There was no signage being requested at this time.

Mr. Overmyer made a motion to approve the use for Dr. Kozik and Dr. Nguyen to be located at 3443 Medina Rd. Suites 104 & 105 as presented. It was seconded by Mr. Jarrett.

ROLL CALL-Overmyer-yes, Jarrett-yes, Szunyog-yes, Erickson-yes, Strogin-yes.

Visage Surgery Center-3591 Reserve Commons Dr.

Mr. Chad Costello from HFP/Ambush Architects Inc. represented Visage Surgery Center. Visage Surgery Center would be locating in the existing Keystone Building on Reserve Commons Dr. behind Rt. 18. The doctor currently owns about 4,000-sq. ft. of this building and would be expanding an additional 1,406 sq. ft. The doctor is an oral surgeon and his wife is a dentist and she would be practicing in this facility as well.

Mr. Erickson made a motion to approve the use of 1,406 additional square feet for Visage Surgery Center located at 3591 Reserve Commons Dr. as presented. It was seconded by Mr. Jarrett.

ROLL CALL-Erickson-yes. Jarrett-yes, Overmyer-yes, Szunyog-yes, Strogin-yes.

Nova Community Animal Hospital-4483 Weymouth Rd.

Mr. Dave Sterrett from Medina Signs represented Nova Community Hospital. Mr. Sterrett stated he was requesting a replacement sign of an existing sign for Nova Community Animal Hospital. The proposed sign would be 2-sided with a static sign portion on the top and an electronic message board on the bottom. Chair Strogin stated that the Township has a "movement" regulation in signage code that a sign can not move, rotate, blink, etc. Mr. Sterrett stated he was aware of that wording in the Zoning Resolution, but his client would like to move forward with her application before the Board. Mr. Sterrett stated the sign can be programmed to move or to remain stationary. The sign is also fit to display time, date and temperature and that information would "change".

Mr. Sterrett stated he would like a clarification of the word "movement." He added that personally he did not believe a change in the message to be movement. If the intent of the Township's stand on movement was not to cause a safety issue for vehicles, then he asked what do we do about the time and temperature displays? Mr. Sterrett continued, in talking with Dr. Sober from Nova Community Animal Hospital she did not have a problem with following the current zoning regulation, but at some time of day or week the message should be able to be changed. Mr. Sterrett stated that Dr. Sober has expressed a desire to have a certain message run for a period of time i.e. a whole day or week. If that was the case, would she be able to change the sign message once a day or once a week if the Township would not consider that movement?

Chair Strogin stated the Commission considers movement such as when a sign changes every 8 seconds. Mr. Sterrett stated such signs could change even quicker. Chair Strogin stated a message changing every 8 seconds to attract the attention of motorists is not attractive to the Township and can be potentially dangerous.

Chair Strogin stated when a word in the zoning code does not have a specific definition unique to the meaning in the code; the Township then goes by the dictionary definition. Per the dictionary the definition of movement states, "To change position or to cause something to change position." Chair Strogin stated that is what she meant when she referred to the 8-second changeable sign.

Chair Strogin stated that Dunkin Donuts, which is in the city limits, has such a changeable sign but it remains stationary in its message. She added that message may be changed at some time but the sign is not changing every 8 seconds. Mr. Sterrett stated the City has a 1-minute rule on digital signs. Chair Strogin stated the issue is once such a sign

is permitted, how does the Township enforce how often the sign is changed, and second, once such a sign is approved, it would be very difficult to have the sign removed.

Dr. Sober addressed the Commission. She stated she had a very high caliber practice which markets to the highly concerned pet owner. Her intent was to change the message on the sign once a day or maybe even once a week for promotions for the Hospital. She added that the message on the sign would be changed at 3:00 a.m., which can be programmed right into the computer. Nobody would have to go out in inclement weather and change the sign. Dr. Sober continued that she did not like the digital signs that change messages because one cannot read them and they are distracting. She added her business's number one referral is drive by so for her to be able to utilize such a sign to draw business to her practice would be a benefit. Dr. Sober stated she was considering that on the way out of the hospital, there could be a thought for the day on the sign; nothing related to the practice; then coming back into town, something about the practice i.e. Start your Heartworm Prevention, etc.

Mr. Overmyer stated that it was on the record how the Commission felt about this type of signage, as this would be something the Township would face again. Mr. Overmyer stated the Commission could not control the content of a sign. Personally, Mr. Overmyer stated he would define movement as "any action that causes attention to itself." He added he would have no problem with a message that is changed at 3:00 a.m. It would be categorized as any restaurant or store that advertises specials or sales of particular products or churches that put out a moral message every week. Chair Strogin stated she understood the importance of communications but also knew how it could be abused and many do not have the community's best interest at hand.

Mr. Sterrett stated that he felt Dr. Sober was an exceptional business owner in the community. He added he felt there would be more requests for such signage as time went on and felt the code was vague. Mr. Sterrett stated he would like to see more definition in the code like how many times such a sign could change. Chair Strogin stated the Commission is aware that some items in the code need to be reviewed and possibly amended but right now the Township was drafting a Comprehensive Plan. Once that plan was completed the Township would go back and review the code and make any necessary changes or modifications to the Zoning Resolution. Mr. Sterrett stated if and when the Township gets to the point of reviewing the language of the Zoning Resolution, he would be more than happy to supply a representative from Daktronics and they can explain this type of signage and all the effects this type of signage could utilize.

Mr. Jarrett stated the timing of when these signs change their message needs to be carefully considered as there were businesses that were open 24-hrs. a day. Mr. Overmyer stated what he meant was limiting the time of the message i.e. a message has to remain in place on the sign for a period of 24 hrs. before it could be changed. That would take care of the definition of movement he referenced earlier, which is any action that causes

attention to itself. Mr. Overmyer suggested such wording would need to be sent to the Pros. Office for review and legal opinion. Chair Strogin stated she agreed that if the Commission was going to change the code then it would need to be reviewed by the Pros. Office and CPC. At this time however, the Commission was not changing the code, but rather entering into negotiations with the property owner regarding this sign.

ZI Ridgely informed the Commission that she had a conversation on March 12, 2009 with Bill Thorne about digital signage. He said such signs are allowed in the Township. ZI Ridgely stated requiring that the message on the sign only be changed at 3:00 a.m. in the morning was not enforceable. Mr. Thorne said the only issues with these sign were the racing back and forth and the scrolling of the message. ZI Ridgely continued Bill Thorne stated there are such cases currently in courts on this type of signage not being permitted in communities and he said they could not be defended.

Mr. Jarrett stated he did not think it was so much that the Commission did not recognize these types of signs; the issue was the movement of a sign. Mr. Overmyer asked what was the difference of a sign that changes digitally or a restaurant owner who sends his waitress out to change letters on signage manually? Chair Strogin stated none, except you are not going to send the waitress out every 8 seconds to change the message.

ZI Ridgely continued that the Township does not put a time constraint on when "standard signs" can be changed so she did not believe it could be done with digital signage either. She continued that per Bill Thorne what can be defended is that a "typical" motorist should only see a sign change one time during an 8-second period. Chair Strogin stated she was surprised by Bill Thorne's comments because he helped Medina Township write the current code and it was legal.

Mr. Sterrett stated an example of this type of signage was Vegas. How could such signs be viewed as trying to draw attention when there were hundreds more just like it on the strip? He added he thought such signs were actually trying to get their message out to the consumer that they had specials or so and so was playing in the lounge or they had the hottest tables to play. Mr. Overmyer stated he would argue that the use of movement and lights were to call attention to the sign.

Chair Strogin stated if every business ends up putting up these digital signs then the light noise would become a big issue for the Township. Mr. Overmyer suggested the Commission vote on the application before them and then the Commission could look at working on such language if that was the will of the Commission.

Mr. Jarrett stated before the Commission was an application for a two-sided digital sign with the condition that the sign could not be changed more than once during a 24-hr. period. Dr. Sober stated that was correct, and she would agree to that stipulation for approval of the sign. Mr. Jarrett added that if the law changes then Dr. Sober could

change the sign more frequently. Chair Strogin stated that would be correct, as she would be in compliance with the code.

Mr. Overmyer made a motion to approve a two-sided digital sign proposed by Nova Community Animal Hospital located at 4483 Weymouth Rd. with the understanding and concurrence of the property/business owner that the message cannot be changed more than one time in a 24 hr. period. It was seconded by Mr. Jarrett.

ROLL CALL-Overmyer-yes, Jarrett-yes, Erickson-yes, Szunyog-yes, Strogin-yes

Mr. Gallo (3503 Hamilton Rd.) addressed the Commission and asked what would happen if this digital sign was allowed in the Township and a motorist hit another motorist while being distracted by the sign? The car that got hit sues the car that hit him and the car that did the damage sues the Animal Hospital. The Animal Hospital in turn sues the Township because they allowed such a sign. Chair Strogin stated that seemed like a stretch but it potentially could happen. She added that if the Commission states in the motion that the sign is only allowed to be changed once in a 24 hr. period unless that motorist happens to drive by that the precise time the message is changing there would be no reason for him to gawk and look because the sign is not changing every 8 seconds. Chair Strogin continued that lawyers could make an argument for either side.

Mr. Jarrett asked if Dr. Sober was the property owner as well as the business owner? Dr. Sober stated yes. Chair Strogin stated that was why it was imperative in some cases to have the property owner/business owner present and not just a representative because the Township would not permit the representative to legally bind a decision for a property owner/business owner.

Doraty proposed text amendment to add inflatables to the Zoning Code

Chair Strogin stated there was no one present this evening representing Bill Doraty. Chair Strogin stated Mr. Doraty's attorney did provide a document with proposed wording for the Commission to consider for the inclusion of inflatables in the BI zoning district. (See attached to approved Meeting Minutes). A letter was also received from the Pros. Office regarding their comments of Mr. Doraty's proposed text language. (See attached to approved Meeting Minutes). Chair Strogin stated the Commission could table the public hearing for another month; or open the public hearing and review the document from Mr. Doraty's attorney as well as the comments from the Prosecutors Office and make any modifications or changes to the text language and forward it to the County Planning Commission for consideration.

Mr. Jarrett asked how many times has Mr. Doraty and or his attorney not been present at the public hearings? Secretary Ferencz responded that Mr. Doraty has asked for continuances because he was unable to get the proposed language drafted and to the

Commission within the timeframes required. Mr. Jarrett stated he would like to review the comments from the Pros. Office as they were just received this evening via fax. Mr. Overmyer agreed and stated he wanted to see if the Pros. Office differentiates between residents who put out inflatables such as a plastic Easter Bunny or Santa Claus and what Mr. Doraty was proposing.

Chair Strogin commented that has already been addressed by the Pros. Office in a letter dated December 10, 2008, which read 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.”

Chair Strogin said that Mr. Doraty has stated previously in a public meeting, that the sign would be used to attract business as well as celebrate the holidays. Mr. Jarrett added another thing to remember is that Mr. Doraty currently has an inflatable on top of his building. ZI Ridgely stated presently there was a shamrock on top of Mr. Doraty's building but in the past there has been a turkey, a Santa, and a heart. Mr. Overmyer commented; what was to stop Mr. Doraty from changing his mind now saying that he was putting up the inflatables just to celebrate the holidays?

Mr. Bill Ostmann (3670 Hamilton Rd.) addressed the Commission and asked what stage of citation if any was Mr. Doraty at for having the inflatables on top of his building? Where was the Prosecutor's Office in this situation? He also asked, if Mr. Doraty continues to put up inflatables then why have a hearing? Chair Strogin responded the Zoning Inspectors have diligently taken pictures of the situation and sending them to the Pros. Office. ZI Ridgely interjected that she has also sent Mr. Doraty several violation notices. Chair Strogin stated there really was no refuting that using an inflatable as a sign in the BI District is in violation of the Zoning Resolution.

Chair Strogin continued that when she called the Pros. Office in December, she was told a new lawyer was ready to move forward with the case. There was a conference in Columbus that was attended by Trustee Mike Todd and Dean Holman from the Pros.

Office and she was told that Trustee Todd told the Pros. Office not to move forward on enforcement until the Township decides what it wants to do in terms of inflatables.

Chair Strogin stated there was also a letter received from the Pros. Office that they were of the understanding the Zoning Commission turned down the proposed text amendment proposed by Mr. Doraty, and did the Trustees now want them to move forward on the case? She added it was her understanding that the Pros. Office was awaiting word from the Township Trustees to move forward with Mr. Doraty's violations. Chair Strogin stated, in her personal opinion, the sign is illegal per the existing zoning text language and the zoning inspectors have built a file accordingly. She added that it would be nice if the Trustees supported the Township Zoning Resolution as it is currently written. Chair Strogin commented that unless or when the text is changed this is the zoning code in existence and it should be upheld.

Mr. Overmyer stated the proposed text amendment to change the signage language to allow inflatables was not initiated by the Commission but a resident and business owner. The Commission has to decide if that proposed language is a benefit to the entire community. Ms. Szunyog agreed.

Chair Strogin asked how the Commission wanted to proceed this evening. She continued that if the Commission wanted to move forward this evening; the continuance of the public hearing would have to be opened and then the Commission would have to decide to continue the hearing or work on the proposed language. The options are to take the verbiage proposed and forward it the CPC or the Commission could make changes to the wording if we choose to do so. Chair Strogin added that per the letter from the Pros. Office, they have some concerns on the proposed language so there would probably have to be some modifications made to the language. Chair Strogin stated that if the Commission modifies the text language then it would have to be sent to the CPC for their review and recommendation. By law, the Commission is required to send proposed text language to them for review but are not required to follow their recommendations.

Chair Strogin stated she suggested the Commission members review the letter from the Pros. Office which was just received this evening as well as the proposed language by Mr. Doraty. The Commission could then make the modifications suggested by the Pros. Office and send that to the CPC. She continued that once the Commission receives the recommendations back from the CPC, the public hearing would be continued and the Commission could decide if any further changes to the text language were warranted.

Ms. Szyunog asked what if the Commission was not particularly interested in modifying the existing signage text language to permit such inflatables? Chair Strogin stated it only takes two Trustees to overturn the recommendation of the Zoning Commission. She added hypothetically lets say the Commission does nothing to the language and turns it down. If the Trustees decide they want to overturn the Zoning Commission are they going

to do so with modifications or approve the text language as proposed by the applicant? Ms. Szyunog asked if the Trustees had read the proposed text language drafted by Mr. Laribee as well as the Pros. Office comments on the proposed language? She said the reason she asked is that if the proposed text was not well written it would surprise her, even if the Trustees supported the concept, that they would support language that was poorly written. Mr. Overmyer agreed.

Mr. Overmyer then asked if the Trustees could amend the proposed language without sending it back to the Commission? Chair Strogin stated yes. The Trustees have the final say at their public hearing on the proposed text amendment.

Chair Strogin stated the Zoning Commission was to be open to any discussion the applicant puts in front of the Commission and then make an informed decision. The Commission has the right to make changes to the proposed text language; the legal requirement to send that language, altered or unaltered to the CPC; and then debate the recommendations of the CPC and what the Township's concerns are as well as the applicant's.

Mr. Jarrett stated he would like to give the applicant the courtesy to attend next month's meeting to continue the public hearing. In the meantime the Zoning Commission should review the proposed language and the letter from the Pros. Office.

Continuation of the Public Hearing Bill Doraty Proposed Text Amendment to allow inflatable's in the BI Zoning District

Chair Strogin opened up the continuation of the public hearing for Mr. Doraty at 8:56 p.m. She noted for the record that neither Mr. Doraty nor his representative was present this evening.

Mr. Jarrett made a motion to continue the public hearing for Bill Doraty until the Board's next regularly scheduled meeting scheduled for April 21, 2009 at 7:30 p.m. It was seconded by Mr. Overmyer.

ROLL CALL-Jarrett-yes, Overmyer-yes, Erickson-yes, Szunyog-yes, Strogin-yes.

Chair Strogin reiterated the fact that a letter on the proposed text amendment language was received by Mr. Laribee as well as a letter from the Pros. Office on the proposed text language. Chair Strogin asked the Commission to review the documentation and be prepared to discuss at the Commission's next meeting accordingly.

Chair Strogin asked that Mr. Doraty and or his legal representative be contacted to make sure they are present at the next scheduled Zoning Commission meeting where the public hearing would be continued and the Commission would ask questions in regards to their proposal.

The public hearing was closed at 9:00 p.m.

MISC.

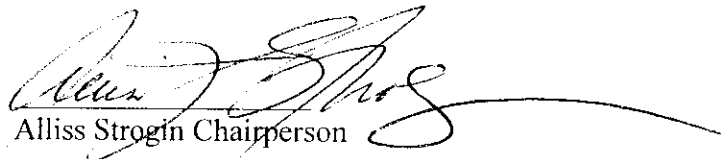
Mr. Matt Gallo wanted to know if the proposed text amendment to permit inflatables in the BI District was coming from KIA or Bill Doraty. Chair Strogin stated the application was by Bill Doraty.

Alternate ZC member Michelle Kurda stated she thought Chair Strogin's comments were a bit narrow-minded regarding Bill Doraty's proposal. She added that Mr. Doraty was trying to attract people off of I-71 as well as those in the nearby communities. This may benefit the Township instead of having an empty car lot there. She added she would rather see a Shamrock than an empty car lot. Mr. Overmyer interjected, "do not confuse this proposal with Bill Doraty alone. If it passes it would be permissible for any business in the BI District put up inflatables on their buildings."

Having no further business before the Board, the meeting was officially adjourned at 8:37 p.m.

Respectfully Submitted,

Kim Ferencz, Zoning Secretary


Alliss Strogin Chairperson