

**MEDINA TOWNSHIP
BOARD OF ZONING COMMISSIONERS
PUBLIC HEARING
APRIL 16, 2013**

PUBLIC HEARING

Chairperson Strogin called the public hearing of the Medina Township Board of Zoning Commissioners to order at 7:00 p.m. Board members Overmyer, Kuenzer, Apana, Szunyog and Strogin were in attendance. Alternate Commission member Johnson was also in attendance.

Secretary Ferencz read the recommendation of the Dept. of Planning Services into the public record per the ORC regarding the proposed text amendments.

The proposed zoning text amendments are as follows:

Motion #1: To delete the current wording of Section 706 Non-Conforming Lots in its entirety:

~~Non-Conforming Lots~~

~~The lot area, width and frontage requirements established in each of the zoning districts shall apply to all lots, unless such lot was separately owned and was either a parcel of record or included in a recorded land contract at the time this Resolution took effect and cannot practicably be enlarged to comply with the current requirements. Such lots may be used for any activity permitted in that zoning district, provided the lot and buildings comply with all required front, side and rear yard requirements and all other requirements of the applicable zoning district and this Zoning Resolution. Lots which cannot comply with the front, side and rear yard requirements of the applicable district may be considered for a variance by the Board of Zoning Appeals.~~

and replace with the following wording:

Section 706 Non-conforming Lots of Record

A. In any district in which single family dwellings are permitted, a single family dwelling and customary accessory buildings may be erected on any legal lot of record at the effective date of the adoption or amendment of this Resolution, notwithstanding limitation imposed by other provisions of this Resolution, provided all such lots are approved by the Medina County Health Department for on-site sewer and water facilities if applicable. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district provided that yard dimensions and requirements other

than those applying to area or width, or both, of the lot shall conform to the current regulations for the district in which such lot is located. Variances of requirements listed in this Resolution other than lot area or lot width shall be obtained only through action of the Board of Zoning Appeals as provided in Appendix I.

B. A nonconforming lot or lots of record which do not comply with the area or width or both of the current Medina Township Zoning Resolution may be considered for replat or combination so long as any change in the area, width or both of new nonconforming lots or lots resulting from said replat or combination does not create any lot less compliant with the current legal lot regulations. Any new nonconforming lot or lots created as a result of this section must also comply with conditions as set forth in Section 706 A.

Staff Comments: Paragraph A of the proposed amendment specifies that a legal lot of record that exists at the time that this Zoning Resolution is adopted or amended can be built upon although the lot area and/or width do not meet current zoning requirements as long as it receives Health Dept. approval; however all other current zoning requirements are met. Variances of requirements listed in this Resolution other than lot area or width shall be obtained only through action of the Board of Zoning Appeals.

Paragraph B states that nonconforming lots may be considered for replat or combination as long as it does not create any less compliant lot. It does not require that nonconforming lots be combined or enlarged when practicable, as was required previously.

Chair Strogin stated this new language was being proposed because there are some small lots in the Township, in particular the Weymouth area, that are pre-existing, non-conforming lots that were created before zoning was even in existence. Even if someone owned several of these particular lots, the lots would more than likely not be able to be built upon by today's zoning standards. If they tried to combine a lot with another lot, the lot would lose its pre-existing, nonconforming status and would not be able to be built on at all. The intent is to allow two, pre-existing, nonconforming lots to be combined without losing that status, so the result is one larger non-conforming lot. The intent was not to penalize a property owner who has an old lot(s) of record from being able to combine lots and build on the property.

Mr. Kraus (4213 Monterey Dr.) asked for clarification that such a lot would not only have to meet any Health Dept. requirements but would also need to meet the zoning code requirements of the district as well. Chair Strogin stated that was correct. If the new lot could not meet Health Dept. requirements for a septic system and was not tied to sewer and water it cannot be built on. However, even if lots are combined, the setback requirement of the district would need to be met so the likelihood that an individual would need to apply for a variance was probable.

Motion #2: Modify the existing definition of Sign, Temporary, which currently reads:

~~“Sign, Temporary” is a sign or advertising display constructed of cloth, canvas, fabric, plywood or other light material and designed or intended to be displayed, for a short period of time.”~~

To now read, **“Sign, Temporary” is a sign affixed to a building, structure or placed on the ground constructed of cloth, canvas, fabric, plywood or other material and designed or intended to be displayed for a limited period of time;”**

Staff Comment: Staff suggests replacing the word “placed: with “installed.”

To add a definition- **“Sign, Inflatable” is a static air or gas filled structure.**

Staff Comment: Definition would be clearer with a comma after the word “static.”

Motion #3: To delete Section 605 K-Portable Signs in its entirety:

~~K. Portable Signs No portable or temporary sign, including a sign on a temporarily placed vehicle for advertising purposes, shall be placed on the front or face of a building or on any premises, except in the following instances for no more than 14 days and shall be at least ten (10) feet from any road right of way.~~

- ~~1. Going out of business sale or grand closings.~~
- ~~2. Grand Openings.~~
- ~~3. Public or institutional events.~~

~~Such signs shall require a deposit in the amount as shown on the schedule of fees, Appendix V, given to the Zoning Inspector by the business advertising the event or the director in the case of a public or institutional event. Failure to remove the portable sign on the 15th day results in forfeiture of deposit to the Township.~~

and replace with the following:

Section 605

K. Temporary Signs-Shall be limited to one temporary sign per property, not to exceed 32 sq. ft. including a sign placed on vehicles for advertising purposes, which may be placed on a building or on any premises for not more than 14 days, three (3) times per calendar year (Jan.1st-Dec. 31st). The sign shall be at least 10 ft. from any road right of way except as otherwise specified in this code. The 14-day periods may be contiguous if the property owner so desires.

Staff Comments:

- 1. This amendment corrects previous wording that was not content neutral.*

2. *A vehicle sign, required to be considered the one allowable temporary sign per property, does not meet the above definition for "Sign, Temporary."*
3. *The dictionary definition for "premises" is, "a tract of land with the buildings thereon." It is not clear what is meant by the use of the words "any premises" in the first sentence as it relates to the permitted location for a temporary sign. "Anywhere on the premises may be the intent? In the alternative, this is a regulation concerning duration rather than location. The reference to location could be omitted.*
4. *In the last sentence, Staff suggests replacing the word "contiguous" with consecutive."*

Mr. Kraus-(4213 Monterey Dr.) There is a difference between "contiguous" and "consecutive" The proposed language allows three periods of time for such signs. You could have two that are consecutive and one that is not if you keep the word contiguous. If you use the word "consecutive" then all three periods of time would have to be connected.

Motion#4: To add the following Section under 605 Accessory Signs Requiring A Permit

N. Inflatable Signs

1. Inflatable signage shall only be permitted in commercial districts. Movement of all or any part of an inflatable sign is prohibited.

2. Frequency:

Inflatable signs shall be limited to one per property and limited to maximum of 28 days per calendar year (Jan. 1st-Dec.31st).

3. Inflatable signs shall require a permit secured by a deposit with the zoning inspector in the amount shown on the "schedule of fees" appendix V. Failure to remove the inflatable sign within 24 hrs. of the expiration of the permit shall result in the forfeiture of the deposit to the Township.

4. Location:

- a. **All inflatable signs are to be ground-mounted. They are prohibited from rooftops.**

Staff Comment: Ground-mounting an inflatable sign will most likely involve guy wires or other means of securing the inflatable sign. Suggest including regulations as to location of wires and/or other method of securing the sign for safety purposes.

b. Inflatable signs shall be set back from any road right of way and property lines a minimum of 10 ft. plus the height of the sign. (Ex. A 14 ft. tall inflatable would be set back 24 feet).

c. Inflatable signs and their components placed in parking lots shall not reduce the number of available parking spaces below the required minimum.

d. Inflatable signs shall not be placed so as to hinder access by emergency vehicles or services.

e. No inflatable sign shall be placed within 660 feet of a Federal Interstate.

Staff Comments: Not permitting an inflatable sign within 660 feet of an Interstate appears to be overly restrictive especially since at a maximum height of 14 ft. and mounted on the ground it would be difficult to be seen from the Interstate.

5. Size:

a. Height shall be measured vertically from the ground to the inflatable sign's highest point; width shall be measured horizontally as the distance between the inflatable sign's widest points. Area shall be determined by multiplying the inflatable sign's height times its width.

b. Inflatable signs shall not exceed 14 feet in height, nor shall they exceed 75 square feet in area.

Staff Comments: Inflatable signs are not two-dimensional. A more appropriate size limitation may be volume; height x width x depth.

Staff Recommendation: Approval with modifications.

Mr. Gallo (3503 Hamilton Rd.) asked how did the Commission arrive at the 14 ft. height limit for inflatables? Chair Strogen stated the largest inflatable sold at Home Depot is 14 ft. in height, Also, Chair Strogen read the minutes from the July 24, 2012 workshop meeting minutes as follows:

"The Commission asked Mr. Overmyer how he came to the measurement of 75 sq. ft. in area for an inflatable sign. Mr. Overmyer responded it was determined by multiplying the maximum permissible height of the structure (14') by the Golden Mean (0.6180) to arrive at the most esthetically pleasing width - in this instance 5.348 feet. The 14' height was then multiplied by this width to create a square footage of 74.87 which was rounded to 75 square feet. The Golden Mean has been an established architectural value for more than 2,500 years and is employed here to avoid creating arbitrary values for overall size.

Regarding the height, Mr. Overmyer stated that Inflatables are commercial devices intended to attract attention from motorists and passers-by. A colorful structure more than twice as tall as the average man is

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sufficient to accomplish this end without transgressing into the realm of excessive. In other words, a 14-foot tall structure allows an enterprise to shout but prohibits it from screaming.”

Mr. Ostmann (3670 Hamilton Rd.) stated he wanted to recognize all the work the Commission has put into drafting language on inflatables. He added this topic has divided the Township, friends and families. Mr. Ostmann stated when he was a Trustee, the Township met with Granger Township, Sharon Township, Montville Township and the City of Medina and discussed signage on the Rt. 18 corridor which effects all of these communities. The decision was for the signage to be uniform on Rt. 18. He added he did not know of any other political subdivision in the County other than the City of Brunswick where inflatable signs are permitted. Mr. Ostmann stated to allow inflatables on the Rt. 18 corridor would affect the aesthetics which is the gateway into several communities and the City of Medina.

Chair Strogin stated that the Township has no authority over what can be placed on a sign (content neutral) but could only regulate location and size. If a change in the code is made it is applicable for the entire district in which the sign is located. If the language is passed to allow inflatables, any business could have such a sign if it met the code; not just one business. There are 350 businesses in the Township. Again, the content of the sign cannot be regulated so what may be acceptable to one may not be acceptable to another and there is nothing the Township could do about that if inflatables are permitted.

Mr. Doraty (3755 Weymouth Woods Dr.) asked how many inflatables did Chair Strogin think are up during the holiday season in the Township? He stated there are approximately 7,000 or so households in the Township. Does the Commission know how many inflatables are up from October through January with any accuracy?

Chair Strogin referenced a letter from Mr. Bill Thorne, Medina County Prosecutor dated, December 3, 2012 which read as follows:

RE: Inflatables-Residential District

“As I understand your concern, the issue deals with the necessity to have a permit to put up an inflatable sign within a residential district. Inflatable sign arguably including inflatable Santa Claus’, etc. As I previously advised, I do not believe that such devices fall within the definition of signs, which include basically any device, which is intended or used to attract attention to any object, product, place, activity, person, institution, organization or business. I think the Christmas displays, Halloween displays, etc. are simply that, displays to celebrate the holiday, not intended to attract attention to the person’s home or activity in the home, etc.”

Chair Strogin stated if someone has an inflatable Santa up on their front lawn, they are celebrating Christmas; they are not inviting you into their home to purchase a product. Mr. Doraty interjected that was Chair Strogin’s opinion and he did not agree.

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Chair Strogin stated conversely, if someone had an inflatable cupcake on their lawn and were running a pastry business out of their home that would be considered a sign because it was advertising a service or product on the premises

Mr. Doraty stated he wanted to know why 3,500 inflatable Santa Claus' within the Township would be acceptable but not one inflatable or ten inflatables at a business? He continued, what if 3500 people decided to go to Wal-Mart and purchase and put up an inflatable? Why would that be acceptable to the Commission and not clutter up the Township?

Chair Strogin stated an inflatable such as that described is a decoration celebrating a holiday and not a sign. It is not promoting a product, business or service.

Mr. Doraty stated he needed to know why every resident in the Township could have a 14 ft. tall inflatable in their front yard and the Commission would not think that was cluttering up the Township?

Chair Strogin repeated herself saying that an inflatable to celebrate the holidays in a residential district is not a sign. The ones the Township is concerned about are those that would be considered signs. Mr. Doraty continued the same line of questioning over and over asking Chair Strogin if she thought inflatables in a residential district would not clutter the Township but would be considered clutter in the commercial district?

Mr. Doraty then mentioned the picture Chair Strogin presented showing all the businesses on Rt. 18 having an inflatable. Chair Strogin stated there was such a picture to demonstrate to the public what multiple inflatables would look like and that needed to be considered.

Mr. Kraus (4213 Monterey Dr.) stated zoning only applies to subjects addressed in the code. Should an inflatable sign become a nuisance or obscenity it is possible to modify the code so that limitations could be imposed on those kinds of residential displays if that became necessary.

Mr. Jim Traynor (4004 Remsen Rd.) asked if it were true that if inflatable signs were approved in the commercial district the Township had no control over the content of the sign? Chair Strogin stated that was correct. That is the issue with content neutrality. She added the Township can not control what message is placed on a sign. The manufacturer of inflatable signs located in Brunswick City has stated under oath that he has made a 60 ft. tall penis inflatable and 400 ft. long pile of poop for a customer. Chair Strogin added the reason she revealed this information is that if someone wants to pay the money, the balloon will be made. That is something that always must be considered. You hope for the best but zone for the worst potential situation.

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Mr. Chris Traynor (4004 Remsen Rd.) asked if a consensus for inflatable signs on Rt. 18 was ever asked of the Townships and City that would be affected? If not, could that be done? Chair Strogan stated that none of the Townships currently allow this type of signage, nor does the City of Medina. The previous discussion and decision about signage that affects the various communities that come together on Rt. 18 was done several years ago. The reason that was done was to prevent a business saying, "well I can have x type of sign in the other community so I will just go there." The decision was to have a uniform sign code between those communities so the decision to go to a certain community would be based on availability and cost of the land and other such factors.

Chair Strogan stated Montville Twp. revised and updated their zoning code a few years ago and their code does not permitted inflatable signage. She added the Commission could get feedback from the other communities to see what their ideology is about inflatable signs.

Mr. Kraus (4123 Monterey Dr.) commended the Commission for their work on this subject. He commented that there is the potential to go too far either way on such signs and it seemed to him what is proposed is a reasonable compromise.

Mr. Reed (5100 Brompton Dr.) stated he has worked with Medina Township for the past 12 yrs. He respected the quality of work and the image that has been created in the Township. It is unlike any other image he has seen in any other community he has developed in. He added when he developed Waterford Village Apt. and the office building at 4000 Carrick Place, there was very meticulous landscaping, architectural and signage requirements that needed to be followed. The end results are very beautiful project and commercial designs in the Township.

Mr. Reed continued that he was very surprised the Township was even entertaining the idea of permitting inflatable signage. It seemed contrary to the image of the Township. This is one of the reasons he decided to develop in Medina Township as he found this area to be one of the most attractive in northeast Ohio. Mr. Reed stated when he drove in today he saw an orange dinosaur on top of the car dealership and it seemed tacky to him. The Rt. 18 corridor is gateway into several communities and he wondered why this type sign would be considered as it was his opinion to allow such signs denigrated all the work the Township has done to create an attractive image for development. Who is this benefitting-the community or an individual?

Mr. Doraty stated he would like to rebut Mr. Reed's comments. He stated, yes, this type of signage does benefit the community. There are a lot of jobs at 2925 Medina Rd. Mr. Doraty stated they get hundreds of compliments on the inflatables every month. Touching stories as to the joy the inflatables bring to children. A lot of tax money is generated from 2925 Medina Rd. A lot of people spend money in this community that work at the dealership. There has not been one health or safety issue mentioned since having the inflatables up at the dealership that the Township Trustees approved. Chair Strogan

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interjected that those signs were not approved legally. Mr. Doraty continued from an aesthetic standpoint, there is gambling in the Township now with an electronic casino. There are empty buildings at 71 and Rt. 18 so he stated he did not see all this beauty and luster in the Intensive Business District.

Mr. Overmyer stated for the record that these proposed amendments were not initiated by the Zoning Commission. The Commission was requested by the Township Trustees to come up with draft language on inflatable signs. The Commission is an advisory board and the final decision will be made by the Trustees. It is possible that the Commission has spent all this time and effort on this draft language and the recommendation of the Commission may be to prohibit inflatables entirely.

Mr. Kuenzer stated regarding the Internet Sweepstakes Mr. Doraty mentioned, the State of Ohio permits these types of establishments at this time. However these types of businesses are being discussed down in Columbus and that determination may change. The Township has no control over this type of establishment. The powers of the Township are very limited in nature.

Chair Strogina stated yes, the dealership that has the inflatable on the roof does bring in revenue and employment to the Township but so do the other 350 businesses in the Township that do not have inflatable signs including the other car dealerships in the Township. These businesses bring in money into the community and employment opportunities as well and do not have inflatables.

Mr. Gallo (3503 Hamilton Rd.) asked, if we cut one business owner slack for signage when does it stop? Why do we then have regulations? If they are not going to be followed and enforced then the regulations should be thrown in the garbage and let everybody do what they want.

Chair Strogina called for any one to speak who had not had the opportunity to do so. There was no response. She then closed public comment for the evening and addressed the Commission. Chair Strogina recommended the public hearing be continued to a specific date and time to be able to have time to go over the recommendations of the MCPC and the comments made this evening.

The Commission discussed setting a special date to continue this public hearing. This would be the only item on the agenda.

Ms. Szunyog made a motion to continue the public hearing on the proposed text amendments until May 7, 2013 at 7:30 p.m. with regular meeting to follow. It was seconded by Mr. Apana.

ROLL CALL- Szunyog-yes, Apana-yes Overmyer-yes, Kuenzer-yes, Strogina-yes.

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The public hearing was recessed at 7:55 p.m.

Respectfully,

Kim Ferencz, Zoning Secretary

Alliss Strogan, Chairperson