

**MEDINA TOWNSHIP
BOARD OF ZONING COMMISSIONERS
REGULAR MEETING
SEPTEMBER 17, 2019**

Chairperson Alliss Strogin called the regular meeting of the Medina Township Board of Zoning Commissioners to order at 7:02 p.m. Permanent Board members Overmyer, Apana, Kuharik, Teeuwen and Strogin were in attendance.

The minutes of the August 20, 2019 Zoning Commission meeting were approved as written.

Chair Strogin stated for the record that the Zoning Commission was a recommendation board, so final approvals will be made by the Township Trustees on October 3, 2019 at 7:00 p.m. for any/all site plans/signage requests.

Rafraichir Skin Spa-3725 Medina Rd. Unit #113

Mr. James Briola from Northcoast Sign and Lighting was present to represent Rafraichir Skin Spa.

Ms. Teeuwen made a motion to approve the use for Rafraichir Skin Spa to be located at 3725 Medina Rd. Unit #113 as presented. It was seconded by Mr. Kuharik.
ROL CALL-Teeuwen-yes, Kuharik-yes, Overmyer-yes, Apana-yes, Strogin-yes.

Mr. Briola stated he was also present to represent Rafraichir Skin Spa's signage request. The first request is for a wall sign. The linear frontage of the business is 21 ft. The request was for a 19.25 sq. ft. sign.

Mr. Apana made a motion to approve the wall sign for Rafraichir Skin Spa located at 3725 Medina Rd. Unit #113 not to exceed 19.25 sq. ft. as presented. It was seconded by Mr. Kuharik.
ROLL CALL-Apana-yes, Kuharik-yes Overmyer-yes, Teeuwen-yes, Strogin-yes.

The last request was for a 3.67 sq. ft. tenant panel to be placed on the existing identification sign.

Mr. Overmyer made a motion to approve a tenant panel for Rafraichir Skin Spa located at 3725 Medina Rd. Unit #113 not to exceed 3.67 sq. ft. as presented. It was seconded by Mr. Kuharik.
ROLL CALL-Overmyer-yes, Kuharik-yes, Apana-yes, Teeuwen-yes, Strogin-yes.

Billboard-3105 Medina Rd.

Mr. Larry Smith from Smith Outdoor Advertising was present to represent the billboard request. He stated he has been in the business of erecting off premise billboards for the past 19 years. Back in 2002, he was before the Zoning Commission to request approval to

erect a billboard at this exact same location (Denny's site) and was granted permission and given a permit. The landowner at that time; which is not the same one currently, required a stipulation in the lease that if he sold the property he could terminate the billboard lease. Mr. Smith stated he went through his end of the deal and obtained the necessary permits from the Township and the State but the owner sold the property and therefore the billboard was not erected.

Mr. Smith continued he just learned that in 2008, Clear Channel again requested approval and the proper permits to erect the billboard. However in Montville Township, directly across the street from the proposed billboard site, the Goddard School was built. In Medina Township's zoning code, it states that a billboard must be a 1,000 ft. from a school. He added he went on to do a lot of research to see if Medina Township had the authority to regulate what is built in another community. Mr. Smith stated he felt that the decision by the Township to deny the application was made in error but there was no appeal filed so... Without knowing this information prior he added he contacted the owners of Denny's which are in California and they want to again erect a billboard in that location. It wasn't until he made the application for the billboard that he learned of the history of the billboard by the Township zoning office.

Mr. Smith stated that per the State of Ohio, the Township cannot regulate beyond its borders. The billboard meets all the setback requirements and size and height regulations as well as the fact that the Township permits outdoor advertising so the sign should be allowed to be erected.

Chair Strogin then stated she too did research and the Township is on solid ground. The claim Mr. Smith just made that a Township cannot regulate across borders... we are not regulating across borders we are merely saying that "no such outdoor advertising sign shall be any closer than 1,000 ft. from a public park, public or parochial school, library, church, hospital or other similar institution." We have a right to say that and has nothing to do with Montville Township's zoning or anybody else's zoning.

Chair Strogin then read a section from the application, "The State of Ohio response. If the structure is on a parcel in another state, whether it can be seen from Ohio or not, we (the State of Ohio) do not control it so no, it would not matter to us (The State)." That's fine but their rules only apply to interstate highways in Ohio. We make no specification of that in our zoning code. We said no billboard sign can go within a 1,000 feet of a school, etc. A better example would be if a pedophile; as part of his release is required to stay 1,000 ft. away from a church or a school. The court doesn't say that individual only has to stay away from a school or church in that specific community they choose to live in. It's a 1,000 ft. from any school or church etc. That is basically what Medina Township's zoning code states. A billboard needs to be a 1,000 ft. away from any church, school etc. period. The logic of the code is that the billboard can change messages/pictures. Signs cannot be regulated for content. It was a case that was taken all the way to the Supreme Court. The result is the Township cannot regulate what the sign says or projects.

Mr. Smith stated he read the minutes from the BZA hearing and it seemed everyone in the Township wanted to do anything they could to keep this billboard out of Medina Township. It was like a hatred of billboards.

Ms. Teeuwen stated she was not on the Commission in 2008 when the variance request was heard nor did she know the history of this request but she read the application and the zoning requirements. She added she too questioned if the Commission should even be hearing this request this evening. Mr. Overmyer interjected that he believed that if the Zoning Commission voted on this request, it would be overriding the Board of Zoning Appeals and the BZA is quasi-judicial. Mr. Smith interjected he does not go to different Townships looking for loopholes to erect billboards. He added his attorney told him the Township does not have the authority to zone outside of the Township. The example of the pedophile is not a good example because the requirement for how close they can live to a school etc. is court ordered. Every regulation in the zoning code really ends with the statement "in our Township." To say that a billboard cannot be erected because it is within a 1,000 ft. of a school and that school is in another community is wrong. I believe it is wrong.

Chair Strogin stated she appreciated Mr. Smith's opinion but she too contacted legal counsel and they said the Township had the right to say a billboard cannot be within a 1,000 ft. of any school. We did not say a sign had to be a 1,000 ft. away from a school in Medina Township. This is within the Township's right to regulate billboards in that manner. We didn't tell Montville they could not have a school within a 1,000 ft. of a billboard. That would be a breach of our authority. She added she agreed with Mr. Overmyer and Ms. Teeuwen in that she did not believe the Commission could take a vote because it has already been decided by the BZA. The only way to potentially overturn the decision of the BZA is by taking it the Court of Common Pleas.

Mr. Smith stated his attorney will know what action he needs to take. He added he believes he is correct and the Township has no authority to regulate another jurisdiction. That's not your school. Mr. Smith then asked, what do you care what they see on a billboard? Chair Strogin stated we do care what children see. Mr. Smith stated so it's because it's a children's school. What if it was a college? Chair Strogin stated she did not care what kind of school it is. She just stated "children" because that is the type of school the Goddard School is. Any school would qualify.

The Commission members all agreed that this request was already heard and decided by the Board of Zoning Appeals and they were not going to take action on the application before them this evening.

Mr. Overmyer made a motion to not hear the application for a proposed billboard to be located at 3105 Medina Rd. as this matter has been heard and voted on by both the Zoning Commission and Board of Zoning Appeals. It was seconded by Ms. Teeuwen. ROLL CALL- Overmyer-yes, Teeuwen-yes, Kuharik-yes Apana-yes, Strogin-yes.

Therefore the requirement of a 1,000 ft. away from a school or church is rational and adequate.

Chair Strogin continued that back on January 21, 2003 the Township granted the request to put a billboard (same size and height as the current request) on the Denny's property. The only difference with this application is now the owner has changed and that has nothing to do with the zoning regulation for a billboard sign. The sign was permitted back in 2003 because there was no school within a 1,000 ft. back then. If the billboard were built back then it would have been grandfathered as the school came after the billboard. The billboard never went up and the permit for it was only good for a year so it has since expired.

Chair Strogin went on to say that in 2008, Clear Channel came before the Township to get a permission to erect the billboard but by that time the Goddard School was built and established in 2006 which then changed the whole scenario for a billboard to be erected on the Denny's property. The proposed sign was to be 720 ft. away from the school so the application was not approved. Clear Channel then requested a variance and on November 23, 2008 the BZA denied the variance request. To date, the Goddard School is still in existence so the Commission cannot approve the billboard sign as requested. Legal counsel has stated that res judicata is applicable in this situation because it has nothing to do with the owner of the sign or the property. Res judicata states the main facts of the case remain. It is the same request for the same size sign in the same location and the zoning code has always read then and now that such a sign cannot be closer than 1,000 ft. away from a school. All administrative measures and appeals have been exhausted to consider the sign and the result is that nothing has substantially changed. The sign did not and still does not meet the requirements of the Medina Township Zoning Resolution.

Chair Strogin asked the other Commission members their opinion. Mr. Overmyer stated he didn't even think the Commission had the authority to vote on the application this evening as a decision has already been rendered by the BZA and even questioned why this was even an item of consideration on the agenda.

ZI Ridgely stated she let Mr. Smith review the previous file on this billboard request and Mr. Smith stated he still wanted to make an application so he let him submit.

Ms. Teeuwen asked if the hotel behind this property was considered a dwelling? Chair Strogin stated she did not know if the hotel would qualify as a dwelling and added she believed a dwelling is somewhere where a person lives all the time not for transient periods of time. Ms. Teeuwen stated the definition of a dwelling is where a person spends the night; which would be a hotel and the hotel is within the 1,000 ft. requirement for the placement of a billboard.

Walmart-4141 Pearl Rd.

An e-mail was received requesting the signage requests for Walmart be tabled until the Commission's October meeting.

Mr. Overmyer made a motion to table Walmart's signage requests until the Commission's October 17, 2019 meeting as requested. It was seconded by Mr. Kuharik. ROLL CALL-Overmyer-yes, Kuharik-yes, Apana-yes, Teeuwen-yes, Strogin-yes.

Circle K-3809 Pearl Rd.

No one was present to represent Circle K's signage request.

Mr. Overmyer made a motion to table Circle K's signage request until the Commission's October 17, 2019 meeting. It was seconded by Mr. Kuharik. ROLL CALL-Overmyer-yes, Kuharik-yes, Apana-yes, Teeuwen-yes, Strogin-yes.

Having no further business before the Board, the meeting was officially adjourned at 7:40 p.m.

Respectfully Submitted,

Kim Ferencz, Zoning Secretary


Alliss Strogin Chairperson