

**MEDINA TOWNSHIP
BOARD OF ZONING APPEALS
PUBLIC HEARING
AUGUST 15, 2007**

PUBLIC HEARING

Chair Morel called the public hearing of the Medina Township Board of Zoning Appeals to order at 7:35 p.m. All Board members were present. Alternate member Steve Euse was also in attendance. Chair Morel introduced the Board members and explained the public hearing procedure to those present.

Wal-Mart SuperCenter-4141 Pearl Rd.

Chair Morel reviewed the file. Secretary Ferencz read the application. The applicant is Russell A. Henestofel, EMH&T; Inc. represented the property owner, Wal-Mart Real Estate Business Trust. Present Zoning: BI. Previous variance requests-2/92 and 3/92. The variation requested stated, "We request a variance be granted to Section 406.3 D.1. (c) From 30' to 0' for the northern property line adjacent to the proposed building expansion. A previous variance was granted to allow a 1' building setback during the future expansion. The reason for the variance requested stated as follows:

With the existing code, the existing building could not be expanded to offer more services such as grocery related items. This variance is consistent with the north side of the Kohl's building against Hobby Lobby, Petco and Medina Library (formerly DIY). This variance will increase the aesthetic look of the shopping center by allowing the building to be connected.

Mr. Henestoffel from EMH & T and Mr. Osagie from Larry D. Craig Architects represented Wal-Mart. The two applicants were sworn in. Mr. Henestoffel stated that Wal-Mart was expanding to add grocery items and become a Wal-Mart Super Center. In order to do that, they would need to encroach closer on the Kohl's property line. For the full expansion and the building separation to occur they would end up purchasing 20-25 ft. of Kohl's property and expanding the Wal-Mart building all the way to that property and creating an egress corridor attached to the Kohl's building which will make a total connection of buildings in the shopping center. The result will be that the exterior will look like one continuous building from Petco to Wal-Mart.

Mr. Becker asked if all the businesses would access one another internally as well. Mr. Henestoffel stated no. The corridor was for emergency egress only and could be accessed from within Kohl's only. Mr. Henestoffel continued that in 1992 a variance was granted to allow Wal-Mart future expansion up to one foot of the property line on the north side. The variance before the Board this evening was to have a 0' lot line so the buildings could be connected.

Mrs. Strogin, Chair of the Zoning Commission was sworn in. She stated that Fire Chief Crumley could not be present this evening but commented because there would be fire walls and both businesses were fire suppressed he did not object to granting this variance

request. She added that there were previous variances granted for Kohl's and the former DIY to have a 0' lot line.

Trustee Huffman was sworn in. She stated that Fire Chief Crumley told her he submitted a letter to the Board that should be read into the record. Secretary Ferencz read the following letter from Fire Chief Crumley dated August 14, 2007:

Dear BZA,

On your agenda for August 15, 2007 are two variance requests, one for Wal-Mart Super Center and one for Kohl's. I believe one of the items on the variances is the concern of no lot line between the two structures if a variance is granted.

I would like to make the Board aware that both of these buildings are fully suppressed with automatic fire sprinkler systems and that the walls between the two buildings will be constructed with 8-inch concrete block which will provide between a 3 to 4 hour fire rating. With this in mind, the Medina Twp. Fire Dept. has no objection in granting a variance of a zero lot line.

The Board then reviewed the Duncan Factors.

1. Will the property yield a reasonable return or a beneficial use without the variance request? The Board stated yes.
2. Is the variance substantial? The Board stated yes.
3. Whether the essential character of the neighborhood would be substantially altered or adjoining property owners suffer a substantial detriment if the variance is granted? The Board stated no.
4. Will the granting of the variance adversely affect the delivery of governmental services? The Board stated no.
5. Did the property owner purchase the property with the knowledge of the zoning restrictions? The Board stated yes.
6. Whether the problem can be solved by some other manner other than the granting of the variance? The Board stated possibly.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board stated yes.

Mrs. Karson made a motion to grant a 0' lot line for the northern property line adjacent to the proposed building expansion for Wal-Mart to be converted into a Wal-Mart Super Center located at 4141 Pearl Rd. It was second by Mr. West.

ROLL CALL-Karson=yes, West=yes, Dufala=yes, Becker=yes, Morel=yes.

Kohl's variance request-4095 Pearl Rd.

Chair Morel reviewed the file. Secretary Ferencz read the application. The applicant is Russell A. Henestofel, EMH&T, Inc. represented the property owner, Kohl's Dept. Stores, Inc. Present Zoning:BI. Previous variance requests-10/95. The variation requested stated, "We request a variance be granted to Section 406.3 D.1.(c) from 30' to 0' for the

southern property line adjacent to the existing building/proposed egress corridor. The reason for the variance stated, Per the existing code, the proposed egress corridor and land sale to Wal-Mart for their expansion of the existing business to a Super Center could not occur.

The variance is consistent with the north side of the Kohl's building against Hobby Lobby, Petco & Medina Library (Formerly DIY).

This variance will increase the aesthetic look of the shopping center by allowing the building to be connected. This variance also allows the then required egress corridor to be constructed.

Mr. Henestoffel from EMH & T and Mr. Osagie represented Kohl's Dept. store. Chair Morel stated that this was the same variance request that was just heard for Wal-Mart but now for Kohl's.

The Board then reviewed the Duncan Factors.

1. Will the property yield a reasonable return or a beneficial use without the variance request? The Board stated yes.
2. Is the variance substantial? The Board stated yes.
3. Whether the essential character of the neighborhood would be substantially altered or adjoining property owners suffer a substantial detriment if the variance is granted? The Board stated no.
4. Will the granting of the variance adversely affect the delivery of governmental services? The Board stated no.
5. Did the property owner purchase the property with the knowledge of the zoning restrictions? The Board stated yes.
6. Whether the problem can be solved by some other manner other than the granting of the variance? The Board stated possibly.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board stated yes

Mrs. Karson made a motion to grant a 0' lot line variance for Kohl's on the south property line for the purpose of an emergency corridor only. It was second by Mr. Dufala. ROLL CALL-Karson-yes, Dufala-yes, Becker-yes, West-yes, Morel-yes.

Wal-Mart Super Center sign variance requests-4141 Pearl Rd.

Chair Morel reviewed the file. Secretary Ferencz read the application. Chair Morel reviewed the file. Secretary Ferencz read the application. The applicant is Russell A. Henestofel, EMH&T, Inc. represented the property owner, Wal-Mart Real Estate Business Trust. Present Zoning: BI. Previous variance requests-2/92 and 3/92.

The variation requested stated, only 354-sq. ft. of the signage is allowed by previous variance granted on 2/5/92. The store currently has 637.45-sq. ft. of wall signs. This store will be increasing in size and will be adding additional services such as a grocery. We

request a variance to be granted to Section 605 I.1. from 80 sq. ft. to 1,029 sq. ft. per attached exhibit A.2.2. The explanation for the variance stated:

536'-6" Lineal Feet-Building Length New

380'-0" Lineal Feet-Existing Building

662'-6" Setback from the Street

Additional signage is needed for directional signage into building.

The building is also 662'-6" away from the street.

Mr. Russell Henestoffel from EMH & T and Mr. Osagie from Larry D. Craig Architects represented Wal-Mart. Chair Morel asked the applicants how Wal-Mart ended up with twice the signage that the Board authorized. Mr. Osagie stated the 600+ sq. footage was just by looking at the signage from the ground. They did not put a scale to it. The signage prototypes can be fit to different sizes. Mr. Becker stated there was 300+ more square footage that was authorized. He added that the Township didn't catch it either and that is a shame and felt that Wal-Mart just took it upon themselves and put up the signage.

Mr. Dufala stated Wal-Mart currently had 4 ½ times the signage they were supposed to have and he did not want to see anymore signage. Chair Morel stated that 354-sq. ft. was what was authorized. Mr. Dufala asked if there were permits for any of this signage i.e. above the tire shop. ZI Ridgely stated there have been so many different managers over the years... There are permits for some of the signs but it has been hard to assess the entire amount of signage on Wal-Mart currently.

Chair Morel stated that the Board is going to come up with a total square signage packet for Wal-Mart and that will be that. The Board is not going to state what signs are permitted, just a total square footage for the signage that will be permitted for Wal-Mart as a whole.

Mr. Becker stated he did not see the reason for all the extra proposed signage such as Grocery-deli, bakery, etc. Everyone knows that Wal-Mart sells all different types of merchandise. Mr. Osagie stated they were requesting the extra signage to distinguish the two main areas of a Wal-Mart Super Center; that being the retail from the grocery to let a customer know what vestibule to enter into.

Chair Morel stated that a 1,000 sq. ft. of signage was extreme. Mrs. Strogina stated that Wal-Mart has signage on the south side for the Tire and Lube area, and signage on the west side. Because of the complexity and size of the store, the BZA previously granted a variance for 354 sq. ft. of signage for Wal-Mart to divide up however it wanted but that was the total square footage permitted. She added that Wal-Mart had the word "Food" on the door that would be going into the grocery area to direct one to that section of the store. The "Always" sign was almost 300 sq. ft. and the "We sell for Less" sign was probably not necessary either.

Chair Morel stated that Wal-Mart has approximately 140,000 sq. ft. that is existing which had 354 sq. ft. of signage granted. The question is, Wal-Mart would be adding 48,000 sq. ft. to become a Super Center and is 354 sq. ft. of signage appropriate still for the size of the building.

Mr. West stated that the Resolution stated that 80 sq. ft. is the maximum amount of signage a business could have. A variance was granted previously and added he was sure given the amount granted (354 sq. ft.) that the size of the building was taken into consideration. Even that amount of signage was 4x times what the code permitted. Now Wal-Mart was 1,029 sq. ft. of signage and that was excessive. Mr. West then asked, was the Board here to negotiate a square footage with the representatives from Wal-Mart? Mr. Henestoffel interjected, why don't we say 500 sq. ft. will be permitted, and the excess signage will be removed when Wal-Mart does the expansion.

Chair Morel stated he believed that 450-475 sq. ft. of total signage should be appropriate given the expansion of the building. Mr. West stated his concern was that if the Board granted such a figure, that Wal-Mart would be back in front of the Board stating that they could not make the signs fit that number. He added he felt that Wal-Mart should bring the exact number of square footage to the Board and a 1,000 sq. ft. was not acceptable.

Chair Morel stated that if the Board determined a number they would not have to hear another variance request by Wal-Mart if it was asking for the same request. Mr. Dufala stated a time limit needed to be put in the motion for the excess signage to be removed.

Mr. Henestoffel stated that 500 sq. ft. was acceptable. Chair Morel stated that the signage should be calculated proportionally based on the size of the building. Based on the square footage 450-475 sq. ft. total signage was adequate. Mr. Henestoffel stated that even if they did that the wording of the signs would show because the building was recently painted. The Board stated the building could be painted again.

Mr. Osagie asked if there was a maximum number of directional signs permitted. Mrs. Strogin stated that directional signs could be no larger than 4 sq. ft. The number is determined at the discretion of the Zoning Commission. Mr. Osagie stated he asked because the signs over the TLE doors were less than 4 sq. ft. right now. In their actual square footage they did include those signs. Mrs. Strogin stated that directional signs on the building were permitted but that is why the Zoning Commission wants to see them to make sure those signs were truly directional in nature and how many signs were being requested.

Mr. West made a motion to rescind the previous sign variance granted to Wal-Mart on 2/5/92 for 354-sq. ft. of total signage on the building for Wal-Mart. It was second by Mr. Dufala.

ROLL CALL-West-yes, Dufala-yes, Becker-yes, Karson-yes, Morel-yes

Mr. West made a motion to approve a sign variance of 475 sq. ft. of total signage on the building for the Wal-Mart Super Center located at 4141 Pearl Rd. The amount of signage currently on the building over 475-sq. ft. total must be removed within 30 days. It was second by Mr. Dufala.

ROLL CALL-West-yes, Dufala-yes, Becker-yes, Karson-yes, Morel-yes.

MISC.

Usher variance request-5311 Chaucer Dr.

Trustee Huffman asked the Board if the BZA could revisit their decision on variance granted for Canterbury Pointe. The variance needs to state that the residents can have two (2) eight (8) foot sections of privacy fence no more than six (6) feet in height and not to exceed one foot from the concrete of the existing patio.

The current variance does not state a length for the fence just "one foot from the existing concrete patio" so we are getting requests for fences 12 ft. by 14 ft. and we want to anticipate all sizes of fence requests.

Secretary Ferencz stated that at the BZA hearing in July, Mr. Dufala made a motion to grant a blanket variance for two privacy fence sections not to exceed 6 ft. in height and the length not to exceed 1 ft. from the concrete of the existing patio for the property owners in Canterbury Pointe. It was seconded by Mrs. Karson.

All Board members voted in the affirmative.

In order to reference the length, the following motion was made to clarify the blanket variance granted to Canterbury Pointe:

Mr. Dufala made a motion to grant a blanket variance for two privacy fence sections not to exceed 6 ft. in height and 8 ft. in length not to be placed no further than 1 ft. from the concrete of the existing patio for the property owners in Canterbury Pointe. It was seconded by Mrs. Karson.

ROLL CALL- Dufala-yes, Karson-yes, Becker-yes, West-abstain-yes, Morel-yes.

McAfee variance request (3868 Boxelder Dr.)

The Zoning Dept. received a letter dated July 30, 2007 regarding the above variance request. The letter stated the following:

"We were approved for a deck that the builder put onto our house when the home was built in 1994. But, however we were not approved for the 24-foot pool that was installed for the first scheduled zoning meeting. (Not imagining it would not be approved.) We were approved for an 18-ft. pool to be installed. Upon contacting Lighthouse Pools (where we purchased the pool) they will not take it back. So we in turn have to sell it out right. No one is interested in it at this time. We do not have the cash on hand to purchase the 18-ft. and store the 24-ft. pool anywhere on our property. And in the end of August

we were planning on a backyard wedding and would not want the yard any more torn up then it is.

Is there anyway we can have an extension until the next session (spring) to tear down the existing pool and installing new pool. The cost to tear down the pool is \$600.”

Chair Morel stated that no one was buying a pool now with school approaching and could agree to a time extension. Mrs. Karson agreed, but added that the pool would have to come down regardless if the applicant buys another pool. Mr. Becker stated he wanted a definitive time-frame as to when the pool has to be taken down by. Mr. Dufala agreed. The Zoning Inspectors will have to make sure this is followed through.

Mr. Dufala clarified the time frame for the removal of the pool as follows:

Mr. Dufala made a motion to allow the existing 24 ft. pool located 3868 Boxelder Dr. (Victoria McAfee) to be removed no later than May 31, 2008 regardless if the 18 ft. pool is installed. It was second by Mrs. Karson.

ROLL-Dufala-yes, Karson-yes, Becker-yes, West-no, Morel-yes.

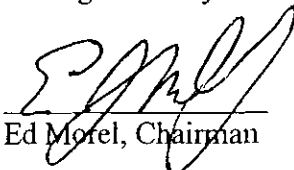
Minutes

The minutes to the BZA's June 20, 2007 hearing were approved as written. The minutes to the BZA's July 18, 2007 hearing were approved as written.

Having no further business before the Board, the hearing of Board of Zoning Appeals was officially adjourned at 8:35 p.m.

Respectfully Submitted,

Kim Ferencz
Zoning Secretary


Ed Morel, Chairman

