



# CITY of MEDINA

## Board of Zoning Appeals

### Regular Meeting Minutes

#### February 13, 2025

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Meeting Date: February 13, 2025

Meeting Time: 7:00 PM

Present: Steve Cooper, Bert Humpal, Logan Johnson, Paul Roszak, Mark Williams, Andrew Dutton (Community Development Director), Greg Huber (Law Director), Sarah Tome, and (Administrative Assistant)

Absent: Kyle Funk

#### Approval of Minutes

Mr. Williams made a motion to approve the minutes from November 14, 2024 and January 9, 2025 as submitted.

The motion was seconded by Mr. Roszak.

Vote:

Cooper	<u>A</u>	Humpal	<u>Y</u>
Johnson	<u>Y</u>	Roszak	<u>Y</u>
Williams	<u>Y</u>		
Approved	<u>4-0</u> with Mr. Cooper abstaining		

The Court Reporter swore in all attendees.

#### Applications

1. Z24-24 John Potter 322 West Smith Road VAR

Mr. Dutton stated that the property had previously contained a single-family home, which had been demolished in 2018. He added that the applicants were requesting approval for a two-story duplex with 1,635 sq. ft. units.

Mr. Dutton stated that a TC-OV application for the project had been conditionally approved by the Planning Commission on November 14, 2024. He noted that the Planning Commission had reviewed a revised application earlier in the evening and again conditionally approved the application.

Mr. Dutton stated that the Board of Zoning Appeals had heard the subject application on November 14, 2024 and had accepted a request by the applicant to table the application.

Mr. Dutton noted that the Planning Commission had approved the application with the condition that the front elevation incorporate shutters and shake siding, which had been included in the revised front elevation. He continued that a variance to Section 1135.13(c)(1) to allow a vinyl exterior was still necessary.

Mr. Dutton stated that the rear yard setback had been previously incorrectly cited as 50 ft. He noted that when a property in the C-2 zoning district was adjacent to a residential zoning district, the rear yard setback of the C-2 property was equal to that of the adjacent residential zoning district. He added that the adjacent property to the rear was zoned R-3, which has a 30 ft. rear yard setback, therefore, the setback for the subject property was 30 ft.

Mr. Dutton stated that, at the November meeting, there had been a discussion regarding the front and rear setbacks. He noted that the applicant had provided two options for the location of the building:

- Option 1 (Original Location) incorporated a front setback of 31 ft. 8 in. and a rear setback of 14 ft. 5 in.
- Option 2 incorporated a front setback of 19 ft. 11 in. and a rear setback of 25 ft.

Mr. Dutton stated that either option would require variances to allow the structure within the 30 ft. rear yard setback and parking in the front yard.

Mr. Dutton noted that Section 1145.10(d) had been identified, which required that two family residences that access a collector or arterial street must have forward movement onto the street. He continued that Section 1145.10(d) applied to the project as West Smith Road was designated a collector street in the Comprehensive Plan. Mr. Dutton continued that a method allowing vehicles to turn around on the site would need to be incorporated into the site plan, or a Variance to Section 1145.10(d) would need to be granted by the Board of Zoning Appeals. He added that, at the Planning Commission meeting, the applicant had indicated that a method allowing for a vehicle to turn around would be provided on the site.

Mr. Dutton stated that, at the previous Planning Commission and Board of Zoning Appeals meetings, there was a discussion regarding drainage and access. After consulting with the City Engineering and Service Departments, he noted that the following information had been provided:

#### Storm Sewer Structures and Easement

The city had installed a storm sewer line, catch basin, and outlet on the east side of the property at 328 West Smith Rd. The city has easements on both properties at 322 and 328 West Smith Road, which are a minimum of 5 ft. off each side of the shared property line. The easements, which were a minimum combined 10 ft. wide, were sufficient for the city to access, repair, and maintain the storm sewer line, catch basin, and outlet.

### Permit and Plan Review

When plans are submitted to the city's Building Department for a new two-family dwelling, a Lot Improvement Plan must also be submitted to the city's Engineering Department. The Plan must include information on how stormwater would be managed and include elevations, drainage details, and other relevant items. The plan would be reviewed to ensure stormwater management complies with city regulations and would not result in negative impacts on area properties.

### Creek Maintenance

The creek to the rear of the properties at 322 and 328 West Smith Road had been maintained by the city. To perform maintenance, the city typically accessed the creek at the South Huntington Street bridge and worked westward to the bridge at West Smith Road

Mr. Dutton stated that the applicant had referenced the City of Medina Comprehensive Plan Future Land Use map, which was meant to guide the pattern and character of future growth. Mr. Dutton stated that the subject property was designated as "Urban Residential Land Use", which included single-family residential, multifamily residential, and community facility uses.

Mr. Dutton stated that the applicant had provided letters of support from Shannon Rush, resident at 316 West Smith Road, Matt King, owner of Lager Heads Brewing Company located at 325 West Smith Road, and Leslie Burns of M.C Real Estate, the listing agent for the subject property. He noted that additional documents had been submitted by Gregory Happ, on behalf of Christopher Kalina, owner of 322 West Smith Road.

Present for the case was Nicholas Hanek of Meyers, Roman, Friedman, and Lewis, 8601 Chagrin Boulevard, Suite 600, in Cleveland, representing the applicant. Mr. Hanek stated the size of the building was not an issue, as it was within the size allowed by the code. Mr. Hanek continued that the proposed two-family residence fit with the "Urban Residential Land Use" proposed in the Comprehensive Plan's Future Land Use map. He added that multifamily uses were preferred for the area in the land use plan.

Mr. Hanek stated that the proposed two-family residence was proposed next to an existing two-family residence. He stated that there were no other feasible uses for the property other than residential. Mr. Hanek noted that the C-2 district required parking to be in the rear of the building, which was not possible due to the unique characteristics of the lot.

Mr. Hanek stated that there were 5 ft. easements on both sides of the western property line. He noted that the applicant would not be able to go forward with the project without meeting the requirements of the City Engineering Department. Mr. Hanek added that water runoff from the project would not impede the surrounding properties and would likely improve the flow of water on the site. He indicated that the applicant was willing to provide a turnaround, as required, though other houses on the block did not meet the requirement as they had been built before that code section was enacted.

Also present for the applicant was David Leach of the Cornice Company, 3200 West Market Street, Suite 6, in Fairlawn. When questioned by Mr. Hanek, Mr. Leach stated that his company worked on both commercial and residential projects, including additions and new construction. He added that he was familiar with C-2 uses in Medina and that he did not believe there was a way to comply with the C-2 requirements on the lot. Mr. Leach stated that an 8 ft. by 10 ft. turnaround could be constructed midway down the driveway so a car could back up and pull out of the driveway.

Mr. Hanek stated that the subject parcel was a unique case, which was not the fault of the application.

Mr. Humpal opened the public hearing.

Gregory Happ, 331 E Washington Street, stated that he had the right to cross-examination as an attorney before the public hearing. Mr. Huber stated that the request was appropriate as a hearing was being held on the case.

Mr. Happ stated that the applicant's attorney could not testify. Mr. Hanek stated that he objected to the cross-examination and the statement that the applicant's attorney could not testify. There was a discussion between Mr. Hanek and Mr. Happ on swearing in procedures and the role of attorneys at hearings.

Mr. Huber stated that Mr. Hanek was not testifying and was acting as an attorney and Mr. Happ did not have the right to cross-examine Mr. Hanek. Mr. Huber added that Mr. Happ could ask questions of the contractor or the applicant.

Mr. Happ asked if the plans, as submitted, complied with Section 1145.10(d). Mr. Leach replied that the submitted plans did not contain a turnaround. Mr. Happ asked if there would only be one turnaround for the two side-by-side drives. Mr. Leach stated the decision for one turnaround was out of consideration to the neighbor to the west, who had expressed concern with approaching the property line. Mr. Leach continued that he would be willing to construct two turnarounds. Mr. Happ asked if the applicant was planning on having two turnarounds. Mr. Leach stated that the decision would be based on what the city wanted him to construct.

Mr. Happ noted that Mr. Leach had testified that nothing else could be built on the lot. He asked if a single-family residence could be built on the lot. Mr. Leach stated that a residence could be built on the property. There was an additional discussion on single-family residences and two-family residences regarding the subject site and Mr. Leach's qualifications.

Mr. Humpal, again, opened the public hearing.

Christopher Kalina, 4773 Forest Grove Drive in Brunswick Hills presented the Board with additional documentation. Mr. Kalina stated that he owned the property located next door at 328 West Smith Road. He stated that the application noted that the parcel was not typical and would not be suitable for mixed-use development. Mr. Kalina referred to the November 14<sup>th</sup>, 2024 BZA minutes, in which Mr. Dutton stated that a rezoning request would most likely change the zoning of the property to the R-3 zoning district.

Mr. Kalina asked why the applicant could not construct a single-family residence on the property, which was the previous use. He stated that the application requested a variance to apply R-2 zoning requirements in a C-2 zoning district. Mr. Kalina stated that if the property was rezoned, the proposed two-family residence would not meet either the R-2 or R-3 zoning district requirements for lot size. He added that he had provided the Board with a chart showing the size of the surrounding lots compared to the size of the structures located on them.

Mr. Kalina gave the Board a history of the subject property regarding transfer of ownership and price, indicating that it was the property owner's choice not to sell the lot for years.

Mr. Kalina discussed water and drainage issues on West Smith Road and voiced his appreciation for the efforts of the city to improve drainage on West Smith Road. He added that water backing up on Smith Road had been a continuous issue for residents. Mr. Kalina added that the house had remained dry until the reconstruction of Smith Road. He stated that he felt his concerns about drainage with the proposed project were warranted because of these issues. Mr. Kalina noted that he had spoken to Jim Smith, from the Medina County Soil and Water Conservation District, and Mr. Smith had noted that the elevation drop into Champion Creek created some unique issues.

Mr. Kalina stated that the City of Medina Code required that no concentration of water shall flow onto an adjoining property, and where a lot was graded to a higher level than the adjacent property, protection must be provided to preserve the elevation of the adjacent property. He stated that the variance request was for the largest two-family residence on the smallest lot in that area and that the project should be investigated by experts before any development.

Mr. Kalina stated that Exhibit C provided by the applicant was incorrectly indicated as an easement of a combined 10 feet wide located on properties at 322 West Smith Road and 328 West Smith Road. He added that the easement submitted as Exhibit C was a completely unrelated highway easement located on the opposite side of his property. He stated that he had not received any money from the City of Medina for drainage structures that were installed on his property.

Mr. Kalina gave an overview of the document he had presented to the Board, including information on traffic volume and traffic counts, the city's Thoroughfare Plan, the realtor's listing for the subject property, and pictures.

Mr. Happ stated that the Board had the obligation to look at all standards required for a variance. He argued that the submittal did not demonstrate, by clear and convincing evidence, that all of the standards had been met in order for the variance to be granted.

Mr. Happ stated that the applicant did not conduct a traffic impact study, which was required for projects in the C-2 District. He also argued that the proposed two-family residence jeopardized the safety of the public.

Mr. Dutton stated that he had discussed the application with the City Engineer regarding the requirement for a traffic impact study per Section 1135.11(b). He stated that the City Engineer did not require a traffic impact study for the project, as the requirement was in place for large-scale developments.

Mr. Johnson made a motion to enter into executive session for the purpose of obtaining legal counsel.

Mr. Roszak seconded the motion.

Vote:

Humpal	<u>Y</u>	Johnson	<u>Y</u>
Roszak	<u>Y</u>	Williams	<u>Y</u>
Cooper	<u>Y</u>		
Approved	<u>5-0</u>		

The executive session was adjourned and the meeting continued at 8:34 pm.

Mr. Humpal stated that, following conversation with legal counsel, the Board was prepared to vote on the application.

Mr. Williams made a motion to grant the use variance, stating that the variance request stemmed from a condition that was unique to the property of issue and not prevalent in the surrounding district. He added that granting the variance would not adversely affect the public health, safety or general welfare, and that the variance fit with the general spirit or intent of the ordinance.

Mr. Cooper seconded the motion.

Vote:

Johnson	<u>Y</u>	Roszak	<u>Y</u>
Williams	<u>Y</u>	Cooper	<u>Y</u>
Humpal	<u>Y</u>		
Approved	<u>5-0</u>		

Mr. Roszak made a motion to grant the area variance, stating that the essential character of the neighborhood would not be substantially altered, the variance would not adversely affect the delivery of government services, and the spirit and intent behind the Zoning Code would be observed and substantial justice done by granting the variance.

Mr. Williams seconded the motion.

Vote:

Roszak	<u>Y</u>	Williams	<u>Y</u>
Cooper	<u>Y</u>	Humpal	<u>Y</u>
Johnson	<u>N</u>		
Approved	<u>4-1</u>		

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2.	Z25-02	John Benedict	1041 North Court Street	VAR
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Mr. Dutton stated that the existing Marc's building had two existing wall signs, a "Marc's" sign and a "Pharmacy" sign, totaling 266 sq. ft. in area. Mr. Dutton stated that the applicant was proposing three additional wall signs for "Cold Cut Counter", "Fresh Produce", and "Quality Meats" with an additional area of 140.7 sq. ft.

Mr. Dutton continued that Section 1145.14(d) stated that each commercial tenant space shall have only one wall sign at a maximum size of 1 sq. ft. per 1 ft. of building frontage. He added that Marc's building frontage was 266 sq. ft. per a recent building permit, therefore, Marc's was permitted one wall sign at 266 sq. ft. in area. Mr. Dutton stated that the two existing Marc's wall signs were a combined 266 sq. ft. in area. He noted that, though a sign permit was issued for the signs, there was no record of a variance allowing two wall signs.

Mr. Dutton stated that the applicant had indicated the following regarding the Standards for Variances and Appeals:

- Allowing additional signage was critical for the services and products the store can provide.
- The tagline signage aligned with other tenants in the plaza that did not have a dormer for sign location.

Present for the case was Myles Houska of Brilliant Electric Sign Company, 4811 Van Epps Road in Cleveland and Mark Hartkop of Marc's, 5948 West 130<sup>th</sup> Street in Cleveland. Mr. Houska stated that the height of the "Pharmacy" sign was used to determine the height of the proposed signage so that everything looked uniform. He noted that, with the new Meijer store going into the plaza, Marc's was working to improve their store. He added that the signs would help them remain competitive in the market and also help define their tenant space.

Mr. Humpal opened the public hearing. There were no questions or comments from the public.

Mr. Humpal asked if Meijer had received sign variances. Mr. Dutton stated that Meijer had received variances for their multi-tenant sign, projecting signs, and for more wall signs than permitted.

Mr. Roszak made a motion to approve the variance, stating that signage that exceeded the permitted number would be more appropriate in scale for the building's frontage and would not adversely affect the character or appearance of the building.

Mr. Johnson seconded the motion.

Vote:

Williams	<u>Y</u>	Cooper	<u>Y</u>
Humpal	<u>Y</u>	Johnson	<u>Y</u>
Roszak	<u>Y</u>		
Approved	<u>5-0</u>		

### **Adjournment**

Having no further business, the meeting was adjourned.

Respectfully submitted,

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Sarah Tome

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Bert Humpal, Chairman