MEDINA TOWNSHIP BOARD OF ZONING APPEALS PUBLIC HEARING September 18, 2013

Chair Morel called the public hearing of the Board of Zoning Appeals to order at 7:32 p.m. The sitting Board this evening consisted of Stopa, Blakemore, West, Williams and Morel. Permanent Board member Dufala was absent. The Board members were introduced Chair Morel explained the hearing procedure to all those present.

VARIANCE REQUESTS

Fogle variance request-4791 Gateway Dr.

Chair Morel stated this item was tabled last month pending additional information from the applicant. He added the sitting Board from last month would be in place to hear the conclusion of this variance request. Chair Morel stepped down, Vice Chair Stopa took over the hearing and board member Robin Gray sat with the board.

The variance being requested: Request approval to install a 10'x16' shed on the side of the house. Section 403.4.D.4-Side Yard Depth Required-10 ft. Shed will be 3 ft. from north property line. Requesting a 7 ft. variance.

Reasons for the variance request:

There is an existing cement pad on the side of the house where the shed would be installed. The shed will not extend beyond the current fence line. There are too many low areas where standing water will accumulate in the back yard to install the shed elsewhere.

Vice Chair Stopa said the request was tabled pending Mr. Fogle going before his homeowner's association to find out if they would even permit him to have a shed. Mr. Fogle presented a letter from the Windfall Heights HomeOwners Association stating they approved the placement of a shed and will agree with the Medina Township Zoning board on the variance approval.

Mr. Fogle also presented a letter from the neighbor to east stating they had no issues with Mr. Fogle building his shed on his property.

Mr. Fogle stated he went out and measured and increased the distance between the existing fence and the butt-out of the neighbor's residence. The fence would be removed to the shed. The doors of the shed would open from the front and back.

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Mr. Blakemore made a motion to approve a 7 ft. side yard setback variance for the construction of a 10x16 shed to be placed on the existing cement pad for the property located at 4791 Gateway Dr. It was seconded by Mr. Williams.

ROLL CALL-Blakemore-yes, Williams-yes, Gray-yes, Stopa-yes.

Medina Auto Mall variance requests-3205 Medina Rd.

Chair Morel reviewed the application. The applicant is Mr. Klinkenberg from Illes Architects. The property owner is Medina Real Estate Holdings dba Medina Auto Mall. The address of the property is 3205 Medina Rd. Present Zoning: BG. Previous variance requests-Yes. Variance being requested: 1. Reduce rear yard setback from 75' to 65' per Section 406.3.D2A2. Taking the 10' out of the 25 ft. landscape strip requirement. The reason: This will not change character negatively from existing since there is no landscape buffer now. B. There already is a landscape mound and buffer on the residential side of the rear property line. C. We are actually creating an additional landscape buffer in our required rear yard where none exists now.

The applicant, Mr. Klinkenberg from Illes Architects was sworn in. Mr. Lou Kalenstein, General Operations Manager of Media Auto Mall was also present. Mr. Klinkenberg stated this was a multi-phase project that began last year. The first phase was the GMC/Cadillac dealership, which is now complete. We are now in phase 2, which is the development of the Dodge dealership. We are demolishing part of the existing building and expanding on the same rear yard setback to the west for a building to exist of 11,546 sq. ft. Mr. Klinkenberg continued, they want to maintain the existing rear yard setback and remove the existing paving and create a 15 ft. landscape strip as an additional buffer between the dealership and the abutting residential development i.e. Medina Gardens on the Lake. The code requires that new construction be 75 ft. from the rear yard setback. Currently it is 65 ft. ft. and there is no rear yard buffer. We are trying to create that buffer.

Ms. Strogin, Chair of the Zoning Commission was sworn in. She stated when commercial property (new construction) abuts residential, a 75 ft. rear yard setback is required. Of that 75 ft. 25 ft. is to be landscaped and the other 50 can be used for parking. The rear yard setback that exists today for this building is 65 ft. with no landscaping. Ten feet off the 75 ft. requirement is not going to assist the dealership because it will make the part where they are parking cars too narrow for the vehicles to be moved in and out. So the result was to request 10 ft. out of the 25 ft. required landscape strip so they still had room to maneuver cars in and out. The reason there is no landscape strip there currently is that the business pre-exists the implementation of zoning in the Township.

Secretary Ferencz read the following correspondence from Medina Gardens on the Lake Homeowner's Association dated August 7, 2013:

Dear Board members:

As the property manager for Medina Gardens on the Lake Homeowner's Association, I have been asked by the Board of Directors to submit a written complaint regarding the Medina Auto

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Mall variance request for the reduction in rear yard setback, which would take 10 ft. out of the 25 ft. landscaping strip requirement.

Part of the approval process for any development and use of a property (Commercial, Residential, Industrial, Business, etc.) is taking into consideration how the activity on that property will affect the contiguous property owners. This is reviewed by the Township Zoning Commission, Township Trustees and County Planning Commission, along with various agencies which are required to review the plans and submit their recommendation to the Planning Commission. Setback requirements between a commercial operation and a residential development are at a different level than setback requirements between two residential property owners. In this case, although the setback requirement does not lessen the noise of the operation, it should, as it was intended, block the line of sight of the operation.

The "Residential Homeowner's Association: has attempted to preserve this setback from the commercial operation with no resolution to the ongoing problem. The vehicles continue to be parked up the hill and make it impossible for the Associations contractors to maintain this area or any other area near the vehicles. The Association has filed complaints with the owner of the property located at 3205 Medina Rd. and has made phone calls directly to Medina Auto Mall and the Medina Township Police with no resolution. The Association does not have available money to pursue this matter further through their legal counsel.

The Association had a survey done of its property and pins remain on the area to identify the property line. The Association has requested that they cease parking any vehicles on the Association's property, no just within the setback area, but the requests go ignored. Not only does the Association receive no response to their requests, but the commercial operation now requests permission from you to take 10 ft. of the 25' required setback and obviously plans on continuing to trespass on our property. This violates the reason the "privacy mound" was required during the planning stages. With no recourse, they continue to violate the setback requirements as set forth in the Zoning Resolution and in the final plat approvals for both properties.

With other properties throughout the Township available for parking of the overstock of vehicles and their being no hardship in this case, it is the Association's Board of Directors and Residents request that you deny this variance and enforce the current setback requirements which were put in place to protect the privacy and property values of Medina Gardens on the Lake Homeowners Association as well as other properties throughout the Township. If it is possible for the Township to grant a variance and take away 10 ft. of the buffer, it would also be possible for the Township and County to allow the Homeowners Association to replat the common area property and sell or lease the area in question to the owner of 3205 Medina Rd.

Susan Hoisington-Managing Agent.

Attached with the letter were pictures of the Cadillac/GMC dealership not the Dodge dealership.

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Mr. West asked if this issue has been addressed? Ms. Strogin stated no. There are two separate lots i.e. Cadillac/GMC and Dodge though both are owned by the same entity. Ms. Strogin stated this has been a continuous problem of the dealership parking cars up on the bank of the landscape mound. The landscape mound is owned by the H.O. Association of Medina Gardens on the Lake. Chair Morel asked why was there no buffer on the dealership side? Ms. Strogin again stated that dealership has been there along time (1972) and there was no requirement back then to provide such a buffer. When the residential development went in (Medina Gardens on the Lake), the Township made them put in a landscape buffer. She added she felt that this was an opportunity to ask the owner of these lots for some means of mitigating this situation. On the lot that is requesting the variance there is a fence but there is no such protection or barrier on the Cadillac/GMC lot. It would not be unreasonable in her opinion to request a fence be erected on the property line of the GMC lot to prevent them from parking cars on the mound.

Ms. Strogin stated in response to the comment in the letter about the H.O. Association selling land to the dealership, there is no land to be sold. The amount of open space requirements for that subdivision has no excess land to sell.

Chair Morel stated he could understand why the residents of Medina Gardens on the Lake were upset. Vehicles are double stacked in the rear of the lot. He stated it was a good time to negotiate and asked for 15 ft. landscape strip to be placed on the Cadillac/GMC property.

Mr. Kalenstein was sworn in. He stated that the fence on the Cadillac/GMC property gets backed into quite a bit. He suggested putting in bollards on the property line from Nettleton Rd. the north east corner running west along the northerly property line of the Cadillac dealership then southerly along the western property line of the Cadillac dealership to a point of connection with the Chrysler, Dodge, jeep, Ram parcel and then westerly along the rear of the Chrysler, Dodge, Jeep, Ram parcel completely segregating Medina Gardens on the Lake from the two parcels (on the north line of the Dodge dealership). A 15 ft. landscape strip will be placed along the north line of the Chrysler, Dodge, Jeep, Ram dealership. He continued they would place 6 x 6 timber bollards, which would be placed on 8 ft. centers to mitigate cars from trespassing over the property line.

The Board felt this was a reasonable compromise to the situation with the residents of Medina Gardens on the Lake.

Mr. West made a motion to approve a rear yard variance setback of 10 ft. to be taken from the 25 ft. landscape strip requirement leaving 15. ft. in connection with the Chrysler, Jeep, Dodge, Ram property located at 3205 Medina Rd. This is conditioned on the placement of a minimum of 6 x 6 timber bollards on 8 ft. centers at least 30 inches out of the ground along the rear lot line of the existing Cadillac, Buick, GMC property running from Nettleton Rd. west approximately 325 ft. and then running south 420 ft. to the rear property line and then westerly to the west property line of the Chrysler, Dodge, Jeep, Ram property. It was seconded by Mr. Stopa.

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- 1. Will the property yield a reasonable return or whether there is a beneficial use without the variance? 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 the package as a whole makes the situation better.
- 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 yes.

ROLL CALL-West-yes, Stopa-yes, Blakemore-yes, Williams-yes, Morel-yes.

Chair Morel then reviewed the second application by Medina Auto Mall. The applicant is Mr. Klinkenberg from Illes Architects. The property owner is Medina Real Estate Holdings dba Medina Auto Mall. The address of the property is 3205 Medina Rd. Present Zoning: BG. Previous variance requests-Yes. Variance being requested: 1. Signage for multiple wall signs. 2. Total additional square footage of signs. Asking relief from section 605 I.1. Each business is permitted one wall sign with a maximum of 80 sq. ft.

Reasons for the variance request:

- A. The strict application will not grant approval by Dodge from their standard marketing/reimbursement program.
- B. This is for the rebranding of the auto dealership requiring each brand be named like four retail stores.
- C. The submittal is a tasteful upgrade for the new dealership and is a standard accepted world wide as a brand. The building also has some limited visibility due to its location.

The applicant, Mr. Klinkenberg was sworn in. This is a sign package mandated by the Dodge Dealership. He stated the dealership is asking for 5 additional wall signs. The Certified Service wall sign was approved by the Zoning Commission. The total square footage of signage is 156.72 sq. ft. including the Certified Service sign.

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Chair Morel stated this was a lot of signage being requested. Mr. Kalenstein stated this signage is mandated by Dodge. If we do not follow their specifications, then the franchise will be taken away. The specs are based on the volume of sales of the area. The sign that could be eliminated is "Medina". The branding (Chrysler, Dodge, Jeep, Ram) is required. The square footage of signage is dictated by the building size from Chrysler.

Ms. Strogin stated when the applicant was before the Zoning Commission for signage for the GMC/Cadillac building, GMC stated there was to be no window signage on/in the building. She then asked if this was true for the Dodge/Chrysler building? Mr. Kalenstein stated yes that was true for this dealership as well.

Mr. West stated multiple branding creates a unique situation for a dealership. Mr. Kalenstein interjected that on the rear building where the body shop and Chrysler, Jeep, Dodge service is there is a large Dodge service sign, which will be removed. There will be 3-4 signs that will be removed from that back building.

Mr. Morel asked if there were plans to remove the existing pole sign and put up a nice looking monument sign instead? Mr. Kalenstein stated the pole fascia was recently redone.

- 1. Will the property yield a reasonable return or whether there is a beneficial use without the variance? The Board stated the applicant has stated under oath this is the required signage or the franchise will be taken away.
- 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 this is requirement of the dealerships.
- 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 it seemed like this is a mandate to have the dealership and this is a major expansion and renovation of such.
- 7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board stated conditions could be placed that there will be no window signage on this facility. The signage on the rear building will be removed and the "Medina" signage will not be part of the sign package.

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Mr. Kalenstein stated on the back of the service building approximately 90 sq. ft. would be removed. The body shop signage needs to remain.

Mr. Stopa made a motion to approve a variance for four (4) additional signs not to exceed 110 sq. ft. total signage for Chrysler, Jeep, Dodge, Ram located at 3205 Medina Rd. All additional signage on the rear service building will be removed and there will be no window signage permitted. It was seconded by Mr. West.

ROLL CALL-Stopa-yes, West-yes, Blakemore-yes, Williams-yes, Morel-yes.

Drees Homes variance request-4187 Bentwood Trail

Chair Morel reviewed the application. The applicant and property owners are Drees Homes. The address of the property requesting the variance is 4187 Bentwood Trail. Present Zoning: UR. Previous variance requests-No. Variance being requested: We are seeking relief from section 403.3.D Minimum Front Yard Depth- 50 ft. required. Front Yard Depth requested-45 ft. Variance needed-5 ft.

Reasons for the variance request:

This variance is being requested due to the fact if not granted, we will incur significant costs to control drainage issues, such as building a retaining wall.

Neighboring homes have been granted this variance for the same reason.

The placement of our home on this lot will fit in with neighboring homes and will allow proper drainage.

Mr. Jason Cassidy from Drees Homes was sworn in. He stated they were requesting the variance to get as far away from the existing pond as possible. A variance was previously granted to the house on the right. The lot in question drops off very quickly in the rear to the tune of 10-12 ft. This is a tough lot to build on. We are trying not to bring in a lot of fill in to build the home.

Mr. Ron Mead (4175 Bentwood Trail) was sworn in. He stated he was the individual previously mentioned who received the variance to build his home. Mr. Mead stated he had no issues with the variance except his neighbor on the other side was granted a similar variance and he built his house 3-4 ft. higher than his lot and put in drainage to make sure there was no water issues. Mr. Mead concluded that he wanted to make sure that there would be adequate drainage between the yards with this home.

Mr. Cassidy stated that the finished floor of the proposed home would be a foot and a half taller than Mr. Mead's residence.

The Board then reviewed the Duncan Factors.

1. Will the property yield a reasonable return or whether there is a beneficial use without the variance? The Board stated yes.

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- 2. Is the variance substantial? The Board stated no.
- 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 one could build a shorter house but it was already 45 ft. deep so it is not all that deep.
- 7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board stated yes.

Mr. Williams made a motion to approve a front yard depth variance of 5 ft. for the construction of a new residence at 4187 Bentwood Trail. It was seconded by Mr. Blakemore. ROLL CALL-Williams-yes, Blakemore-yes, West-yes, Stopa-yes, Morel-yes.

Gaffney variance request-4264 Maggie Marie Blvd.

Chair Morel reviewed the application. The applicants are Shawn and Jennifer Gaffney. The property owners are George Dadas/Bramar Homes LLC. The address of the property requesting the variance is 4264 Maggie Marie Blvd. Present Zoning: SR. Previous variance requests-No. Variance being requested: Section 402.3-D (70' required minimum front yard setback). The new home will be located 50' from the north property line abutting Remsen Rd. Requesting a 20' variance to the rear (North) on corner lot.

Reasons for the variance request:

- A. Without acceptance of the variance we are unable to build the desired layout, or almost any 3,000 sq. ft. layout in order to meet architectural minimums required by the deed restrictions set forth by the River Trace Association.
- B. With this being a corner lot, with a street immediately adjacent to the rear, the 70' restriction from both the front as well as the rear have created a very shallow building pad.
- C. This variance should have no negative impact on the neighborhood, neighboring properties or Township in general at all. We have plans to build our dream home, while maintaining the required setbacks from the front of the property line, while requesting a 20' variance to the rear setback, towards Remsen Rd. Upon acceptance, and completion

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of construction, we plan on fencing the back yard in, as to further not disrupt the community at all.

The applicant, Shawn Gaffney was sworn in. Chair Morel stated the problem with this development is that they divide the lots into the minimum they can, put streets in all around and then tell the potential owner they have a build a minimum 3,000 sq. ft. house.

Mr. Gaffney stated he had to be 70 ft. from both road right of ways. There are three roads and therefore, it was impossible to build a 3,000 sq. ft. house without a variance. Mr. Gaffney commented that he has not purchased the lot until he was able to retain a variance to build but all the papers were in order to move forward.

Chair Morel asked if Mr. Gaffney would consider a 60 ft. setback from both roads? Mr. Gaffney stated he would prefer that, but did not know how the Board would feel about granting two variances so he only requested one variance of 20 ft.

The Board stated they would like to see the house centered on the property and would be more in favor of granting a 10 ft. variance from Remsen Rd. and a 10 ft. variance from Maggie Marie Blvd.

- 1. Will the property yield a reasonable return or whether there is a beneficial use without the variance? The Board stated yes.
- 2. Is the variance substantial? The Board stated no.
- 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 yes, don't build a house on the lot.
- 7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? The Board stated yes.

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Mr. Blakemore made a motion to grant a 10 ft. front yard depth variance (Maggie Marie Blvd.) and a 10 ft. rear yard setback variance (Remsen Rd.) for the construction of a residence at 4264 Maggie Marie Blvd. It was seconded by Mr. Williams.

ROLL CALL-Blakemore-yes, Williams-yes, Stopa-yes, West-yes, Morel-yes.

Pat O'Brien-3880 Pearl Rd.

Chair Morel reviewed the application. The applicant is Jim Setele. The property owner is Patrick O'Brien Jr. The address of the property requesting the variance is 3880 Pearl Rd. Present Zoning: BI. Previous variance requests-Yes. The letter attached to the application read as follows:

"Wall Sign-We are requesting a 4th wall sign of 13 sq. feet for the Pearl Rd. face of the building. This sign will identify the location of the "Quick Lube" oil change entry door. Variances were previously approved for the "Pat O'Brien" and "Certified Service" wall signs. The "Quick Lube" sign variance was not previously requested with the two others due to it merely being overlooked. Zoning Resolution 605 I.

Without the Quick Lube signage, potential customers won't know that the quick oil change service is being offered. Those that do, will not know where to enter the building at. Confusion would occur and traffic may become congested due to customers not being informed as to where to drive. Unlike other businesses where customers are parking and walking to the building for goods and services, the auto service business requires customers to actually drive into the building. In the case of this dealership, where two distinct types of services are being offered (regular service and quick oil change service), proper signage is required to avoid the previously mentioned snarling of traffic. With the approval of this request, the total wall signage for this building will be 126 sq. feet. This is only 60% of the total allowable square footage of 183 sq. ft. for a building of this width.

Monument Signs (2)-We are requesting two (2) monument signs. The first will be located on Pearl Rd. and the second is on Fenn Rd. The General Motors sign manufacturer produces the monument signs in incremental sizes, 19 sf, 40 sf, 75 sf, 127 sf and 226 sf. We are requesting the 40 square feet size, which is 8 square feet above the allotted 32 square feet. The current pylon sign of 75 sq. ft., which is located within the proposed Fenn Rd. right of way, will be removed. Zoning Resolution Section 605 H.

Monument Signs-Due to General Motors incremental size restrictions, the only size sign that would be permitted per the Zoning Resolution would be 19 sq. ft. Going from the current 75 sq. ft. pylon sign, to two (2) 19 sq. feet monument signs, would be a 50% reduction in signage. This decrease would be unacceptable.

Being that we have 665 ft. of frontage on Pearl Rd. and 492 ft. of frontage on Fenn Road in the Intensive Business District where 150 ft. of frontage is required, we feel increasing the monument sign size by 8 sq. ft. would not be detrimental to the district.

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With the approval of this request, we are willing to remove the 75 sq. ft., 23' high pylon sign which is located within the future Pearl Rd. right-of-way, and replace it with two (2) 40 square feet, 10' high monument signs, which would be approximately 460 ft. apart, as indicated on the site plan. This benefits the township by removing a sign from the right of way and also be eliminating a pylon sign, which we understand is no longer being permitted."

Ms. Strogin stated Pat O'Brien is allowed two monument signs because they are on a corner lot. She added the letter was incorrect in that they are only allowed one wall sign, 1 ft. for each linear foot of frontage for a maximum of 80 sq. ft. It was also discussed with the applicant, that if/when Rt. 42 is widened the pylon sign would be gone so it was in their best interest to request the two monument signs. Ms. Strogin stated that this dealership has been a clean business i.e. no excessive signage, balloons, etc.

Mr. Setele and Mr. Schmalz, the architect on the project were sworn in. Mr. Setele stated there would be an open house for Pat O'Brien on October 6, 2013 from 11-6 pm. All are welcome to attend.

- 1. Will the property yield a reasonable return or whether there is a beneficial use without the variance? The Board stated yes.
- 2. Is the variance substantial? The Board stated yes for extra signage. Mr. Schmalz stated at the Zoning Commission last meeting they received approval for a Laser Car Wash to be built adjacent to this building. He added they are going to propose a wall sign for that operation. Ms. Strogin stated the car wash was an accessory use and no signage is permitted. Therefore, a request for signage would need to go before the BZA. Mr. West stated it would be much easier and clearer if the Board were presented with a total sign package. Mr. Setele agreed and apologized to the Board for any inconvenience.
- 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 yes.
- 7. Does the granting of the variance uphold the spirit and intent of the Zoning

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Resolution? The Board stated yes due to the size and extent of this project.

Mr. West made a motion to approve a variance for Pat O'Brien located at 3880 Pearl Rd. for a 4th wall sign not to exceed 13 sq. ft. (Quick Lube) and a variance of 8 sq. ft. on each of two monument signs (1 sign on Pearl Rd. and 1 sign on Fenn Rd.) on the condition that the existing pole sign located on Pearl Rd. be removed. It was seconded by Mr. Stopa. ROLL-West-yes, Stopa-yes, Blakemore-yes, Williams-yes, Morel-yes.

Minutes

The June 19, 2013 meeting minutes of the BZA hearing were approved as written. The minutes from the Board's August 21, 2013 meeting were approved as amended.

MISC.

Having no further business before the Board, the meeting of the Board of Zoning Appeals was officially adjourned at 9:40 p.m.

Respectfully Submitted,

Kim Ferencz

Zoning Secretary

Ed Morel, Chairman

MEDINA TOWNSHIP

BOARD OF ZONING APPEALS

MEETING HELD 9-18-18

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