

**MEDINA TOWNSHIP
BOARD OF ZONING APPEALS
PUBLIC HEARING
AUGUST 18, 2010**

Chair Morel called the public hearing of the Medina Township Board of Zoning Appeals to order at 7:35 p.m. Board members Morel, Becker, West and DeMichael were present. Alternate Board member Linda De Hoff was also in attendance as well as alternate member Mike Stopa. Ms. DeHoff sat in for a full Board due to the absent of Mrs. Karson. Chair Morel introduced the Board members and explained the public hearing procedure to those present.

VARIANCES

Chair Morel stated there were three variance requests by the applicant Applebee's and asked that Secretary Ferencz read each application and then the applicant would be sworn in and asked to testify.

Applebee's sign variance request(s)-4115 Pearl Rd.

First application: Chair Morel reviewed the application. The applicant is Apple Ohio, LLC. The owners are Ronald A. Seldley and Rita Katz c/o D & N Real Estate Holdings, Inc. The property requiring the variance-4115 Pearl Rd. Present Zoning-BI. Previous Requests-No. Variation Requested: Variance to allow replacement of awnings to include apple designs-per the corporate prototypical design. The apple designs add depth to the awnings and the façade. One wall sign is permitted. Section 605 I.3. Requesting 3 awning logo signs at 18.55 sq. ft. each. 55 sq. ft. total. Reasons for the variance request: In trying to compete with surrounding restaurants, we need to update our restaurant's appearance to be as attractive as the surrounding restaurants. The Panera, located next to us not only has their corporate image "wheat" on their awnings but they also have included wording on their awnings. Also, the new prototype for Applebee's restaurants includes the apple symbols on the awnings as part of our corporate branding. Granting of this variance will not be detrimental to the public interest nor will it materially impair the purpose of the Resolution as the apple symbols are subtle and attractive.

Second application: The applicant is Apple Ohio, LLC. The owners are Ronald A. Seldley and Rita Katz c/o D & N Real Estate Holdings, Inc. The property requiring the variance-4115 Pearl Rd. Present Zoning-BI. Previous Requests-No. Variation Requested: Section 605.I.1. One wall sign is permitted; request 1 wall sign facing north and one facing west. We are requesting a variance to include two 68"x 8.4" "Welcome Back" signs above the entrance doors to the restaurant. These signs are located on 2 different sides of the building. These signs are used to create a goodwill with our customers and as part of our corporate slogan "Welcome to the Neighborhood."

Third application: Chair Morel reviewed the application. The applicant is Apple Ohio, LLC. The owners are Ronald A. Seldley and Rita Katz c/o D & N Real Estate Holdings,

Inc. The property requiring the variance-4115 Pearl Rd. Present Zoning-BI. Previous Requests-No. Variation requested. Section 605.I.1. Variance requested to allow a second sign on the front of the building. Originally, the building wall signage including both the "Applebee's" sign and the "Neighborhood Grill and Bar" sign. The new corporate prototype requires that the portion of the sign be moved over the entrance, leaving the "Neighborhood Grill and Bar" as a separate sign. The sign would be 19'8" x 1'4.5" for a total of 27.04 sq. ft. The explanation for the variance request: The Applebee's slogan is "Welcome to the Neighborhood" which ties into our building signage with the "Neighborhood Grill and Bar." We will be reusing the existing "Neighborhood Grill and Bar" signage, and the size of the new Applebee's sign will remain the same; therefore we are not increasing the total square footage of the signage on the building, just separating parts of the sign. Because we are not installing additional signage, granting this variance will not cause detriment to the public interest or the property or improvements in the district, nor will it materially impair the purpose of the Resolution.

The applicant, Mr. Patrick Eulberg from Apple Ohio, LLC representing the property owners and Applebee's restaurant was sworn in. Mr. Eulberg stated Applebee's was in the process of upgrading the exterior look of their restaurants. The Medina Applebee's was built in 1995/96. The style was a greenhouse roof, red building, stripped awnings and the apple logo. With the new reimagining program the focus now is signage, colors and textures. He added that when somebody drives past an Applebee's the corporation wants them to notice these differences. In the past remodeling has always focused on the interior. That would also be done but now the exterior was the first focus of the reimagining program, which would be done for the entire Applebee's brand.

Mr. Eulberg continued that one of the main elements of the reimagining program is the stone tower and showed an example of an Applebee's that had been remodeled in Plainfield, Indiana. The second element is the canopy. Like the existing awnings the purpose is to keep the elements off the customers as they come in the front door. On the front and side of the building the canopy is solid to keep the rain and snow off customers. The extension over the greenhouse side of the building is actually a pergola that was open to the sky so light can come in. The third and last exterior element is the apple shadows on the awnings themselves. Mr. Eulberg stated that in order to be able to put up the apple shadow awnings on the Plainfield, Indiana Applebee's a variance was sought and granted. Mr. Eulberg reiterated the reason for the reimagining of the Applebee's brand was for potential customers to notice something different about the exterior and then want to come and patronize the restaurant.

Mr. Eulberg continued that regarding signage, he was before the BZA this evening to request two wall signs that say "Welcome Back" to be placed above each entry door. Each sign consists of 2.85 sq. ft. and were relatively benign in nature. Mr. Eulberg stated that the two "Welcome Back" signs were the only new signage that was being proposed as part of the reimagining campaign.

Regarding the apple shadows on the awnings, Mr. Eulberg stated they served two purposes. One, it was another means to continue the new branding of Applebee's and two they add architectural integrity to the outside of the building instead of just blank awnings. The apple shadow was very subtle and blended in well with the rest of the rebranding elements. Mr. Eulberg commented on the existence of the wheat logo and wording currently existing on Panera Bread's awnings. He added it appeared that precedent had been set to allow such images on awnings if requested. Next, Mr. Eulberg stated he was requesting the wording "Applebee's" to be moved onto the tower itself and the wording "Neighborhood Grill and Bar" would remain on the front and sides of the building.

Mrs. Strogan, Chair of the Zoning Commission was sworn in. She stated under the current zoning, logos were considered signage. Chair Morel asked about the signs on Panera's awnings? ZI Ridgely stated Panera's signage was illegal and it would have to be addressed. Mr. Eulberg stated in terms of the requests before the Board this evening, the "Welcome Back" signs had the least impact for the reimagining of the Applebee's brand. Mr. Eulberg continued that he realized the shadow apple logos were signs, but stated they added architectural integrity and were subtle in nature. Regarding the request to move the Applebee's name to the tower all they did was propose to move a word but that it did not change the size of the overall signage.

Chair Morel stated the Board used the Duncan Factors to consider variance requests. It was a weighing of those 7 factors to determine if a variance should be granted or denied. The Board had to consider the quantity and size of the variance request(s) and if the granting of the variance would alter the character of the neighborhood.

Chair Morel stated the location of Applebee's in an outlot in front of Wal-Mart was a prime location for the restaurant not only in Medina Township but for the City of Medina as well. He added he understood the reimagining and rebranded of Applebee's but all these issues needed to be taken into consideration.

Chair Morel continued that he did not see the necessity for the two "Welcome Back" signs and felt they were an unnecessary frill. The logos on Panera's awnings were illegal and he felt to allow them was slippery slope for this Board and the Township. Lastly Chair Morel stated he had no issues with the moving of the word Applebee's to the tower as it did not change the overall square footage of the signage permitted. Mr. Eulberg responded that he did not know that Panera did not get approval for their awning signage.

Mr. Becker stated he agreed with Chair Morel and commented that the awnings should be plain red with no apple shadow logos. Mr. Becker stated in his personal opinion, if you asked customers who patronize Applebee's about the signage he would guarantee no one would remember the signage.

Mr. DeMichael stated he agreed the apple logos on awnings were additional signage and should not be granted. He added he did not have any issues with the two small “Welcome Back” signs or the moving of the word Applebee’s on the tower.

Mrs. DeHoff stated she did not want to see the shadow apples on the awnings as they were considered additional signage and added that the “Welcome Back” signs were not a necessity. Third, she stated she had no issue with the moving of the Applebee’s name to the tower.

Mr. West stated he agreed with Mrs. DeHoff but commented he kind of liked the awnings but was reluctant to approve that variance especially due to the fact that could potentially open up the Township to other similar requests. He added he was not in favor of the “Welcome Back” signs as they were unnecessary. Mr. West concluded, like the rest of the board that he had no issue with moving the Applebee’s name to the tower and felt it was an improvement.

Mrs. DeHoff asked if corporate ever took into consideration the regulations of the communities when considering a reimaging? Mr. Eulberg stated realistically with all the locations that Applebee’s had it would be nearly impossible to take such a large number of regulations into complete consideration.

Mrs. Strogin clarified the wording “Applebee’s” on the tower was already approved by the Zoning Commission. What the BZA is to consider was the “Neighborhood Grill and Bar”.

The Board reviewed the Duncan Factors regarding the request to allow replacement of awnings to include apple designs per the corporate prototypical design. One wall sign is permitted per Section 605 I.3. The request was for 3 awning logo signs at 18.55 sq. ft. each. 55 sq. ft. total.

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 if the variance were granted, then every business was going to put logos on their awnings. Therefore it will affect the attractive signage rules of Medina Township.
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 the reimaging could still take place with the tower and

different color awnings as well as interior renovations there would just not be shadow apple logos on the awnings.

7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board stated they did not think the variance was necessary in this case.

Mr. West made a motion to deny variance request #1 for shadow apple logos to be placed on the awnings for Applebee's located at 4115 Pearl Rd. as presented. It was seconded by Mr. Becker.

ROLL CALL- West-yes, Becker-yes, DeMichael-yes, DeHoff-yes, Morel-yes.

The variance request was denied.

The Board then reviewed the Duncan Factors for the variance request for two 68"x 8.4" additional wall signs with the wording "Welcome Back" to be placed above the entrance doors to the restaurant.

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 it was two additional signs.
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 this too would be another variance other business would ask for.
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 yes. These signs are trying to solve a potential problem where there isn't one. Customers will return to Applebee's if they like the food and service.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board stated the intent of signage was to be minimal and this signage is not necessary.

Mr. Becker made a motion to deny variance request #2 for two 68"x 8.4" "Welcome Back" signs to be placed above the entrance doors to the restaurant for Applebee's located at 4115 Pearl Rd. as presented. It was seconded by Mr. West.

ROLL CALL-Becker-yes, West-yes, DeMichael-yes, DeHoff-yes, Morel-yes.

The Board reviewed the Duncan Factors for variance quest #3 for a second sign to place the wording "Applebee's" (30 sq. ft.) on the tower and to leave the "Neighborhood Grill

and Bar as a separate sign. (27.04 sq. ft.) for a total square footage of 57.04 sq. ft. The linear frontage of the building is 59 ft.

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 it was 100% to allow for a second sign.
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 because it was the same square footage just divided into two signs which was not excessive.
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 they could keep all the wording together but it was more aesthetically pleasing to separate the words with the addition of the tower.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board stated yes.

Mr. West made a motion to grant variance request #3 to allow Applebee's located at 4115 Pearl Rd. to have an additional wall sign on the front of the building. There will now be two signs i.e. the wording "Applebee's" to consist of 30 sq. ft. and the existing "Neighborhood Grill and Bar" sign to consist of 27.04 sq. ft. The total square footage of the signage not to exceed 57.04-sq. ft. as presented. It was seconded by Mr. Becker. ROLL CALL-West-yes, Becker-yes, DeHoff, DeMichael-yes, Morel-yes.

The variance request was approved.

MISC.

Mr. West asked ZI Ridgely what was the next step when a permanent injunction of a variance has been issued by the Court ordering the homeowner to cease and desist the variance i.e. (swimming pool). ZI Ridgely stated she spoke with the Pros. Office and the home was going through foreclosure. Mr. West stated the house was no longer going through foreclosure. The order to go to Sheriff's sale on July 22, 2010 was vacated as the plaintiff and the borrower are in the process of negotiating a loss mitigation agreement. ZI Ridgely stated she was follow up with the Pros. Office as to the next course of action. Mr. West he would appreciate a follow up on this matter.

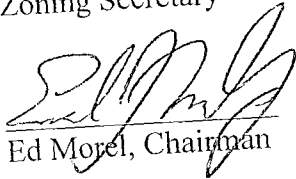
The minutes from the Board's July 21, 2010 meeting were approved as written. Secretary Ferencz also read a letter from Gemstar Properties acknowledging the courtesy, diligence and professionalism of ZI Ridgely.

Page 7 BZA 8/18/2010

Having no further business before the Board, the hearing of Board of Zoning Appeals was officially adjourned at 8:30 p.m.

Respectfully Submitted,

Kim Ferencz
Zoning Secretary



Ed Morel, Chairman