

**MEDINA TOWNSHIP
BOARD OF ZONING COMMISSIONERS
REGULAR MEETING/ CON'T OF PUBLIC HEARING
SEPTEMBER 15, 2009**

Chairperson Strogin called the regular meeting of the Medina Township Board of Zoning Commissioners to order at 7:33 p.m. Permanent Board members Overmyer, Jarrett, Erickson and Strogin were in attendance. Permanent Board member Szunyog was absent. Alternate Board member Jim Apana sat in for a full Board. Mr. Thorne and Folk from the Pros. Office were also in attendance.

The Zoning Commission minutes to their August 18, 2009 meeting were approved as amended. The Trustees have scheduled site plan reviews to be heard on October 1, 2009 at 7:00 p.m. A letter would be sent to the applicants when the Trustees would hear their site plan/signage requests.

CONTINUANCE

All State Kirk Hirschfelder Agency-3443 Medina Rd.

Mr. Timothy Urwin owner of the property represented All State Kirk Hirschfelder Agency. He stated that All State was already in operation at this location. Chair Strogin stated she thought his building was going to be a medical facility building. Mr. Urwin stated he just signed a 10-yr. lease with Akron's Children's Hospital to occupy 6,000-sq. ft. of the building. Chair Strogin stated that Akron Children's Hospital would have to come before the Commission for approval before they begin operation.

Mr. Jarrett made a motion to approve the change of use for All State Kirk Hirschfelder Agency located at 3443 Medina Rd. It was seconded by Mr. Erickson.

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

Mr. Urwin stated he was also before the Commission to request a wall sign. The frontage of the business is 20 ft. The wall sign request was for 4.5 sq. ft.

Mr. Overmyer made a motion to approve the wall sign for All State Kirk Hirschfelder Agency located at 3443 Medina Rd. not to exceed 4.5-sq. ft. as presented. It was seconded by Mr. Apana.

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

Lastly Mr. Urwin stated he was also requesting an id panel on the existing pylon sign for All State. The size of the panel is 1.84 sq. ft.

Mr. Jarrett made a motion to approve an id panel sign to be placed on the existing pylon sign for All State Kirk Hirschfelder Agency not to exceed 1.84 sq. ft. as presented. It was seconded by Mr. Overmyer.

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

Chair Strogan stated that since All State began operation without obtaining zoning permits for their use and signage the zoning permit fees would be doubled.

SITE PLANS

ProForma-3745 Medina Rd.

Mr. Larry Steinbacher represented Proforma, Steinbacher & Associates. He stated he was before the Commission this evening to request an id panel on the existing ground sign. Chair Strogan stated the ground sign location was permitted by a variance granted by the BZA due to the unique configuration of the property. Mr. Steinbacher stated the id panel would be 4.44 sq. ft.

Mr. Erickson made a motion to approve an id panel sign for ProForma located at 3745 Medina Rd. not to exceed 4.44-sq. ft. as presented. It was seconded by Mr. Overmyer. ROLL CALL-Erickson-yes, Overmyer-yes, Jarrett-yes, Apana-yes, Strogan-yes.

Dr. Benninger, DDS-5002 Medina Rd.

Ms. Fallert from AODK represented Dr. Benninger. Ms. Fallert stated this would be a dentist office that would be locating in the bottom floor of the Hoffman Group Building. Mr. Jarrett brought up the fact that the address on the architectural drawings stated 5003 Medina Rd. Ms. Fallert stated that was an error and the address is 5002 Medina Rd. and would be noted on all pertinent documents accordingly.

Mr. Apana made a motion to approve the change of use for Dr. Benninger & Schween, DDS to be located at 5002 Medina Rd. as presented. It was seconded by Mr. Erickson. ROLL CALL-Apana-yes, Erickson-yes, Overmyer-yes, Jarrett-yes, Strogan-yes.

Ms. Fallert stated she was also before the Commission this evening to request wall sign. Chair Strogan stated that the BZA granted variances for the portico signs on this building.

Mr. Overmyer made a motion to approve the wall sign for Dr. Benninger & Schween, DDS to be located at 5002 Medina Rd. not to exceed 10.83-sq. ft. as presented. It was seconded by Mr. Jarrett.

ROLL CALL-Overmyer-yes, Jarrett-yes, Apana-yes, Erickson-yes, Strogan-yes.

Ms. Fallert stated her second request is for an id panel for Dr. Benninger to be placed on the existing ground sign to consist of 9 sq. ft.

Mr. Erickson made a motion to approve an id panel on the existing ground sign for Dr. Benninger & Schween DDS to be located at 5002 Medina Rd. not to exceed 9-sq. ft. as presented. It was seconded by Mr. Jarrett.

ROLL CALL-Erickson-yes, Jarrett-yes, Overmyer-yes Apana-yes, Strogan-yes.

MISC.

Mr. Dave Sterrett from Medina Signs addressed the Commission. He stated he spoke with Dr. Sober from Nova Animal Hospital and she would be willing to allow for a test to be conducted regarding the operation and legibility of her electronic sign. A message Dr. Sober is currently using would be used for this test. The time and temperature would be removed from the sign. It was decided that this test would take place Friday 9/18/09 around noon and run thru Sunday 9/20/09. The purpose of the test was for the Commission to understand the operation of an electronic/digital sign.

Chair Strogan recessed the regular meeting of the Zoning Commission at 8:05 p.m. and reconvened the public hearing on the proposed text amendment by Mr. Doraty to add language on Inflatables to the Zoning Resolution.

CON'T OF PUBLIC HEARING-Proposed Text Amendment by Bill Doraty Article VI. Sign Regulations Section 605 I. Holiday Inflatables

Chair Strogan stated the Commission would be using this opportunity to have a work session with Mr. Doraty's legal representative Mr. Laribee and the Pros. Office regarding the consideration of inflatables in the zoning code. Chair Strogan referenced the report from the Dept. of Planning Service on the supplemental application submitted by Mr. Doraty regarding his proposed text amendment. The Staff recommended disapproval of the proposed amendment for the following reasons: "The language throughout the proposed text is not content neutral and the proposal restricts inflatable displays in residential districts."

Mr. Laribee stated that the language that was sent to the Dept. Of Planning Services was premature. He continued that at the last hearing he was at in May, the Commission was going to schedule a workshop with himself and the Pros. Office to draft language on inflatables that would be sent to the Dept. Of Planning Services. Chair Strogan stated that it was legal counsel's advice that the Commission hold a workshop without the applicant present, so legal counsel and the Commission could review their options and comments and questions regarding such signage. That was why the applicant was not present. She added the supplemental application submitted by Mr. Laribee regarding the proposed text amendment of Section 605 I. Holiday Inflatables was sent to the Dept. of Planning Services per the recommendation of legal counsel.

Mr. Laribee stated he had several conversations with Mr. Thorne the Township's legal counsel and added that several suggestions were discussed, and he was present this evening to work on the wording. Mr. Laribee presented the Commission the suggestions that were discussed with Mr. Thorne.

Mr. Thorne stated his comments to Mr. Laribee called for the removal of all content-based language in the text proposal. Mr. Laribee referenced Inflatables as "Displays" not Signs. He stated that one of the issues the Commission has wrestled with was when was

an inflatable a sign and when it was not a sign. If the wording Inflatable Displays was to remain it would deal with inflatables both inside and outside and did not know if the Commission wanted to go that far in regulating them. Chair Strogan stated she did not believe the Commission wanted to regulate inflatables that were inside a building. Mr. Thorne stated also in the proposal submitted by Mr. Larabee to the Commission, he did not include front yard or side yard setbacks, etc. The Commission could also consider the regulation of inflatables that were of certain size and height and then exclude the common type of inflatables that appear in residential areas. Mr. Thorne stated that this may make it easier for the Zoning Inspectors to handle and enforce. Inflatable then would be its own section in the Zoning Resolution and would not be a "type" under signs as proposed by the applicant.

Chair Strogan read the amended proposed text amendment by Mr. Larabee as follows:

Section 605 I. Inflatable Displays (The word Holiday deleted)

Inflatable Displays referenced in this section pertain to all (seasonal deleted) inflatable structures,

Balloons, figures, play equipment and sculptures not intended for human occupancy (which exhibit holiday symbols, images or themes incidental to and customarily associated with recognized holidays to be deleted). Inflatable displays shall be permitted in all business districts and in accordance with the following regulations:

- (a) The installer of the inflatable displays must be a properly registered and licensed contractor and provide a certificate of insurance in the amount of two million dollars (\$2,000,000). No bond is required. The contractor shall accept full responsibility for the imposed display loads and anchoring devices, whether ground-mounted or rooftop.
- (b) Inflatable displays shall be made of flame-retardant material and shall be secured and maintained in a safe, approved manner so as not to encroach upon the air rights of adjoining properties, including street right of way.
- (c) Inflatable displays shall be installed below or within ten feet (10') horizontally of any electrical, phone CATV, or fire alarm conductors or any other similar installations.
- (d) Each inflatable display shall be no more than thirty (30') tall. Each display shall be ground-mounted or securely attached to the building roof, which shall be sufficient, to support the live load used in the display. No inflatable display may be located within twenty feet (20') of any road right of way or within forty feet (40') of any adjacent property.
- (e) Each applicant must pay a fee of (\$10.00- to be deleted) to obtain an inflatable display permit. Mr. Thorne stated that he has recommended this amount not be put in the Zoning Resolution as if it is ever changed the code does not have to be amended.
- (f) The duration of each inflatable display permit shall not exceed thirty (30) days. The total number of permits issued by the Township shall not exceed five (5) at any one time

regardless of business location. Permits shall be issued in the same order applications are received on a form prescribed and approved by the Zoning Commission. (Inflatable display permits may be issued for the following holidays-to be deleted.)

(g) Lettering on any inflatable display shall be restricted to a (holiday related-to be deleted.) message consisting of not more than two (2) lines.

(h) This section shall exclusively control and govern the use of inflatables displays, the regulations of this section shall control the in the event of any conflict with other sections of this Zoning Resolution. Inflatable displays shall not otherwise be restricted by the signage regulations of this Zoning Resolution.

Mr. Thorne again stated that inflatables being considered displays and not signs may be a cleaner way to approach the issues of inflatables. Regarding the height requirement of 30' ft. drafted by Mr. Larabee, it doesn't state if that 30-ft. is from ground or from the top of the building. All that would need to be spelled out. Also, how the number of permits for inflatables would be determined would need to be addressed. Would it be first come first serve; and what if somebody came in and applied for all 5 permits at one time that were proposed to be permitted.

Mr. Thorne continued that it was up to the Commission to decide whether they want to approve the text as written or have input in the text because to deny it would not guarantee the Trustees would not overturn the decision (it only takes a vote of two Trustees to overturn the recommendation of the Commission). Therefore it would be better for the Commission to have some input as to what the proposed text would say than flat out deny the proposal and potentially have no say at all.

Mr. Overmyer then asked when is a sign a sign and when is a sign not a sign? He added that "inflatable displays" seemed to be a creature of their own. Chair Strogan anything that is used to attract attention to a building or business is a sign. She added therefore that the intent of such an inflatable in the commercial district is to draw attention to that business and is to be considered a sign. Chair Strogan stated those inflatables of Brutus Buckeye etc. are decorations and are not meant to attract attention that something is being sold or a product offered. Chair Strogan added that right now Mr. Doraty has a yellow bee on top of his building.

Mr. Overmyer stated another issue is that these types of inflatables could have a dramatic effect on the community in terms of aesthetics. He asked if inflatables could be restricted to certain zoning districts? Mr. Thorne stated they could but felt if the Commission changes the word Inflatable Signs to Inflatable Displays he felt the wording could be drafted so as not to have to regulate such inflatables as sold as Wal-Mart and Target.

Chair Strogan stated from what the Commission has stated and discussed previously, she had a visual board to present to the board members. On it showed what the Rt. 18 corridor would look like if such signage would be permitted. Mr. Thorne stated the

zoning code could be written that only one inflatable per building would be permitted. He also stated that the size of the inflatable could be based on the size of the building. Mr. Erickson interjected that to limit the number of inflatables seemed like it would discriminate as to who would be issued such a sign.

Mr. Overmyer asked what would prohibit the Commission to not allow inflatables at all in the Township? Mr. Thorne stated that the Township did not have to allow inflatable but there needed to be a rational basis as to why The Township did not want Inflatable Displays and/or Signs. Mr. Overmyer asked if the Commission could regulate inflatables in the commercial districts without effecting inflatable yard displays people put up in the residential districts? Mr. Thorne stated that per the definition under the current zoning code yard displays are not signs. He added it would not be the recommendation of the Pros. to consider displays put up on commercial property for the holidays as signs.

Mr. Thorne commented that the inflatable "wavy" person next to Speedway would probably be considered a sign. The nature of that inflatable is to attract attention to the business. It was not a decoration for any holiday or occasion. Chair Strogan agreed. Mr. Thorne stated another approach to take is that the number of inflatables could be limited to one per building and not one per business to reduce the potential of inflatable sign clutter if that is the way the Commission decides to go.

Mr. Overmyer asked what the Commission's responsibility was to this specific proposal? Mr. Thorne stated Mr. Larabee would need to draft new text. Mr. Larabee stated it was their intention after this workshop meeting, to draft new language and submit it to the Commission and then following the text amendment process.

ZI Ridgely stated in a perfect world each business would contact the Township about putting up an inflatable and follow the process. However, Mr. Doraty has had inflatables up on his building for close to a year now that are in violation of the zoning code. Other businesses see this and have put up inflatables without even contacting the Township.

Mr. Overmyer asked who determined the penalties for violation of the Zoning Resolution? Mr. Thorne stated that an injunction is filed and if that individual or business violates the injunction they can be subject to a fine or jail time. A violation of the zoning code is an unclassified misdemeanor. The maximum fine set by the Court is \$100.00. The individual or business then pays the \$25.00 fine every thirty days and considers it the cost of doing business. That is why now such zoning violations are now handled with an injunction with fine or jail time involved or both.

Secretary Ferencz asked where the Pros. Office was with the zoning violation of Mr. Doraty? Mr. Thorne stated it was submitted to the Pros. Office. No action has been taken. Chair Strogan asked if action by the Pros. Office would be taken? Mr. Thorne stated he did not know at this time.

Chair Strogin stated tomorrow evening the Dept. of Planning Services would be holding a workshop on signage at 6:30 p.m. at the University of Akron on Technology Lane in Lafayette Township. Several members stated they would be in attendance at that workshop.

Mr. Thorne again stated that what needs to be considered is that if the text amendment is passed, does the Commission want input as to what the text would entail? Would the Commission rather see it as inflatable displays or signs and include at least some of the restrictions would you want to see for this text?

Mr. Overmyer stated if that was the case he would like to see inflatables not exceed the square footage of a sign that would be permitted for a certain building measured horizontally and vertically. Chair Strogin stated inflatables are measured in cubic feet so she did not know that an inflatable could be measured like a sign. ZI Ridgely asked how the Zoning Office was to measure an inflatable? Mr. Thorne stated the company that puts up the inflatable would have to list the dimensions. ZI Ridgely asked how do we let the businesses let them know that inflatables are regulated? Mr. Thorne stated they would be handled just like any other regulation under the zoning code. Mr. Overmyer stated to all out prohibit inflatables could lead a substantial mess in terms of enforcement and potential litigation. Chair Strogin stated she has also taken that into consideration.

Chair Strogin stated the current code states a business can have one wall sign and one ground sign. If the Township allows inflatables that would be three signs permitted. She added if Mr. Doraty wanted to take his wall sign down and put up an 80-ft. balloon he could do it but he could not have both. It would be one or the other. Mr. Doraty has not taken down his wall sign and has had multiple inflatables on his building for the past year. Also, according to the current code no roof signs are permitted. Mr. Thorne stated that inflatables would be another regulation that would allow for this type of "sign" if the Commission was inclined to consider inflatables as signs and give businesses another advertising option.

Mr. Overmyer asked how would inflatables, if made part of the zoning resolution be regulated? Mr. Thorne stated the businesses in the community would need to be notified and if they were in violation of the code would have to be cited like any other item in the zoning code. Mr. Overmyer asked if restrictions were adopted on inflatables for the commercial district, would they also apply to inflatables in the residential district? Mr. Thorne stated that it would depend if inflatables were considered signs. There are sign regulations in both districts but inflatables in a residential district have historically not been treated as signs.

Mr. Erickson stated he thought the intent of Mr. Doraty's text amendment was for holiday inflatable displays but now it appears they are going to be used as signs or displays or both. Thorne stated constitutionally inflatables could not be based on holidays. Mr.

Erickson asked how the number of inflatables would be regulated. Mr. Thorne stated it could be limited to X number of displays at one given period of time. Mr. Erickson stated that if 10 inflatable displays were permitted and he was business number 11 and was denied a permit, couldn't he sue the Township? Mr. Thorne stated that he would get his opportunity for such a sign when somebody's inflatable permit expires as they were only proposed to be good for 30 days. Thorne stated the number of inflatable displays would have to have a rationale behind allowing a certain number of them to be permitted such as the distance between the inflatables, etc. He added he needed that rationale to be able to defend a zoning regulation if challenged.

Mr. Sterrett asked if a new code is written, why would rooftop displays be limited to inflatables? Is a hot air balloon with text an inflatable? Mr. Sterrett stated if you go ahead and allow rooftop displays could he have an 80 sq. ft. banner on the roof as long as he had the insurance and it was properly secured? Mr. Overmyer stated the Commission did not have to permit rooftop displays or require that inflatables had to be located on the roof as they could be located on the ground. Mr. Sterrett added that he has seen inflatables that were inflated copy of text. Is that a sign or a display? Mr. Overmyer stated the Commission did not have to allow text on an inflatable. Mr. Thorne stated that if the Commission allowed inflatables the Commission could not control their content.

Chair Strogan stated the Township has drafted its signage in the business districts to be equal. The number of signs and the size of the signs were based on the same formula for every business. If the Township allows inflatables and permits X amount of them it is no longer equal. Mr. Thorne stated there were other means to determine the number of inflatables that would be permitted. The number five was proposed by Mr. Larabee.

ZI Ridgely stated that if inflatables were permitted in the business districts it was important to remember that most of the business on Rt. 42 and Rt. 18 did not sit as far back as Mr. Doraty's. She asked could you imagine an inflatable as large as what is on Doraty's on top of D & L or VFW Staples or Tumbleweed on Pearl Rd.? Mr. Overmyer interjected that the size of an inflatable could be limited to X regardless of the size of the building. Mr. Thorne stated there are studies out there that state what the size of a sign should be on road with a certain speed limit and the building at a certain setback so that it could be read.

Mr. Larabee asked for the opportunity for the public hearing to be tabled and the application amended. Secretary Ferencz stated the submission deadline for the Commission's October 20, 2009 meeting is October 9, 2009 at noon. No Exceptions. If Mr. Larabee does not submit by the deadline then the public hearing could be continued until the Commission's November meeting date. Mr. Larabee stated he would try to make the October submission date accordingly.

Chair Strogin adjourned the work session at 9:13 p.m. and continued the public hearing on the proposed text amendment by Mr. Doraty of Section 6051. Holiday Inflatables.

Mr. Overmyer made a motion to continue the public hearing for Mr. Doraty's proposed text amendment on inflatables until the Commission's next scheduled meeting October 20, 2009 at 7:30 p.m. It was seconded by Mr. Erickson.

ROLL-Overmyer-yes, Erickson-yes, Jarrett-yes, Apana-yes, Strogin-yes.

Chair Strogin closed the public hearing at 9:14 p.m. and reconvened the regular meeting of the Commission.

MISC.


Chair Strogin stated that the proposed training policy for the zoning boards was given to the members for comment. All responses should be given to the Township Secretary.

Regarding the proposed text the Commission was considering on electronic signs, the reference to the current wording under Section 603 D. 2 (colors should not resemble traffic signals) would be added. The Commission stated they would like to hold moving forward with the proposed text until after the signage workshop tomorrow evening.

Having no further business before the Board, the meeting was officially adjourned at 9:21 p.m.

Respectfully Submitted,

Kim Ferencz, Zoning Secretary


Alliss Strogin Chairperson