

**MEDINA TOWNSHIP
BOARD OF ZONING APPEALS
ORGANIZATIONAL MEETING
January 21, 2015**

ORGANIZATIONAL MEETING

Chairperson Ed Morel called the organizational meeting of the Board of Zoning Appeals to order at 7:32pm. Permanent Board members Morel, West, Gray and Blakemore were present. Alternate Matt Payne sat in for Mike Stopa.

Election of Officers

Mr. Morel turned the gavel over to the Zoning Secretary, Laurie Shoemaker, to conduct the election of the Zoning Board of Appeals Chairperson for 2015. Secretary Shoemaker called for nominations.

Mr. West made a motion to nominate Ed Morel as Chairman of the BZA for the calendar year 2015. It was seconded by Robin Gray. With no other nominations heard, the nominations were closed.

ROLL CALL – West – yes, Gray – yes, Blakemore– yes, Payne – yes, Morel – yes.

The meeting was turned over to Chairman Morel. Chairman Morel then called for nominations for Vice Chairperson.

Mr. West made a motion to nominate Cary Blakemore as Vice Chairperson of the BZA for the calendar year 2015. It was seconded by Robin Gray. With no other nomination being heard, the nominations were closed.

ROLL CALL – West – yes, Gray – yes, Payne– yes, Morel– yes, Blakemore– yes

Set hearing dates/confirm hearing postings

Procedurally, the Board agreed with Chairman Morel that discussing the Duncan Factors after the motion and the second was a good procedure. The Board unanimously agreed to set the 3rd Wednesday of each month at 7:30p.m. for the BZA to hold their public hearings on an as needed basis. The Legal notices shall be placed in the Medina Gazette with postings to be placed on the Town hall marquee and the Township website.

The Organizational meeting was closed at 7:38pm.

REGULAR MEETING

Chairperson Ed Morel called the public hearing of the Board of Zoning Appeals to order at 7:38pm. The sitting Board this evening consisted of Carey Blakemore, Robin Gray, Ed

Morel, Matt Payne and William West. The Board members were introduced and Chair Morel explained the procedure to all those present.

Hoffman Group Bldg., 5000 Foote Rd., Medina OH

Chair Morel reviewed the application. Chair Morel reviewed what to look for in an application for the new Vice Chair's future reference. Chair Morel asked Secretary Shoemaker to read the request into the record.

Applicant: Charles Gray, 3660 Embassy Parkway, Fairlawn OH 44333

Owner of property: Dennis Neate, 5000 Foote Rd., Medina OH 44256

Present Zoning: Limited Business

Previous Variances requested: yes

Variance requested: Section 404.3 C Minimum front yard depth: requires 100'. Requesting 5' variance. Tenant reorganization is creating need to renovate circulation and therefore impose upon required setback.

The Reason: A) Without a variance, tenants will be egressing through another tenant's entrance. B) This building has multiple floors and tenants to attend with. C) The aesthetic appearance will be identical, and the functional organization of the building will be improved.

An aerial view and site map of the property and building were attached to the application.

Mr. Gray explained that Westfield Bank relocated across the street from the property in question. Hoffman Group has a new tenant interested in leasing the first floor of the former bank suite, (in round numbers 6000 sq. ft. - 3000 sq. ft. on the first floor and 3000 sq. ft. on the second floor.) The building was built to have everything contained for the bank using the first and second floor with one entrance. They now will be leasing each floor separately and need an additional entrance for the second floor. An 8' x 12' addition needs to be added to that end of the building that faces Foote Rd. The intention is to brick it and make it look like the other entrance to the existing suite.

Chair Morel asked if it was 5 feet over the code, thus the variance and Mr. Gray confirmed.

The Board then discussed 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.
2. Is the variance substantial? The Board agreed 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 agreed yes.
6. Whether the problem can be solved by some other manner other than the granting of the variance? The board agreed yes, but they can see how the building owner wants to make both entrances look the same.
7. Whether the granting of the variance upholds the spirit and intent of the Zoning Resolution? The Board agreed yes.

Mr. West made a motion to approve a 5' front yard setback variance located on the Foote Road side of 5000 Foote Road, Medina OH. Carey Blakemore seconded the motion. Chair Morel asked if there was any further discussion and board members said no.

ROLL CALL: West – yes, Blakemore– yes, Gray – yes, Payne– yes, Morel – yes.

Approved plans were signed by Chair Morel and a copy given to the applicant.

True North Energy (DBA Shell Gas), 3131 Medina Rd., Medina OH

Chair Morel reviewed the application. Chair Morel asked Secretary Shoemaker to read the request into the record.

Applicant: Rick Turner, Diamond Z Engineering, 5670 State Rd., Cleveland OH 44134

Owner of property: Truenorth Energy LLC (dba Shell), 10346 Brecksville Rd., Brecksville OH 44141

Street Address of Property requiring variance: 3131 Medina Rd., Medina, OH 44256

Present Zoning: General Business

Previous Variances requested: no

Variance requested: Section 405.3.C front yard setback required 100'. And Section 405.3.D.1.b side yard setback required 25'. Applicant is asking for:

17' front yard variance from Medina Road to canopy;

10' front yard variance from Eastpointe to canopy;

31' front yard variance from Eastpointe to building;

10' side yard variance from North property line to building.

The Reason: A) the proposed facility will not fit within the allowed setback, which yields an area of 7400 sq. ft. B) Two front yard setbacks render much of the lot unbuildable

C) The presence of the proposed structures will not impede vehicular access and governmental services or adversely change the character of the area.

An aerial view and site map of the property and building were attached to the application.

Chair Morel then swore in Richard (Rick) Turner from Medina Z Engineers. Mr. Turner explained they serve as site engineers as well as agents for True North Energy. He went on to explain this property that True North Energy is interested in putting a Shell Station is where Pizza Hut is located currently. He feels they could benefit from having a service station there. Until the board approves the variances, True North will not pursue purchasing the property from Pizza Hut.

Mr. Turner said it is worth noting that, although the variances did not carry through from Pizza Hut, Pizza Hut did have variances on both streets, not that much less than what True North (TN) is asking for. Mr. Turner said he believed Pizza Hut had 10' off Medina Rd. and TN is looking for 17'. Pizza Hut had 32' on Eastpointe and TN is looking for 40'. It's the canopy that is 8' closer to Medina Rd., not the building.

Chair Morel asked where he got his information on past variances for Pizza Hut. Mr. Turner said from Zoning Inspector Elaine Ridgley. Ms. Ridgley stated, for the record, any member of the board can call her any time if they ever have questions on any variance request. Chair Morel then swore in Alliss Strogin, Zoning Commission Chairperson. Ms. Strogin stated she and Elaine met previously with True North to discuss the requested variances compared to the previous variances given to Pizza Hut.

Mr. West asked what the standing is of a non-property owner to ask for a variance. Ms. Strogin confirmed with Mr. Turner that TN is under contract with Pizza Hut contingent to zoning approval. Mr. Turner said a letter was included in his submittal reference the contract. Ms. Ridgley gave a copy of a letter pulled from Pizza Hut file explaining the variances given on May 29, 1991. *(See attached)*

The letter, dated June 1, 1991, was addressed to: Dan Wright, Hallrich Inc. - from: Joanne Moore, Medina Twp. Zoning Secretary. Chair Morel read the letter into record; *"At a meeting of this board held May 29, 1991, a motion was made to grant your request for a variance for property located at the northeast corner of Eastpointe Drive west of State Route 18 for a Pizza Hut. The motion is as follows:*

Variance of 10 foot for setback from SR 18, south side of building. To deny variance of reduced parking width from 10' to 9' in lieu of to grant a variance of required number of parking spaces of 10' wide from 64 to 60 based on present configuration of 128 seats."

The Board then looked over the site plans to pinpoint where the variance requests were shown.

Chair Morel asked Mr. Turner if he planned on having any lights on the canopy. Mr. Turner said they will be using LED lighting so the lighting does not assault your eyes. Mr. Morel asked about the lighting on the side of the canopy. Mr. Turner said there will not be direct lighting on the side of the canopy.

Chair Morel stated, for the record, when he first looked at this submittal, he was concerned there was a lot of stuff being put in a small space but when he looked at the building envelope, he saw there's not much space left. He looked at the Pizza Hut and knew there were some variances. Chair Morel then asked Mr. West his opinion. Mr. West stated that he felt we were throwing out all the rules to let a business develop on that corner although it's not the building needing the variances, it's the canopy; except on the North side of the property. If it was any other place than on Route 18, it would not be as much of a concern. Mr. West asked Ms. Strogin what the status was of the widening of Rte. 18 at this specific location. Ms. Strogin said when you're dealing with ODOT a firm no can turn into a yes tomorrow but given that caveat, as of a week ago Tuesday at 2:00, Alan said there is absolutely no way ODOT will be doing any further widening between Windfall and Nettleton because they did that 10 years ago. Now that may change but that's the latest.

Mr. West asked Ms. Strogin for her opinion, as ZC Chairperson. Ms. Strogin said her natural instinct is to say it's a heck of a lot of variances. Although, back in '91 when the board gave all the variances to Pizza Hut. Since there are such severe variances already, the amount that Mr. Turner is asking for is minimal. If Pizza Hut is entertaining selling to Shell, they obviously are not doing all that great and we certainly do not want an empty building on a prime corner.

Chair Morel then swore in Bill Ostmann, Medina Township Trustee. Mr. Ostmann said ODOT is not planning on any changes being made on Rte. 18 and if there is, it will be so long from now, we will not be around to see it.

Ms. Strogin commented on the history of Denny's Restaurant. When Denny's bought the corner lot on Rte. 18, not paying attention to the size, they realized there was not enough room to build so they needed to purchase the lot between them and Pizza Hut. They didn't need both full lots but developer D. Haddad would not split the lot. This is why there is 50-60 feet, arbitrarily of green grass between Denny's and Pizza Hut. Denny's has tried to do something with that extra property but has had no luck. Ms. Strogin suggested to Shell to check in to buying that extra space.

The Board then discussed the Duncan Factors.

1. Will the property yield a reasonable return or whether there is a beneficial use without the variance? Chair Morel said if you go back to the original plat, it's questionable. Mr. West said some sort of variance for this present lot as it exists would be required for almost any business going in there.
(Ms. Strogin stated her board approved Fairfield Inn located in that area, and there are four other motels in that same vicinity and the only other gas station, down the road, is Speedway)
2. Is the variance substantial? The Board agreed 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? Chair Morel said the only concern he had would be impairing the view of Rick Rousch's business, who has never asked for a variance.
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 agreed yes.
6. Whether the problem can be solved by some other manner other than the granting of the variance? The board agreed yes, although the variance requested for a gas station seem to be within reason.
7. Whether the granting of the variance upholds the spirit and intent of the Zoning Resolution? Chair Morel was middle ground on this. He stated a variance is needed and because of the fact Pizza Hut is willing to sell, it seems it is not a viable business and we don't want an empty lot.

Mr. Blakemore made a motion to approve the following variances at 3131 Medina Road:

- 1) A 17' front yard setback on the Medina Road side for a canopy.**
- 2) A 35' front yard setback on East Point Drive to the canopy.**
- 3) A 31' front yard setback on East Point Drive to the building.**
- 4) A 10' side yard setback on the north side of the property line to the building.**

Mr. West seconded the motion. Chair Morel asked if there was any further discussion and board members said no.

ROLL CALL: Blakemore – yes, West– yes, Gray – yes, Payne– yes, Morel – yes.

True North Energy (DBA Shell Gas), 3131 Medina Rd., Medina OH

Chair Morel reviewed the application. Chair Morel asked Secretary Shoemaker to read the request into the record.

Applicant: Rick Turner, Diamond Z Engineering, 5670 State Rd., Cleveland OH 44134

Owner of property: Truenorth Energy LLC (dba Shell), 10346 Brecksville Rd., Brecksville OH 44141

Street Address of Property requiring variance: 3131 Medina Rd., Medina, OH 44256

Present Zoning: General Business

Previous Variances requested: no

Variance requested: 16 sq. ft. shell sign on south side of canopy, Section 605.I.1 and a 16 sq. ft. shell sign on west side of canopy, Section 605.I.1

The Reason: A) The requested signage is part of the corporate image we wish to convey. Our competition has their standard canopy images. B) We are presenting our image to two street frontages. C) The requested signage is relatively small and contains no words. It is the same color as the canopy.

Mr. West asked “What is the variance being requested?” Ms. Stogin explained that zoning says there is only one sign per principle building. The canopy is an accessory building. There are no signs allowed on accessory buildings unless the board of appeals grants the variance. Mr. West stated the forms are not clear about the specific requests being made. Ms. Stogin explained the applicant fills out the form and we cannot change what the applicant puts on the application.

Chair Morel asked what type of signage is going on the building. Mr. Turner stated there is one sign going on the building and showed a picture of the sign to the board members. Mr. Turner said True North has their own store brand so they mark the signs on the building under the name True North, but the Shell name on the canopy. Mr. West asked if the wall was 41 sq. feet. Ms. Stogin stated her board approved the ground signs at a previous meeting.

The Board then discussed the Duncan Factors.

1. Will the property yield a reasonable return or whether there is a beneficial use without the variance? The Board agreed yes.
2. Is the variance substantial? The Board agreed yes. Chair Morel said there are two more 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 agreed no because it's on Rte. 18.
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 agreed yes.
6. Whether the problem can be solved by some other manner other than the granting of the variance? The board agreed yes.
7. Whether the granting of the variance upholds the spirit and intent of the Zoning Resolution? Chair Morel said he feels there are multiple signs already and there is no need for further signs.

Mr. Turner added that the competition does have signage on their canopies. Ms. Strogin named four other gas stations in the township that all have names on their canopies. Mr. West asked how much square footage the applicant could have had on the building. Ms. Strogin said 80 sq. feet on the building. Mr. West said his train of thought was, if you add all the square footage of the signs being requested, it is still less than 80 square feet. Chair Morel said with all the variances granted to make this project work, there is no need for additional signs.

Chair Morel asked Matt Payne if he had any comments. Matt asked for verification if a logo makes a sign and Chair Morel said yes. Mr. Payne said he would be ok if they shrunk the size of the logo to fit the boundaries of the canopy. The board then discussed with Mr. Turner having just one sign on Medina Road and not the second on the side street.

Robin Gray stated she uses Shell gas and when she is driving down the road she looks for the Shell sign and if she doesn't see it she keeps going. Robin thinks it's important to have the Shell sign visible.

Chair Morel said if the variance was granted, who's to say the applicant won't come in and ask to use the remaining space available on the frontage to add more signage. Ms. Strogin said it depends on how the board words the motion.

Chair Morel said let's make a motion and see where it takes us. Carey Blakemore asked Mr. Turner if he was ok with one sign and Mr. Turner said yes.

Carey Blakemore made a motion to approve one 16 sq. ft. shell sign on the south side (Medina Road side) of the canopy with the condition that no other signage be put on the building or canopy.

Mr. West seconded the motion. Chair Morel commented that he feels there is no need for additional signs and the businesses revenue will not be affected either way. Chair Morel asked if there was any further discussion and board members said no.

ROLL CALL: Blakemore – yes, West– yes, Gray – yes, Payne– yes, Morel – no.

Chair Morel made a motion to approve the minutes from December 17, 2014 Medina Township Board of Zoning Appeals meeting minutes as amended.

ROLL CALL: Morel– yes, Blakemore – yes, Gray – yes, Payne– abstain, West– yes

With nothing further before the Board, the meeting of the Board of Zoning Appeals was officially adjourned at 9:00pm.

Respectfully Submitted,

Laurie Shoemaker
Zoning Secretary

Ed Morel, Chairman

Cary Blakemore, Vice Chair

Date

Date

6/17/15