

**MONTVILLE TOWNSHIP
BOARD OF ZONING APPEALS
SPECIAL MEETING
MARCH 22, 2010**

PRESENT

**CHAIRPERSON, SALLY ALBRECHT
BOARD MEMBERS: ALLEN BIEHL
DONNA WATKINS
TERRY HUGHES**

ALSO PRESENT

**DERYL ABLRECHT
ALAN GRIBBLE
ZI, JUDITH EMRICK
ZS, ROBIN HALLEEN**

ASSISTANT MEDINA COUNTY PROSECUTOR, TOM KARAS

HANDOUTS:

- 1. LETTER SUMMA HEALTH SYSTEMS VARIANCE**
- 2. CORRESPONDENCE TIGER GENERAL**
- 3. DOCUMENTATION VARIANCE MAY 5, 2010 MEETING**

AGENDA

MINUTES:

- 1. FEBRUARY 22, 2010 (SPECIAL MEETING)**
- 2. MARCH 1, 2010**

APPLICATIONS:

- 3. VARIANCE: APPLICATION #02-10-05 ~ A REQUEST BY MR. ALAN GRIBBLE OF SIGNET HEALTHCARE, MEDINA, LLC, 75 E. MARKET STREET, ARKON, OHIO 44308 ON BEHALF OF SUMMA HEALTH SYSTEMS HOSPITALS, 3780 MEDINA ROAD, MEDINA, OHIO 44256 FOR A VARIANCE (SECTION 320.1.B REQUIRED STREET FRONTAGE) TO ALLOW EASEMENT AGREEMENT TO SERVE AS THE REQUIRED STREET FRONTAGE IN LIEU OF A DEDICATED PUBLIC STREET/APPROVED PRIVATE STREET.**
- 4. DISCUSSION: TIGER GENERAL CONDITIONAL ~ CONCLUSION OF FACT**

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PUBLIC HEARING

Chairperson Albrecht called the March 22, 2010 Board of Zoning Appeals meeting to order at 7:05 p.m.

ROLL CALL:

Board Member Biehl Present
Board Member Watkins Present
Board Member Hughes Present
Chairperson Albrecht Present

Chairperson Albrecht: "If there is anyone here who wishes to speak on the subject(s) in question tonight, please sign the witness sheet if you have not already done so. Anyone who wishes to speak will be sworn in before their testimony is heard. The official minutes of the meeting are taped and therefore, it is important that the participating public state their name clearly prior to testimony. The Board of Zoning Appeals is a quasi-judicial body who bases their decisions on facts and not opinions and therefore, we ask that your testimony be based on facts and not personal opinion. The written/typed transcripts (minutes) are the official documentation of the proceedings."

Chairperson Albrecht asked if the proper notices were sent.

Zoning Inspector, Emrick stated: "Yes."

Chairperson Albrecht asked if the contiguous property owners were notified.

Zoning Inspector, Emrick stated: "Yes."

MINUTES:

1. February 22, 2010 Minutes (Special Meeting)

MOTION: Board Member Biehl made a motion to approve the February 22, 2010 minutes as written.

SECOND: Board Member Hughes

ROLL CALL: A collective oral vote was taken: Board Member Biehl, Board Member Hughes and Chairperson Albrecht stated Aye ~ No Nays (Board Member Watkins abstained as she was not present at the February 22, 2010 meeting.)

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2. March 1, 2010 Minutes

MOTION: Board Member Hughes made a motion to approve the February 22, 2010 minutes as written.

SECOND: Board Member Biehl

ROLL CALL: A collective oral vote was taken: Board Member Biehl, Board Member Hughes and Chairperson Albrecht stated Aye ~ No Nays (Board Member Watkins abstained as she was not present at the March 1, 2010 meeting.)

- 3. VARIANCE:** APPLICATION #02-10-05 ~ A REQUEST BY MR. ALAN GRIBBLE OF SIGNET HEALTHCARE, MEDINA, LLC, 75 E. MARKET STREET, ARKON, OHIO 44308 ON BEHALF OF SUMMA HEALTH SYSTEMS HOSPITALS, 3780 MEDINA ROAD, MEDINA, OHIO 44256 FOR A VARIANCE (SECTION 320.1.B REQUIRED STREET FRONTAGE) TO ALLOW EASEMENT AGREEMENT TO SERVE AS THE REQUIRED STREET FRONTAGE IN LIEU OF A DEDICATED PUBLIC STREET/APPROVED PRIVATE STREET.

Chairperson Albrecht introduced the first item by reading the information from application #02-10-05.

In addition to the application, Chairperson Albrecht read the following attachment to the application:

*ATTACHMENT VARIANCE APPLICATION MONTVILLE TOWNSHIP
APPLICANT SIGNET HEALTHCARE MEDINA, LLC AND ITS SUBSIDIARIES*

NATURE OF VARIANCE: The applicant requests that a variance be granted to allow the attached easement agreement to serve as Required Street Frontage for the proposed subdivided parcel in lieu of a dedicated public street or an approved private street as required under Section 320.1.B of the Montville Township Zoning Code.

1. SPECIAL CONDITIONS THAT MAY EXIST PECULIAR TO THE LAND AND BUILDING IN QUESTION: The applicant is required under its bank financing agreement to split the portions of the land currently not encompassed in the development of the first phase of the Health Center of Lake Medina Project into separate legal parcels. The applicant believes that any deed restrictions or similar requirements that put the lenders in a perceived worse position will jeopardize applicant's financing.

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2. *A LITERAL INTERPRETATION OF THE RESOLUTION WOULD DEPRIVE THE APPLICANT OF RIGHTS ENJOYED BY OTHER PROPERTY OWNERS: A literal interpretation of the resolution would be cost prohibitive and would place the existing project financing in default due to the failure to subdivide the parcel. Future development would be jeopardized. By agreement all future development is to be conducted by the current land owner, Summa Health Systems, or current developer, Signet. Future development will be consistent in use with the first phase of the Project.*

3. *SPECIAL CONDITIONS DO NOT RESULT FROM PREVIOUS ACTIONS OF THE APPLICANT: They do not.*

4. *THE REQUESTED VARIANCE IS THE MINIMUM VARIANCE THAT WILL ALLOW A REASONABLE USE OF THE LAND AND/OR BUILDING: It is. The variance to use the easement simply allows the proposed parcel to have access to Route 18 through the approved ingress and egress of the project under development. This is consistent with the access to future development on the proposed parcel area, if the lot split was not required by the applicant's financing agreement. The Office zoning designation by definition limits any future use of development of the parcels and provides the Township with certainty that such future use would be complimentary to the surrounding parcels and consistent with this office building corridor along Route 18.*

Chairperson Albrecht read the following memo addressed to the Board of Zoning Appeals from Zoning Inspector, Judith Emrick:

March 8, 2010

Re: Signet Healthcare Variance Office Zoning District Allowing an easement agreement to serve as the required street frontage in lieu of a dedicated public street/approved private street.

The applicant, Alan Gribble, representing Signet Healthcare, is requesting an easement agreement to serve as the required street frontage in lieu of the dedicated public street/approved private street.

In March of 2007, Ron Russell of Russell Real Estate requested a lot split consisting of 6.3993 acres, leaving him with 1.8052 acres in Medina Township. This lot split would allow Mr. Russell to sell Signet Healthcare the 6.3993 acres which Signet would then combine in October of 2008 with its property to the east. The split and combination were done simultaneously because the split needed road frontage and the combination would allow road frontage.

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As the months progressed and our economy went into the dumper, Mr. Gribble came to see me about splitting the 4.2228 off of the 6.3993 acres. As explained in #1 of the variance application, the bank is requiring these 4.2228 acres to be split from the first phase. The zoning resolution requires lots to have road frontage. The only allowable access to a road for this parcel is through the easement, per ODOT's traffic study of October 2007.

Should you need additional information, please let me know.

Chairperson Albrecht read the following memo addressed to Zoning Inspector, Emrick and the Board of Zoning Appeals from applicant, Alan Gribble:

March 16, 2010

*Re: Application #02-10-05 Variance Request, Summa Health Systems Hospitals
3780 Medina Road, Medina, Ohio 44256*

Thank you for considering our variance request for the 4.228 acre area on the southern side of the parcel owned by Summa Health Systems Hospitals.

As stated in the application, the financing arrangement for Phase I of the project, currently under development, requires that we split the portions of the land not encompassed in the current phase into separate legal parcels to allow for future development.

It is the clear intent of the landowner, Summa Health Systems Hospitals and the developer, Signet Healthcare Medina, MOB, LLC, that any future development on the 4.228 acre parcel will be related to the current development with the goal of creating a medical campus. In fact, plans have been announced to proceed with the emergency room that was contemplated in our original development plan.

Should you have any questions, or if we need to supply additional information, please contact me. Thank you for your attention to this matter.

Applicant Alan Gribble and Zoning Inspector, Emrick were sworn in.

Chairperson Albrecht explained to the applicant, Alan Gribble that there wasn't a full board and that he had the choice to table his request until the next meeting when there would be a full board.

Applicant Alan Gribble stated that he wanted to proceed.

Chairperson Albrecht asked Mr. Gribble if he had anything to add to his application.

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Applicant Alan Gribble: The primary reason for the lot split is to align the land with the project phases as we stated in the application. The 4.228 acre parcel is now being used under the current development at this moment, although that may change. With talking to our architect today and with the announcement of an ER, plus at least one floor of medical office space and possibly a second floor of medical office space, we will need more parking. It may just expand to that area of parking right away but we're not sure exactly how much parking we will be using. We're still working on that. The future development – which would be the ER, may be done by Summa Health Systems by themselves. They need to have the 4.228 acre lot, whether it is us, or Summa, to align with future financing of that particular phase. It is required both by our bank financing documents and our documents with Summa, to attempt to get this split off. Understanding that it doesn't have the required frontage, the easement itself would provide access to that area and meet the general intent of the code.

Chairperson Albrecht asked the board if they had any questions for the applicant.

Board Member Hughes: I've looked over this plan and I cannot see how this could hurt/interfere with future development but what about down the road? If we grant the variance, is that going to interfere with anything that is going on?

Zoning Inspector, Emrick: He did say in his letter that the uses would be similar to the uses of the hospital facility. When they first came in there was a discussion regarding the ER and Helipad and more medical office space. I would have to refer to our legal counsel.

Assistant Medina County Prosecutor Tom Karas: If this board wants to place some kind of restrictions on this property you could grant a temporary variance. Whereas the financial conditions are such that you need to split off the property... but when the conditions change, for example the mortgage is paid or the property is sold... the split and the variance... the property would revert back to the original parcel and the variance would expire.

Board Member Hughes: Does the variance stay with the property?

Assistant Medina County Prosecutor Tom Karas: The Board can write a temporary variance with deed restrictions that will expire when the conditions are met or when the mortgage is paid. The Board would want to look at what might happen in the future. For example, if they decide sell off the property and it isn't going to be used for medical purposes it still has to comply with zoning but could become something else.

Zoning Inspector, Emrick: This is an office area so it would still have to comply with the uses that were permitted or conditionally permitted in that office area.

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Board Member Hughes: I wanted to make sure that I wasn't missing something. I was only concerned for future development. On the east side of the property it goes down into the river.

Zoning Inspector, Emrick: From this project's conception... they talked about it when they went before the Zoning Commission for the site plan... they talked about splitting that off. They would work with Medina County Park System. The property behind (Wilted Farms) will eventually be donated to Medina County Parks.

Chairperson Albrecht: Is it your intention that once the property is paid for and that you no longer need financing, that it will be re-joined with the other parcel?

Applicant Alan Gribble: I can see in circumstances down the road where there are no other mortgages and Summa is the same land owner, that it could be re-joined.

Assistant Medina County Prosecutor Tom Karas: Mr. Gribble, if the Board did place deed restrictions on this property, how would the bank view that? Would that jeopardize your financing?

Applicant Alan Gribble: They would prefer not have deed restrictions. We would have to look at the language in the deed restrictions. I think they would look at... How restrictive it is. How much does it impact the value of the land? Our clear intent... and Summa's clear intent is to make it a medical campus. Nothing that would go back there would be contradictory, from our point of view. We recognize and understand the concern for what might happen twenty (20) years from now if our development doesn't go forth as planned. We think that within a very short amount of time this will become a moot point. New financing on that secondary third phase and something else will be going there... whether it is parking or something ancillary to Phase II (another medical office building).

Chairperson Albrecht: So, parcel C is going to be Phase II?

Applicant Alan Gribble: Yes. (Mr. Gribble pointed to the proposed building areas of the ER and parking on the site plan.) Phase II could range... depending on the configuration... parking garage or additional medical office space. We talked about trading some property with the park system. There is a challenge in the back area because there is a train back there which limits development. We talked about tiered parking garages. Anything that has been contemplated by us or Summa Health Systems, up to this point in time, has been solely related to the development of a medical campus. That is their clear intent. I think the announcement of the ER and additional office space, further limits the possibility of anything else going back there. We understand that the Township wants to have control over what goes into the area.

Chairperson Albrecht: We would want to maintain the integrity and the intent.

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Applicant Alan Gribble: As we would. Us as the building owner and Summa as the land owner... quite frankly two (2) years from now nobody will know who Signet Healthcare, Medina, LLC is. It's going to be Summa and that is how people are going to perceive it. It will be the Health Center of Lake Medina but it will have the Summa name on it. They don't want to do anything to jeopardize their name. I think the interests are aligned. It is just a matter of getting the language comfortable on both sides to get to that point.

Board Member Biehl: Explain to me, from lending institution's perspective, what the issue is by having this 4.228 acres part of the overall... what is their need or desire to see the property split off?

Applicant Alan Gribble: Right now with the 33 acre parcel we have... I don't want to say too much land because you can never have too much collateral for a bank, obviously... but it's not necessary for Phase I. The concern would be, especially for Summa Healthcare Systems, we want to finance Phase II but we don't have any underlying land as collateral because right now it is all tied up with Phase I. So it allows us to say we have an additional 4.228 acres as additional collateral for a secondary lender, whether it is our existing lender or another lender, to bind the financing properly for the phase.

Board Member Watkins: Is it my understanding that this is a private drive?

Zoning Inspector, Emrick: It is a driveway.

Board Member Watkins: Is that what would create road frontage?

Zoning Inspector, Emrick: Yes and that is the variance they are asking for. That parcel has to have road frontage.

Board Member Watkins: So, is it a connecting point?

Zoning Inspector, Emrick: Yes, it will have driveway frontage, which connects to the road. That is what the variance is for.

Board Member Biehl: Judy, is this similar to Buehlers where that... if the variance were granted, the driveway would have to meet the design standards of the county (similar to that loop road through Buehlers)? Or is this something different?

Zoning Inspector, Emrick: No, I think this is different only because Buehlers' driveway is actually a private street. This is just a driveway not a private street.

Board Member Watkins: Emergency room and emergency vehicles on a private drive?

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Applicant Alan Gribble: For emergency vehicles, the secondary means of access actually comes to the (west) through the Russell property which is dedicated solely for emergency vehicles.

Board Member Watkins: Will it be a hard surface?

Applicant Alan Gribble: Yes. In fact, it is paved all the way back.

Zoning Inspector, Emrick: That is for emergency vehicles... I thought that was an emergency access?

Applicant Alan Gribble: It is an emergency access and for emergency vehicles also.

Zoning Inspector, Emrick: But if there is an ambulance coming?

Applicant Alan Gribble: They won't go through the Russell property.

Zoning Inspector, Emrick: Okay, I just want to clarify that.

The Board discussed going into Executive Session.

Zoning Inspector, Emrick: Alan, what do you think your bank will accept?

Applicant Alan Gribble: I think if you could limit the deed restrictions to something that is medically related and ties it in. Quite frankly, someone may want to put in... as part of the next phase... and I think it is allowed under the office regulations... if it is a medical office, they may want a café.

Zoning Inspector, Emrick: Yes, that would be permitted.

Applicant Alan Gribble: They would want it broad enough to say – related to the existing project. That way if they decided to sell that parcel, the person/company would have to build something that was tied to the first development, which is what both sides are aligned for. Summa doesn't want anything back there, nor do we...

Zoning Inspector, Emrick: They don't want a grocery store back there.

Applicant Alan Gribble: No, they don't want a grocery store, gas station or department store or anything like that back there. Anything that is going to go back there... we want it to extenuate patient experience.

Chairperson Albrecht: What about language regarding financing or the mortgage being paid... is that going to be a stumbling block?

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Applicant Alan Gribble: I would have to check and see. I can't see where it would be. I think our preference would be to not have the deed restrictions... or if we have to have deed restrictions, we would like the restrictions to allow it to stay separate. The other thing we may want to do... or think about... how it would effect if we eventually wanted to donate some of the land to the park district. Would we have to come back and split it off?

Assistant Medina County Prosecutor Tom Karas: Yes, you would probably have to come back and split off or combine...

Zoning Inspector, Emrick: You would have to simultaneously split and combine it.

Applicant Alan Gribble: From our bank stand point and with Summa, I think it is better for us to go to them and say this is what you suggest so that they can take a look at it as opposed to us suggesting the language.

Zoning Inspector, Emrick: If you suggest language and the Board can discuss it with our legal counsel then it may give you an idea of where you may want it to go.

Applicant Alan Gribble: I think the language should restrict it to be complimentary to the existing development. That would be something that all parties would find acceptable. We would prefer not to have restrictions, obviously... but I think the language should be as broad as possible to tie it into the existing project.

MOTION: Board Member Watkins moved to go into Executive Session with legal counsel to discuss the Signet variance.

SECOND: Board Member Biehl

ROLL CALL: A collective oral vote was taken. All members stated Aye ~ No Nays

MOTION: Board Member Watkins made a motion come out of Executive Session at 7:43 p.m.

SECOND: Board Member Biehl

ROLL CALL: A collective oral vote was taken. All members stated Aye ~ No Nays

Chairperson Albrecht explained to Mr. Gribble that they were going to table his request until the next meeting because they needed more time to discuss the language of the deed restrictions.

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MOTION: Board Member Hughes made a motion to table the variance requested for Summa Health Systems Hospitals until April 5, 2010.

SECOND: Board Member Biehl

ROLL CALL: A collective oral vote was taken. All members stated Aye ~ No
Nays

**4. DISCUSSION: TIGER GENERAL CONDITIONAL CONCLUSION OF
FACT**

MOTION: Board Member Biehl made a motion to go into executive session to discuss the Tiger General Conditional Use Permit #11.

SECOND: Board Member Hughes

ROLL CALL: A collective oral vote was taken. All members stated Aye ~ No
Nays

MOTION: Board Member Biehl made a motion to come out of Executive Session at 8:00 p.m.

SECOND: Board Member Watkins

ROLL CALL: A collective oral vote was taken. All members stated Aye ~ No
Nays

Chairperson Albrecht: After discussion with our counsel regarding the Conclusion of Fact for the application for renewal for of Tiger General Conditional Use Permit #11, we now need a motion to adopt the Conclusion of Fact and to authorize the Chairperson, Sally Albrecht to sign it.

MOTION: Board Member Biehl made a motion to approve the Conclusion of Fact as provided by the Medina County Prosecutor and recommending the execution by Chairperson, Sally Albrecht.

SECOND: Board Member Hughes

ROLL CALL: A collective oral vote was taken. All member stated Aye ~ No
Nays

Chairperson Albrecht asked for a motion for adjournment:

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MOTION: Board Member Watkins made a motion to adjourn the meeting.

SECOND: Board Member Biehl

ROLL CALL: A collective oral vote was taken. All members stated Aye ~ No
Nays

Meeting adjourned at 8:02 p.m.

Respectfully Submitted,

Robin Halleen
Zoning Secretary

Approved:

Chairperson, Sally Albrecht

Date