

**MEDINA TOWNSHIP
ZONING BOARD OF APPEALS
ORGANIZATIONAL/PUBLIC HEARING
March 17, 2021**

The acting Chairperson, Ed Morel called the organizational/ meeting of the Medina Township Board of Zoning Board of Appeals to order at 7:00 p.m. Permanent members Blakemore, Morel and Gray and Payne were in attendance. Alternate Greene sat in for a full Board. Alternate Watts was absent. Alternate Karen Wirtz was in attendance.

ORGANIZATIONAL MEETING

Election of Officers

Nominations were called for Chairperson.

Mr. Morel nominated Mr. Blakemore as Chairperson of the Board of Zoning Appeals for the calendar year 2021. It was second by Mr. Payne. The nominations were closed.
ROLL CALL-Morel-yes, Payne-yes, Gray-yes, Greene-yes, Blakemore-yes.

Nominations were called for Vice Chairperson.

Mr. Payne made a motion to nominate Ed Morel as Vice Chairperson of the Board of Zoning Appeals for the calendar year 2021. It was second by Ms. Gray. The nominations were closed.
ROLL CALL-Payne-yes, Gray-yes, Green-yes, Morel-yes, Blakemore-yes.

Set hearing dates/Confirm hearing posting

The Commission stated they would continue to meet on the 3rd Wednesday of the month at 7:00 p.m. Posting of the meeting would be placed on the Town Hall marquee, website and The Gazette accordingly.

Chair Blakemore introduced the new alternate to the Board, Ms. Karen Wirtz.

The organizational meeting was closed at 7:06 p.m.

PUBLIC HEARING

The public hearing was opened at 7:06 p.m. Permanent members Blakemore, Morel, Payne and Gray were in attendance. Alternate member Greene sat if for a full Board. Alternate Watts was absent. Alternate Wirtz was in attendance.

Modwash Car Wash confirmation of previously approved variance request-4160 Pearl Rd.

Secretary Ferencz stated there was no formal application/fee submitted except for the following letter dated February 25, 2021 from Mr. Jake Simko, Berry Engineers LLC.

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Re: Modwash Car Wash Variance Re-Submittal

To Whom It May Concern:

The proposed project is an automated car wash located at 4160 Pearl Rd in Medina Township, and this request is a continuation of a past approval. This re-submittal of additional information is at the request of the Planning Commission (Zoning Commission) based on the February 16, 2001 meeting. The property will be subdivided into two lots with the car wash on the north parcel (lot 1) and the existing buildings to the south will remain (lot 2). On August 19, 2020, this application was approved to reduce 1 lot frontage below the required 150' to 145'. At the time it was the north lot being reduced as opposed to the southern lot now being reduced. Therefore, the Planning Commission (Zoning Commission) Chairwoman requested this resubmittal, that the applicant believed was already approved, based on a review of the meeting minutes.

At the February 17, 2021 BZA meeting the Applicant and the Board did not see a bearing of 7.7 ft. that would make the frontage comply with the previously approved variance to reduce one of the proposed lots from 150' to 145' (the review of the board missed the 7.7 ft. making the frontage 145' total.)

In addition, the applicant removed the rear mast arm from the setback of lot 1, and it is now in compliance with all other conditions of the BZA actions in previous meetings.

The applicant is requesting confirmation of a previously-approved variance for the following item:

Minimum Lot Width and Frontage (Article IV, Section 406.3.A & 406.3.B.)

Sincerely,
Jake Simko, E.I.
Berry Engineers, OOC

Mr. Andy Hargue from Hutton ST 17 LLC was sworn under oath and addressed the board. He stated that Mr. Ryan Slattery was before the Board previously on this specific project but could not be in attendance this evening due to an emergency appendectomy.

Mr. Hargue stated when his company was before the Board previously variances were granted for the following:

At a meeting of this Board held on August 19, 2020 the following variances were granted for the property located at 4160 Pearl Rd. (Modwash Car Wash & Quick Serve Restaurant):

1. A 5 ft. minimum front yard width and frontage variance for the accommodation of a lot split (Article IV, Section 406.3A & 406.3.B)

2. A reduction in the number of parking spaces required from 48 to 38 spaces for a quick serve restaurant (Article V, Section 503.D.d)
3. To permit a single access drive (Article V, Section 506.B).

The applicant to remove the rear mast arm from the setback of Lot 1.

Mr. Hargue continued that all of this was complied with per the conditions/variances given. At the February 17, 2021 meeting, the applicant and Board did not see a bearing of 7.7 feet that would make the frontage comply with the previously approved variance to reduce one of the proposed lots from 150' to 145'. They thought it was 137 ft. The review of the Board missed the 7.7 ft. making the frontage 145' total.

Ms. Strogin, Zoning Chair was then sworn in under oath. She stated the problem is that the 5 ft. minimum front yard width and frontage variance was granted on the north lot. A proposed restaurant (Slim Chickens) was to go on this lot. The 153 ft. of frontage was on the south lot for the location of the carwash. Now the lots have been flipped and the carwash wants to locate on the north lot. As a result the 153 ft. is on the north lot. The south lot is the lot with the 145 ft. Ms. Strogin stated the variance granted for the north lot cannot just be flipped to the south lot without going back to through the variance procedure.

Mr. Blakemore asked, does it state in the variance granted in August 19, 2020 that one lot is approved to be below the 150 ft. and one is not; or does it just say of the two lots one is below the 150 ft. Ms. Strogin stated no, her and Zoning Inspector Ridgely read it several times. The north lot was to be for the drive-thru restaurant. Again Mr. Blakemore asked if the variances granted specified which of the two lots was granted the variance. He then stated he would like to see the variance that was granted. Ms. Strogin stated she did not have access to those records. Mr. Greene interjected; we cannot just go off of what Ms. Strogin says.

Vice Chair Morel stated that the Board probably granted the variance per the plans submitted and now those plans have changed. Ms. Strogin is perfectly correct that it would be the wrong lot so the variances would not carry over.

Angela Ventura (3833 Worchester Lane) was sworn in under oath. She started by asking the Board, do you regularly switch lots on plans. Is that what you do? Flip flop variances? Mr. Blakemore stated no, but there is only one lot. Ms. Ventura stated no there are two. The Board told her repeatedly that it is only one lot and that the lot split has not been completed. She again stated there is a north lot and a south lot. Chair Blakemore stated that was not correct. The applicant is trying to get the parcel split into two lots but right now it is one lot. She asked, so they want a variance so they can split it and stick the Township with a lot that is unsellable. They want to make it so that there is no driveway. The Board and then the applicant himself Mr. Hargue tried to explain that there is a driveway. Mr. Hargue stated he reason for all of this is because ODOT would not allow a right out. ODOT only allows one driveway. There will be a restrictive easement

agreement that will allow for access for both lots when the lot split is completed. Ms. Ventura interjected, so the one lot will not have a driveway and asked the applicant if he felt lot would sell or would it be overgrown with weeds.

Mr. Hargue tried to explain that the north lot would have a new building and the south lot already has a building on it. Ms. Ventura stated why couldn't they just build the carwash on the lot they originally said it was going to go on. Why is this so difficult? Chair Blakemore stated because the proposed restaurant pulled out of the deal. Ms. Ventura continued to banter back and forth with the applicant. The meeting became very chaotic with individuals speaking over each other. Secretary Ferencz stepped in to state that all comments and questions should be directed through the Chair. She told Ms. Ventura, You cannot have all this rebuttal back and forth with the applicant. That is not how a public hearing is supposed to function.

Chair Blakemore started this is not a debate and we're going to make a point...Ms. Ventura interrupted him and said she would like the Board to vote no. Mr. Blakemore responded I'll let you know when I'm done talking to which Ms. Ventura stated and I'll let you know when I'm done talking because you interrupted me first. She continued I am asking the Board as a resident not to grant the variance. I'm done.

Mr. Bruce Christopher (4160 Monterey Dr.) was sworn in under oath. He stated as he understood the situation, the Modwash is now going on the other lot where the proposed restaurant was to locate. A lot split would be completed and there is only one driveway, which would be for the carwash. Mr. Hargue stated that was not correct. There would be an easement for shared access for both lots. Mr. Christopher stated that did not seem legal that the variance granted for the restaurant could just be given to somebody else (carwash). Also, if there is not going to be access for this other lot what kind of business would buy it?

Chair Blakemore stated when the original plan was approved the Board looked at the businesses next to it such as the Bob Evans and Quaker Steak, which only have one access road in. There are no driveways on Pearl Rd. for any of those businesses. This case is somewhat similar. If you look at Five Guys and the dentist place there is only one access for those businesses. Mr. Christopher stated if there is only one access wouldn't that have to be in a legal document.

Mr. Greene interjected, that is what Mr. Hargue already stated. There will be a shared access easement for both lots to have access. Mr. Greene stated those agreements run with the land. Secretary Ferencz stated that is correct. Variances run with the land not the owner of the land.

Chair Blakemore stated the access road is not a Township decision to make. It's a State Rt. (42). Moving the carwash is based on ODOT requiring them to put the driveway in that location.

Vice Chair Morel stated when the Board approved the variance we approved them per the plans that were stamped and now that would be backwards. Again Chair Blakemore asked to see the variance that was granted. Ms. Stogin stated the variance granted was specifically for the proposed restaurant. Vice Chair Morel stated again he agreed with Ms. Stogin. You can't take plans we approved one way and now apply it to the other lot. A variance would need to be applied for. Even if the motion didn't say 145 ft. on the north lot or the south lot it's always per the plans stamped and signed off on. I believe the variance request needs to be reheard.

Mr. Hargue stated the carwash location was driven by ODOT not allow them a right out. Chair Blakemore questioned if the variances that were previously granted specifically spelled out which lot they were for. Ms. Stogin interjected the variances were for the north lot.

Vice Chair Morel asked if a variance had been applied for this evening. All that was submitted was a letter asking for confirmation of a previously granted variance. If the applicant did not formally apply for a variance then it was not put in the paper and...that is why we could not hear the variance the last time. Chair Blakemore stated the letter submitted states, "the applicant is requesting confirmation of a previously approved variance for the following item: Minimum Lot Width and Frontage (Article IV Section 406.3A and 406.3B). Mr. Hargue stated he was not present before the Board last month so... Vice Chair Morel interjected that it appears the Board's opinion is your confirmation is not correct. You need to apply for the variance. Chair Blakemore stated unless you can supply a document that shows the variance is in August 2020 was to split the lot no matter what, he did not know if the Board could move forward this evening. Mr. Hargue stated it would be whatever the plans are. If we need to make this right we will apply for a variance for the lot lines. Vice Chair Morel commented that Board made that perfectly clear to Mr. Slattery that he would need to resubmit for a variance.

Secretary Ferencz stated she spoke with Zoning Inspector Ridgely and she stated that she was told by Mr. Slattery that he did not want to apply for a variance.

Ms. Ventura asked if she had to come back again or can she go on record that she was against the variance request. The Chair and Vice Chair told her she could come back or submit and email. Secretary Ferencz stated Ms. Ventura's comments this evening would be made part of the minutes.

Ashley Homestore/outlet-4927 Grande Shops Ave.

Secretary Ferencz read the application into the record. The applicant is Ashley Homestore/outlet. The address of the property is 4927 Grande Shops Ave. Present zoning: BI. Previous variance requests: No. Variance being requested and reasons: Section 605I.1. Variance to allow for (2) primary identification wall signs each 179.3 sq. ft. each. (if calculated by boxing entire sign). Eighty (80) sq. ft. is allowed for two wall

signs at this property. Retail sign band is approximately 500' from each primary road (Pearl Rd. and Grande Shops Ave.).

Ashley Homestore/outlet has a strict sign design, which unfortunately when paired with the Township's method of sign square footage calculation leaves us with 50 sq. ft. of dead space. At 500' back from either road, an 80 sq. ft. sign at this design would be unreadable. Primary identification, safety and traffic of this location are all necessary for success of this new retail establishment.

The applicant, Mr. Timothy Quinn from Wellsville Carpet Town Inc. was sworn in under oath. He stated Ashley Industries is the largest manufacturer of furniture in the world. Each store is independently operated. It is not a franchise but a licensing agreement with the manufacturer with strict guidelines on how we advertise as well as the signage we erect. We will be locating in the old MCSports location. The Ashley Home outlet store concept is a choose your product, pay and go business as opposed to order/special orders. He then introduced Amy Noble from Ellet Signs to explain the need for the variances.

Ms. Amy Noble from Ellet Signs was sworn in under oath. She began by stating they are asking for two wall signs; one on the south elevation and the other on the east elevation. She added she and Mr. Quinn struggled with the design of the sign because of the branding mentioned. The brand is Ashley Homestore/outlet. They are very particular about the spacing and it cannot be reduced. In front of the words Ashley Homestore is a 50 ft. orange outline of a house which is their logo. The capital letters are 39" which includes the A in Ashley and the lower case letters h and i as well as the slash between Ashley Homestore and outlet. The sign we have proposed for the sign band, looks great, it lays out in a linear format; is proportional and can be read from the street. For the sign criteria, we use 10" of height for every foot so this is the least amount of sign height and spacing for this sign to be readable from the road.

Mr. Greene asked about the sign criteria used for this particular sign. Ms. Noble stated its called an optimal visibility chart from the USSG (Universal Sign Council) She added that different methods are used to calculate visibility of readable letters for retail use. The variances granted for this building previously was for (2) 80 sq. ft. signs. When you box this sign per the regulations of the Medina Township Zoning Resolution, the calculation is 179 sq. ft. for each sign because of the height and addition of Homestore under the word Ashley. The previous sign for MCSports was only 8 letters. Those letters were boxed as called for by the zoning code. That's 80 sq. ft. The height on the capital letters is 39" which matches what we are asking for. Again Ms. Noble stated the proposed sign lays out in a linear format, is proportional and can be read from the street.

Mr. Greene stated if that was the case, then why the variance requests. Ms. Noble stated she meant in height. That was what was needed from each roadway for the sign to be legible.

Vice Chair Morel asked what size signage was permitted for this property. Ms. Strogan stated that per the code what was permitted was one wall sign not to exceed 80 sq. ft. The BZA gave the property (2) wall signs not to exceed 80 sq. ft. each when the business was MCSports. She continued that this is a shopping center and there is an identification sign on the corner of Pearl and Grande Shops Ave. Ashley Homestore will have a large panel on that sign. Therefore she stated a readable sign from Pearl is not necessary. Wal-Mart is across the street and only has 425 sq. ft. of signage and Ashley is asking for 360 sq. ft. and is only 1/10th the size of Wal-Mart.

Ms. Dana Johnson (3298 Foskett Rd.) was sworn in under oath. She said she has a bit of a signage background. She commented that Wal-Mart does have a smaller logo. When a sign band is created; to have it look right in that font you cannot push the letters together. They need the spacing and sizing of the letters to be correct. I know it seems like they need a lot more space, but as proposed, the sign looks aesthetically pleasing and fits the space well. She concluded that as a resident I have no problem with the sign as proposed.

Vice Chair Morel stated you can put as much on a logo as you want. It's up to the person who designs the logo. The more you put on it the smaller the letters will be. This property already has double the signage the code allows. It's over a 100% variance twice.

Ms. Ventura interjected; Ashley Homestore has already stated they don't have a choice. Mr. Quinn responded that is correct. We have no right to vary the logo. We would be in default of the trademark use agreement if we did. We either comply or we are not opening up in that particular community. If I change the sign Ashley Industries will make me take it down and close the store.

Mr. Quinn continued that he is so glad to have an opportunity to have a presence in the Medina area. The Zaremba Group (owners of the complex) are also trying to attract a Home Goods to take over the former Bed, Bath and Beyond location in the shopping complex. Mr. Quinn stated Zaremba is waiting to see if we are committed to opening up our location before Home Goods commits to locating there as well.

Having 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? The Board stated yes.
2. Is the variance substantial? The Board stated yes it is huge.
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? Some of the Board members stated yes. Mr. Greene asked how. Vice Chair Morel responded, they can shrink the sign. Chair Blakemore asked if Ashley Home requires the sign to be a specific size. Vice Chair Morel interjected, we hear that all the time. You hear McDonalds requires the golden arches yet they don't have them at their location in Hudson or Independence.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution? Vice Chair Morel stated if you grant the variance everybody in that plaza and surrounding them is going to say, "Well Ashley got x amount of square feet of signage. Mr. Greene interjected there is no legal precedential value to a variance. It is specific to that parcel. Vice Chair Morel stated that is the very thing you will end up arguing about. Mr. Greene reiterated the law is law and there is no precedential value to a variance.

Again Ms. Johnson stated she would be proud to have Ashley Homestore in Medina Township. If the variance is not granted the sign it will look ridiculous. It's not their fault their name is as long as it is.

Mr. Greene made a motion to grant a variance to allow (2) primary wall signs (south and east elevations) and 99.3 sq. ft. variance to allow the signs to be 179.3 sq. ft. each for the property located at 4927 Grande Shops Ave. as presented. It was seconded by Mr. Payne.

ROLL CALL-Greene-yes, Payne-yes, Gray-no, Morel-no, Blakemore-yes.

The variance was granted.

The Board signed off on approval of pending minutes.

Having no other business before the Board, the hearing was adjourned at 8:00 p.m.

Respectfully Submitted,

Kim Ferencz
Zoning Secretary



Carey Blakemore, Chairman