

**MEDINA TOWNSHIP
BOARD OF ZONING COMMISSIONERS
REGULAR MEETING
OCTOBER 15, 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 September 17, 2019 Zoning Commission meeting were approved as amended.

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 30, 2019 at 7:00 p.m. for any/all site plans/signage requests.

TABLED ITEMS

Circle K-3809 Pearl Rd.

Mr., Brad Busson, Project Manager was present to represent Circle K's signage requests. He stated that Circle K was going through a rebranding globally and therefore there would be new branding on the pumps and the canopy. ZI Ridgely stated that the request before the Commission this evening was just for the canopy sign. Mr. Busson stated the canopy sign would be 9 sq. ft.

Mr. Overmyer made a motion to approve a canopy sign for Circle K located at 3809 Pearl Rd. not to exceed 9 sq. ft. as presented. It was seconded by Mr. Kuharik.
ROLL CALL-Overmyer-yes, Kuharik-yes, Apana-yes, Teeuwen-yes, Strogin-yes.

Walmart-4141 Pearl Rd.

No one was present to represent Walmart's signage requests.

Mr. Overmyer made a motion to table Walmart's signage requests until the Commission's November 19, 2019 meeting. It was seconded by Mr. Kuharik.
ROLL CALL-Overmyer-yes, Kuharik-yes, Apana-yes, Teeuwen-yes, Strogin-yes.

ZI Ridgely stated she would contact Wal-Mart to find out why they were not present this evening and to find out if they still wanted to move forward with their signage requests.

SITE PLANS

Designed to Dance-3765 Medina Rd.

Ms. Kristen Dobson the owner was present to represent Designed to Dance. She stated she and her husband were opening a dance studio to teach ballroom dancing. They would be locating in Plaza 71. No signage was being requested at this time.

Mr. Apana made a motion to approve the change of use for Designed to Dance to be located at 3765 Medina Rd. Suite 26 as presented. It was seconded by Mr. Overmyer. ROLL CALL-Apana-yes, Overmyer-yes, Kuharik-yes, Teeuwen-yes. Strogin-yes.

Hampton Inn-3073 Eastpointe Dr.

Ms. Naomi Miller from Alpha Construction was present to represent Hampton Inn. Mr. Miller stated that the request was for a 200 sq. ft. addition for the purpose of a breakfast room for Hampton Inn.

Ms. Teeuwen made a motion to approve a breakfast room addition for Hampton Inn located at 3073 Eastpointe Dr. not to exceed 200 sq. ft. as presented. It was seconded by Mr. Apana.

ROLL CALL-Teeuwen-yes, Apana-yes, Kuharik-yes, Overmyer-yes, Strogin-yes.

Public Comment

Mr. Dan Moran (3812 Foskett Rd.) addressed the Commission. He passed out packets to the Commission members. He stated that he called ZI (Zoning Inspector) Elaine Ridgely late in 2017 about a zoning violation that was damaging his property. Then he emailed Z:I Ridgely on March 13, 2018 to see the status of his complaint. ZI Ridgely stated she sent his complaint to the Prosecutor's Office. Mr. Moran stated he went to the Prosecutor's Office and asked Brian Richter for an update to which Mr. Richter stated he had not received anything from ZI Ridgely. Mr. Moran stated that ZI Ridgely said that he and his dad built the barn and to stop bullying the new neighbor totally disregarding the fact that the barn had fallen into decay with an insect infestation which now due to the proximity of his backdoor of his house to the barn; he too now had a insect problem. Then the neighbor put in security cameras on the barn to spy on his family. The barn is only 10 inches away from his property line and this is zoned Rural Residential. Mr. Moran stated his father and his brother built the barn while he was on vacation so he had no say in the location of the structure. He added there is nothing in the zoning resolution that says that the barn had a right to continue being illegal after the property was sold. Mr. Moran stated the next thing he heard from ZI Ridgely was that the shed was "grandfathered" allowed to remain due to a lot split that had taken place. He commented that this is untrue as he and his wife purchased the property from Irene Bokros in 1997. His father bought his property from the estate of James Duering in 2004 and built an illegal shed without consulting him about the location of the shed in 2010. Then he sold his property without disclosing the illegal conditions of the property to Ms. Murry who purchased the property in 2013. All documents can be verified by the recorders and auditor's website. Mr. Moran then produced an aerial photo showing the shed in its current "illegal" position. Mr. Moran stated there was no variance granted, there was no lot split created. There is no legal reason this barn should remain 10 inches from his property line in Rural Residential Medina Township. The requirement in RR is 25 ft. from the property line.

Mr. Moran continued that the Duncan Factors do not apply because Ms. Murry had plenty of flat land to move the shed to and it would only cost her \$3,000 (attached a professional movers estimate) to move the barn and she has already spent \$5,500 in legal fees to keep the barn in its illegal location. Mr. Moran stated when Ms. Murry bought the property he told her that the barn was in a illegal location. He added, since his dad did not disclose that to Ms. Murry, Mr. Moran told her she could use her title insurance to move the shed for free since his father did not disclose the illegal location of the barn. Her response was "I like it where it is." Mr. Moran commented that he has tried to be a good neighbor and tried to work with Ms. Murry to no avail.

Mr. Moran then stated that the Township knowingly ignored his request to move the shed so he sought his own legal protection under the law and filed a suit against Ms. Murry in August 2018 to move the barn. He was then compelled to "no fault release" the lawsuit in September 2019. The reason I was compelled to release the suite is because Medina Township zoning law prevents citizens from seeking protect of the law thorough the courts per the zoning resolution pg. 86 paragraph c which states:

"Prevention of Violations-in case of any building is or is proposed to be located, erected, constructed, maintained or uses, in violation of any provisions of the zoning Resolution or supplements or amendments thereto, the Board of Township Trustees, the Prosecuting Attorney of the County, the Township Zoning Inspector or any adjacent or neighboring property owner who would be "especially damaged"...." Mr. Moran stated that this clause is unconstitutional because it limits a citizen from seeking protection of law- U.S. Constitutional Amendment #14-Supreme court decision that no government entity shall limit a citizen's right to seek protection of law. Mr. Moran stated that it doesn't matter if his father built that barn illegally and the property was sold. The law is the law.

Mr. Moran stated he tried to be a good neighbor but as you can see from the pictures submitted the insect infestation was so bad that the trim was falling off the barn. There are cameras pointed directly at my hot tub so Ms. Murry can spy on my wife and I while we are enjoying our hot tub. Ms. Murry has made 30 different phone calls to the Medina Township police on me and about a dozen of those times I was not even home because I was working out of state.

Mr. Moran went on to state that the Township's actions up to this point are illegal due to ORC519 item 2. "Statutory Limitations. A. Since the Power of a Township to adopt and administer a zoning resolution is a specific statutory grant of authority, a township cannot enact regulations; which are in conflict with the applicable statutes." The applicable statute being Medina Township zoning resolution RR 401.01 the purpose of the rural residential district therefore the townships actions are grossly negligent.

Mr. Moran stated at this point he is demanding that his rights be recognized by the township and the shed at 3820 Foskett Rd. be removed as soon as legally possible according to the Township zoning law which stated the shed needs to be a minimum of 25 ft. from the property line in the rural residential district. Also the township must

immediately remove the wording of paragraph c of the "Prevention of Violation section of the Medina Township zoning resolution to prevent further violations of citizens rights in the future.

Mr. Moran stated he served his country and is a 100% disabled veteran. I did not come back home to see a Township roll over someone's rights because they have empathy for a lady who says I am bullying her. That is rubbish. ZI Ridgely has sat on this complaint since March 2018. He then asked the Commission, "When are you going to serve Ms. Murry with a notice to move the shed."

Chair Strogin stated this Board is the Zoning Commission, which regulates the zoning code. All enforcement is the authority of the Zoning Inspector. Chair Strogin stated Mr. Moran also brought this issue before the Trustees as well. She added it was her understanding that there was no permit obtained by Mr. Moran's father or brother to build the shed. Mr. Moran interjected that was correct. Chair Strogin stated the barn has been there for 5 yrs. If it was so imposing why didn't you bring this to light when your father owned the property. Mr. Moran stated that was not correct. He tried to rectify the situation with his father and even contacted ZI Ridgely when his father had the property up for sale. My father asked me for a variance and I said no. Chair Strogin interjected the Commission couldn't help Mr. Moran. ZI Ridgely has been working on this case and is in contact with the Prosecutor's office.

ZI Ridgely stated she was still waiting on an answer from the Prosecutor's office. She added she did turn in Mr. Moran's complaint to the Prosecutor's office. ZI Ridgely stated she did not understand Mr. Richter's comments however there are several attorney's at the Prosecutor's Office and did not know if Mr. Richter was given the complaint originally but another prosecutor there, Mr. Mike Lyons, told her that the shed did not have to be moved and she told Mr. Moran that. Mr. Moran interjected that ZI Ridgely told him it did not have to be moved because he and his father built the barn. He then asked what was the intent of the RR District. To have buildings everywhere. Chair Strogin stated no. The Zoning Commission reviews subdivisions and commercial development. Enforcement of the code and permits is handled by the Zoning Inspector.

Mr. Moran asked if he needed to file against ZI Ridgely and the Township in order for him to seek damages for his door due to insect damage that came from that barn. Are you going to tell me I have to pay for the sins of my father? Chair Strogin stated no, but the Commission does not do enforcement. ZI Ridgely has been trying to get an answer from the Prosecutor's Office and that is all that can be said at this time.

Mr. Moran then handed out the following:

LEGAL ASPECTS OF CODE ENFORCEMENT: FROM ADOPTION THROUGH LITIGATION-OHIO TOWNSHIP ASSOCIATION

E. Since a township's power to zone is a creature of statute, there are many limitations imposed upon this power.

1. Constitutional limitations.

a. Zoning regulations must be reasonable. Regulations, which are found to be unreasonable and arbitrary, constitute an unconstitutional taking of property without due process of law.

b. Since zoning is a "legislative" function, courts traditionally will not question the expediency, advisability, or wisdom of the legislation. Courts can determine whether zoning regulations are so unreasonable and arbitrary as to be unconstitutional. However, zoning regulations are presumed valid and illegality must be plain, apparent, and beyond debate. In other words, there is a presumption of constitutionality attached to zoning regulations. Since zoning regulations are in derogation of property rights, they are strictly construed in favor of the property owners.

c. The constitutionality of a zoning provision may be challenged in one of two ways. i. Whether the zoning provision is clearly arbitrary and unreasonable and without substantial relation to the public health, safety, morals or general welfare of the community. (Must be shown "beyond fair debate"). ii. Does the zoning provision deny the property owner of all economically viable use of the land (i.e. taking).

Mr. Moran stated the Township is not allowed to prevent anyone from seeking justice under the law. Chair Strogin concluded that the ZI is trying to get remedy through the Prosecutor's office and as soon as that is received she would contact Mr. Moran. Mr. Moran stated he can't believe Ms. Murry is allowed to continue to harass him after he refused her advances by putting up cameras that point directly at his home and hot tub. Three years of being harassed and then being ignored by the Township. Mr. Moran stated he would be back next month and this proves ZI Ridgely has not done her job.

In other business, Mr. Overmyer stated this was his last meeting sitting on the Zoning Commission as he was moving out of the Township. The Commission members, ZI Ridgely and Zoning Secretary Ferencz thanked Mr. Overmyer for his many years of service to the Township.

Having no further business before the Board, the meeting was officially adjourned at 7:45 p.m.

Respectfully Submitted,

Kim Ferencz, Zoning Secretary


Alliss Strogin, Chairperson