

**MEDINA TOWNSHIP
ZONING BOARD OF APPEALS
PUBLIC HEARING
October 17, 2018**

Chairperson Morel called the public hearing of the Medina Township Board of Zoning Appeals to order at 7:00 p.m. Permanent Board members Blakemore, Basilone, West and Morel were in attendance. Permanent Board member Gray was absent.

PUBLIC HEARING

Chair Morel explained the procedures for the hearing. He stated that there were only 4 Board members present this evening. The applicants have a right to be heard in front of a full, 5-member Board. A tie vote is a no vote. Therefore if any of the applicants want to table their requests they could do so and be heard at a later date with a full Board. Mr. Russell and Ms. Noble both moved forward with their variance requests.

Brian Russell variance request-026-06C-08-148

Secretary Ferencz read the application into the record. The applicant is Brian Russell. The owner of the property is Ken Cleveland. Address of the property requiring the variance-PP# 026-06C-08-148 Present Zoning-BI Previous variance request(s)-Yes.

Variance being requested & Explanation of Requested Variances:
Section 406.3C Front Yard Setback-80 ft.

Asking for variance same as one current business and less than three others. Half of land not buildable, stated on plat. Township minutes state setback less than asking for. Current owner stated 50 ft. setback, was developer, clearly agree no outdoor storage, parking or fences, mounding and landscape greatly reduce building visibility. No additional building/structures to be added later.

Attached was a document dated 9-27-18 which read,

2nd request for variance

Requested due to previously discussed conditions and significant changes.

The south property setback would be 60' or a 20' variance.

The east property setback would be 66' or a 14' variance.

The east building width would be reduced from 85' to 65' wide including a reduction in overall building height

All buildings would be reduced in length from 245' to 235'

The building visibility from Stonegate and Jefferson St. will be minimal due to increased mound height and landscaping.

Chair Morel stated the first thing the Board would need to do is decide if this second request was substantially different than the first. Secretary Ferencz interjected that she too questioned if it would be considered res judicata and asked ZI Ridgely to ask the Prosecutor's Office their legal opinion.

ZI Ridgely was sworn in and stated yes, the opinion of the Prosecutor's Office was that the new requests were substantially different and therefore not considered res judicata so the Board could move forward with hearing the variance request.

Chair Morel stated he would also like the Board members to consider if this second request for variances were substantially different. The original requests were for 30 ft. front yard setbacks variances on Jefferson St. and Stonegate Drive to build 3 storage buildings. The new request is for the south property setback (Stonegate Drive) to be 60' or a 20' variance. The new request is for the east property setback (Jefferson St.) to be 66' or a 14' variance. The east building width would be reduced from 85' to 65' wide including a reduction in overall building height. All buildings would be reduced in length from 245' to 235'. The building visibility from Stonegate and Jefferson St. will be minimal due to increased mound height and landscaping.

Mr. Bruce Christopher (4160 Monterey Dr.) was sworn in. He asked if the Duncan Factors were going to be used to consider the variance request. Mr. West stated yes, but that is not the only standards the Board can consider. There can be other factors that can be considered as well.

Chair Morel asked what the reduction is now in the buildings square footage.

Mr. Basilone stated the original square footage was 20,820 sq. ft. The "new" request is for 15,275 sq. ft. This is a difference of 5,550 sq. ft. or a 25% reduction in square footage. The Board members stated they felt these were significant changes and moved forward with the hearing.

The applicant, Mr. Brian Russell was sworn in. He stated he reduced the height, width and length of the proposed buildings. The mounds and landscaping would be increased so there will be very little visibility on Stonegate Dr., which was a concern of the HOA of Stonegate. Regarding the traffic; there are rarely more than 2 or 3 cars at the storage unit buildings at one time.

Mr. Russell continued the lighting would be LED lighting with zero foot-candles so that should not be an issue either. He added he knew the homeowners in the Stonegate were notified of the variance requests though they were not contiguous property owners. The letter did not of course show the buildings, layout of the property, lighting or construction materials so he understood the concern. Mr. Russell stated there will be no doors on Stonegate just strictly window shutters with a brick veneer in the Western Reserve

architectural style. The hours would be limited. The storage facility would be open 7am to 8 pm.

Mr. Russell continued that regarding the Boards concern last month about him expanding on the property; yes there are five acres but because of the ravine it would be cost prohibitive for him to do so. The plot plan even states it's a water retention area and is not buildable even if he could afford to fill in the ravine.

Regarding outdoor storage of vehicles, boats, RV's etc., Mr. Russell stated there will be no outdoor storage or parking. He would not allow it and the code does not allow it. The property would also not be fenced in as all the trash and garbage collect in that area. There would be a gate and a keypad for those to be able to enter/exit the area.

Mr. Russell then went through the Duncan Factors.

1. Will the property yield a reasonable return without the variance and or whether there is a beneficial use without the variance request? At the last hearing the Board stated yes. Mr. Russell stated his previous request was going from an 80 ft. setback to a 50 ft. setback for the buildings. That is a 24% reduction, which was significant. Mr. Russell said he assumed that was the reason why everybody else on that corner asked for a variance because one has to get so much square footage on the land that you purchase.
2. Is the variance substantial? Mr. Russell stated he did not believe so as that is what the other buildings in the area were set back at. My setback is greater than theirs.
3. Will the essential character of the neighborhood be impaired or other property owners be affected. Mr. Russell stated there will be minimal traffic and minimal visibility. Everybody wants an office building to go in there but let's face it there has been an office building there for sale for a long time and Jefferson St. has vacant properties so...A lot of other uses could go on that property that would have a lot more of an impact and visibility than what he was proposing.

Mr. Russell continued that he had a signed contract and has spent money having architectural renderings done as well as civil engineer reports completed to lay out the project. Everyone in that area has a 50 ft. front yard setback and he assumed he did as well. Mr. Russell continued that there are three buildings in that area currently closer than what he was asking for. There are Township minutes that state, "The front yard setback is exactly 50 ft." Mr. Russell commented that this is the variance granted when Mr. Cleveland was developing the area but of course is not what the code permits.

Mr. West asked about the height of the mounds. Mr. Russell stated he did not know exactly. They still had to shoot the grade. The ravine drops about 12 ft. so with the trees

and the landscaping there will be very little visibility. The buildings would be 12 ft. tall and the gables would be facing Stonegate.

4. Does the variance uphold the spirit and intent of the code? Mr. Russell stated it did for Sweet Kiddles, the construction business and the office building in that area. He added he was not saying that sets precedent but he was surprised. The owner of the property said, the Township gave the other businesses front yard setback variances but not you? Mr. Russell said he told the owner of the property that he would come in before the Township and explain what he wanted to do.

Ms. Heather Castell (3857 Stonegate Dr.) was sworn in. She stated she lived at the property right next door to the proposed project. Ms. Castell added she has known Mr. Russell for 15 yrs. She added she looked at Mr. Russell's other facilities and she has no issue with what Mr. Russell is proposing to build.

Mr. Christopher stated he understood that if this variance is granted and the project does not go through the variance goes with the land. He would like to legally see it written in the contract that if the deal does not go through for this project that the variance goes back to the current zoning requirement for the front yard setbacks.

Chair Morel stated when a variance is ruled on; we stamp the variance that it is approved per the plans submitted. Mr. Christopher then asked, so the variance does not run with the land? Chair Morel stated not per his understanding.

Ms. Stogin, Chair of the Zoning Commission was sworn in. She stated that if there is no mention of a specific plan then the variance runs with the land. She added that when this question was asked of the Prosecutor's Office years ago, we were told if a specific project was mentioned for a particular piece of land and the project does not go; the variance is null and void. If you word the variance to be approved per a specific set of plans and the project does not get build then the variance goes away.

Ms. Stogin continued that regarding this specific piece of land; because half of it is unbuildable, and it in an area that would not attract a lot of drive-by businesses. She stated that this seems like a very reasonable project to go on that particular parcel. Who knows what one would get 2-3 yrs. from now that would be allowed on that land per the permitted uses of that business district? Right now the Board has a specific set of plans that spells out what would be built and all the other accommodations Mr. Russell has said he is willing to do to make this project work.

Mr. Christopher asked about the mounds. He stated right now Mr. Russell said he would move some of that dirt to the west...how far down would that grade be? Mr. Russell stated the grade would have to be shot. Mr. Christopher stated he would like to see the mounds high enough with pine trees on top make it appealing because the buildings,

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though they look nice, still are storage units. We do not want to see our home values impacted in any negative fashion. Chair Morel stated that was the Board's goal too.

Kathy Sturniolo (4050 Alameda Ct.) was sworn in. She stated at the last hearing there were two separate variances and asked what the setback requests were for this evening. Chair Morel stated the new request is for the south property setback (Stonegate Drive) to be 60' or a 20' variance.

The new request is for the east property setback (Jefferson St.) to be 66' or a 14' variance.

ZI Ridgely stated the buildings would be setback 96' on Stonegate Drive and 106' on Jefferson St.

Regarding the mounding, Ms. Strogin stated she believed the mounding would have to be at least 3 ft. or the trees would not survive.

Ms. Sturniolo stated there were mature trees in that area and asked what kind of trees was Mr. Russell going to plant on the mounds? Mr. Russell stated he would have to consult with a professional.

Hearing no further comments by the Board members, the Board considered the Duncan Factors:

1. Will the property yield a reasonable return or whether there is a beneficial use without the variance request? The Board stated yes.
2. Whether the variance will be substantial? The Board stated yes, it was borderline with a 20% and 25% variance request.
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. They liked that the height of the building was proposed to be 12 ft. With the architectural style and with the doors only on the one side its intent seems to be very low impact.
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.

7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board stated its five acres of property and half of it is unbuildable with the ravine. The height of the building, with the mounding make it a low impact, attractive building.

Chair Morel stated he liked the project because it was low density. He added something will be developed on that land and it could be something with a much more intense use than what Mr. Russell was planning. Chair Morel stated he had a storage unit and when he was at the storage facility there was no more than one or two other individuals there. The height of the buildings and the architectural style is a good use.

Mr. Bailone asked for confirmation that there will be no doors facing Jefferson St. Mr. Russell stated yes and apparently that the drawing is in error. The east elevation would just have windows. The overhead doors will be on Stonegate Drive not Jefferson St.

Mr. Basilone asked, when coming out of the subdivision what would one see on Jefferson St.? Mr. Russell stated there would be some private man doors going into a hallway.

Mr. West made a motion to grant a 20 ft. front yard setback variance on Stonegate Drive and a 14 ft. front yard setback variance on Jefferson St. for the new construction of Stonegate Self Storage to be located on PP# 026-06C-08-148 with the following conditions:

1. Variances apply to the architectural drawing submitted except that on the east elevation of the building there will only be man doors and no overhead doors;
2. There will be no outside storage
3. There will be no fencing
4. Mounds are to be a minimum of 3 ft. in height.

It was seconded by Mr. Blakemore.

ROLL CALL-West-yes, Blakemore-yes, Basilone-yes, Morel-yes.

The variance request was granted.

Wendy's variance request-3067 Medina Rd.

Secretary Ferencz read the application into the record. The applicant is Amy Noble from Ellet Sign Co. The owner of the property is Medina County Foods, Inc. dba Wendy's. Address of the property requiring the variance-3067 Medina Rd. Present Zoning-BG. Previous variance request(s)-Yes

Variance being requested & Explanation of Requested Variances:

Request one additional 18.2 sq. ft. Wall sign for front elevation, reading: "Quality Is Our Recipe". Section 605 I.1.

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At this time we are requesting a slight deviation from code to allow for the replacement of the existing branding. This existing building shows "Old Fashioned Hamburger." We would like to replace it with a smaller square foot sign reading: Quality Is Our Recipe per the new corporate Wendy's standards.

Ms. Amy Noble from Ellet Signs was present to represent Wendy's signage request. She stated that Wendy's is going through a rebranding, which includes signage.

Ms. Noble stated she was before the Board this evening for a second sign on the south elevation of the building to read "Quality is our Recipe." The sign is 18.2 sq. ft. and would be located on the left side of the newly remodeled Wendy's building.

Mr. West asked if that was where the Old Fashion Hamburgers sign is? Ms. Noble stated currently the Old Fashion Hamburgers is to the right of the Wendy's sign and the Wendy's cameo. That signage is on Eastpointe Dr., which is the east elevation of the building. The proposed sign will go on the south elevation.

Mr. West asked if the Old Fashion Hamburgers and Wendy's cameo were two signs? Ms. Stogin stated that it was one sign and Wendy's could have 72 sq. ft. of signage on the east elevation. There was no variance granted for that signage. She added that now instead of replacing the wording "Old Fashion Hamburgers" they are leaving it on the east side and want to add "Quality is our Recipe" on the south elevation of the building. Therefore it is a second sign on the south elevation.

Ms. Noble stated the frontage on the south elevation (Medina Rd.) is 31 ft. The elevation on Eastpointe Dr. is 74 ft. The existing sign is 55 sq. ft. The sign we are replacing it with along with all the beautifications to the property are per Wendy's specifications. This is required per corporate branding so the franchisee is in compliance. With the new Wendy's building style, there is a feature wall on the right and a "soft sign" which is the proposed sign to consist of 18.2 sq. ft. The result is an overall reduction in the amount of signage for Wendy's.

Ms. Noble continued that the proposed sign is an internally lite LED sign with push through lettering. She added "Quality is our Recipe" has always been part of the Wendy's cameo. With the new branding they are keeping the same elements but featuring it in a different way. The new feature wall will be to the right and "Quality is our Recipe" will be on the left.

Mr. John Wilsey from Medina County Foods was sworn in. He stated that he is the franchisee for Wendy's. The sign on the east elevation is considered to be one sign, which is the Wendy's lettering and cameo. The rebranding will include updated script lettering of the word Wendy's and an updated cameo logo sign. This results in a significant reduction in the overall signage for Wendy's on the east elevation.

Mr. Wilsey continued that the facade of the building; which is referred to as a red flag blade wall, is part of the Wendy's rebranding and this look would be incorporated at the Wendy's on Court St., which we also own and operate. Mr. Wilsey stated his franchisee contract runs for 20 yrs. We are bound by Wendy's requirements if we want to continue to operate as the franchisee.

Mr. Wilsey stated the "Quality is our Recipe" is only featured on the front of the building. We will be going from 55 sq. ft. to 32 sq. ft. of signage on Eastpointe Drive and want to add 18.2 sq. ft. of signage on the south elevation. There is an overall net reduction in sign area of approximately 22 sq. ft. The wording "Quality is our Recipe" goes back to 1969 and the original sign design for Wendy's.

Mr. Wisley continued that he operated 10 Wendy's in 3 counties and this particular store is one of the lower volume stores. It is a unique store on a split highway; and the access from day one has been challenging. We are now facing more competition from the commercial/retail and restaurant development across the highway. Therefore we respectfully request that the Board grant the variance being requested this evening.

Mr. Basilone asked if the variance was being requested because there would be two signs? Ms. Strogan stated yes, because only one wall sign is permitted unless the business is on a corner lot.

Mr. Basilone made a motion to grant a variance for a second sign to be located on the south elevation of the building to read "Quality is our Recipe" not to exceed 18.2 sq. ft. for Wendy's located at 3067 Medina Rd. as presented. It was seconded by Mr. West.

Mr. Basilone asked if the new sign would be illuminated. Mr. Wisley stated yes, but there would be more illumination from the Wendy's script and cameo sign. The proposed sign is what is called a "soft sign" in terms of lighting and style.

Hearing no further comments by the Board members, the Board considered the Duncan Factors:

1. Will the property yield a reasonable return or whether there is a beneficial use without the variance request? The Board stated yes.
2. Whether the variance will be substantial? The Board stated yes, it was a second sign but there would be a reduction in overall signage for Wendy's.
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.

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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 it was mandated by Wendy's corporate in order for the franchisee to keep operating this location.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board stated yes especially in terms of the restaurant's location.

ROLL CALL-Basilone-yes, West-yes, Blakemore-yes, Morel-yes.

The variance request was granted.

Mr. West made a motion to approve the minutes to the Boards September 19, 2018 public hearing as written. Mr. Basilone stated he raised a question before the meeting was adjourned last month that he did not threaten anyone. Mr. West stated for the record that while we were approving the minutes to the September meeting, Mr. Basilone wanted his comments included in the minutes and the Board stated no; because they occurred after the meeting was adjourned. Mr. West stated the September minutes would be tabled for approval and asked Secretary Ferencz to make the amendment.

Having no further business before the Board, the hearing was officially adjourned at 8:10 p.m.

Kim Ferencz, Zoning Secretary


Ed Morel, Chairperson

Carey Blakemore, Vice Chairperson