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MADISON TOWNSHIP BOARD OF ZONING APPEALS

LAKE COUNTY, OHIO

REGULAR MEETING/PUBLIC HEARING

2065 Hubbard Road

Madison, Ohio 44057

November 10, 2022

7:00 P.M.

TRANSCRIPT OF PROCEEDINGS

Present on behalf of the Board of Zoning Appeals:

- LORA DIAK, Chairwoman
- THOMAS SIL, Board Member
- JOSEPH BOYLE, Board Member
- BILL DUBIEL, Board Member
- EVAN FRANCIS, Board Member

Also Present:

- MAX UNGERS, Zoning Inspector
- CHRIS BERNARD, Assistant Zoning Inspector
- GARY PASQUALONE, ESQ., Law Director

- - - - -

Susan Goodell & Associates
(440) 259-3988

1 MS. DIAK: I would like to open
2 the Board of Zoning Appeals meeting on
3 November -- oops, he has to get going.

4 MR. SIL: He has to start the
5 recording.

6 MS. DIAK: Yes. Open the Board
7 of Zoning Appeals meeting for November 10,
8 2022. It's 7:00 P.M. sharp. Roll call.

9 MR. UNGERS: Mr. Sil?

10 MR. SIL: Here.

11 MR. UNGERS: Mrs. Diak?

12 MS. DIAK: Here.

13 MR. UNGERS: Mr. Boyle?

14 MR. BOYLE: Here.

15 MR. UNGERS: Mr. Dubiel?

16 MR. DUBIEL: Here.

17 MR. UNGERS: Mr. Francis?

18 MR. FRANCIS: Here.

19 MS. DIAK: Request a motion to
20 approve minutes for October 13, '22?

21 MR. FRANCIS: So moved.

22 MR. UNGERS: Evan.

23 MR. SIL: I'll second.

24 MR. UNGERS: Tom.

25 MS. DIAK: Roll call.

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MR. UNGERS: Mr. Sil.

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MR. SIL: Here.

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MR. UNGERS: Mrs. Diak?

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MS. DIAK: Yes.

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MR. UNGERS: Mr. Boyle?

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MR. BOYLE: Here.

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MR. UNGERS: Mr. Dubiel?

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MR. DUBIEL: Yes.

9

MR. UNGERS: Mr. Francis?

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MR. FRANCIS: Yes.

11

MS. DIAK: Okay. Open the

12

public hearing for Appeal 22-002.

13

MR. UNGERS: Thank you, Ms.

14

Chairman. Appellant, Neil Harrison, is here on behalf of Appeal No. 22-002 representing C4 Shooting and Training Center, is appealing a denied permit to construct a shooting platform and storage area located at 6347 East Loveland Road, Madison, Ohio 44057, Permanent Parcel #01-A-021-0-00-011-0, zoned A-R, Agricultural Residential. Section 142.4.1 of the Madison Township Zoning Resolution states that appeals may be taken to and before the Board of Zoning Appeals by any person aggrieved, or by any officer, department, or board of Madison

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1 Township.

2 The neighbor/applicant letters were mailed
3 on October 27, 2022 and a public hearing was
4 advertised in the News-Herald Legal Section on
5 November 1, 2022.

6 There has been no contact from area
7 residents regarding this hearing.

8 MS. DIAK: And the zoning
9 inspector's reason for denial?

10 MR. UNGERS: Let's administer the
11 oath of accuracy before I say that.

12 MS. DIAK: Are we going to do
13 that on an individual basis?

14 MR. UNGERS: Just the whole room,
15 I think can, but I should --

16 MR. PASQUALONE: We'll do them
17 individually when they come up.

18 MR. UNGERS: Okay. Okay. Well,
19 maybe you should ask me then the oath of
20 accuracy.

21 MS. DIAK: And anyone wishing to
22 speak today, including you, would you swear to
23 tell the whole truth regarding the matters
24 before this board? Please say, "I do."

25 MR. UNGERS: I do.

1 The reason for denial came from an
2 interpretation of Section 134-7 of the Madison
3 Township Zoning Resolution which states, "Any
4 building arranged, intended, or designed for a
5 nonconforming use, the construction of which
6 has beend started at the time of the passage
7 of this resolution, but not completed, may be
8 completed and put into such nonconforming use,
9 provided it is done within one year after this
10 resolution takes effect." According to the
11 current zoning officer's interpretation of
12 Section 134.7, an additional accessory
13 structure would expand on the legal
14 nonconforming use of the parcel outside of the
15 time frame of this allowance.

16 MS. DIAK: And would someone
17 like to address the Board on this matter?

18 MR. HARRISON: Sign in?

19 MR. UNGERS: Please.

20 MS. DIAK: Please.

21 MR. UNGERS: Please, Neil.

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23 NEIL HARRISON, of lawful age,
24 having first been duly sworn, testified as
25 follows:

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MR. HARRISON: Good evening. Nice to see you all again.

We are appealing based on the fact that the aforementioned code section is -- violates Ohio Revised Code, specifically Section 519.19. That section requires that an expansion of the nonconforming use be permitted. By not conforming with that section, Madison Township's Resolution 3 -- I mean, 137.4 is null and void. The section also violates Ohio Revised Code 9.68, which is a prohibition on any municipality or jurisdiction enacting zoning resolutions that limit Second Amendment Right. The zoning code also violates the most recent Bruen decision because it's not in compliance with the nation's firearms traditions. And the section also violates the Fifth Amendment to the Constitution because it is an illegal regulatory base, all of which I have here. We would ask that you please use your authority to overturn the decision allowing us to construct the safety platform that we wish so that then the Township can correct its

1 ordinances and we can be in compliance with
2 state law.

3 MS. DIAK: Any neighboring
4 residents who would like to address the Board?

5 Any final words from anyone about this
6 matter?

7 Do you have anything to say?

8 MR. DUBIEL: Is he available to
9 ask some questions?

10 MR. UNGERS: Yeah.

11 MR. HARRISON: Absolutely, sir.

12 MR. UNGERS: I'm pretty astute of
13 American History.

14 MR. HARRISON: Yes, sir.

15 MR. DUBIEL: How is that a
16 violation of the Second Amendment? Explain
17 that to me.

18 MR. HARRISON: Under the Bruen
19 decision you must take the Second Amendment as
20 -- well, I'm not a lawyer, so this is my
21 interpretation, so I would ask your attorney.

22 MR. DUBIEL: I'm not a lawyer
23 either, but I am a historian.

24 MR. HARRISON: The Second Amendment
25 provides for the free exercise of your Second

1 Amendment Right, being able to shoot. I offer
2 a facility that allows people to be able to
3 shoot. Me being unable to provide safety
4 platforms violates the tradition of the Second
5 Amendment.

6 MR. DUBIEL: The Second Amendment
7 is for individuals to bear arms; right?

8 MR. HARRISON: I understand, but to
9 bear arms one must be practiced in arms. And
10 to limit the practice of arms is to limit the
11 ability for people to bear arms.

12 MR. DUBIEL: I disagree.

13 MR. HARRISON: Unfortunately, the
14 Supreme Court disagrees with you. However,
15 I'm not a lawyer. Gary, I'm sure, would know
16 better, but under our interpretation we truly
17 feel like the Second Amendment is being
18 damaged by this prohibition.

19 MR. DUBIEL: Okay.

20 MS. DIAK: Any other words from
21 anyone on this matter?

22 MR. UNGERS: Please just sign in
23 and state your name.

24 MS. SEVERINO: My name is Janet and
25 I'm speaking for Robert Smith, 6567 Ford Road.

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JANET SEVERINO, of lawful age,
having first been duly sworn, testified as
follows:

MS. SEVERINO: I hadn't planned to
speak, but when I hear invoking the Second
Amendment, invoking the Fifth Amendment to the
Constitution, that we are supposed to bow down
and worry about Neil Harrison's rights and he
is not a member of the community. He does not
live right next to his shooting/training
center. It's not training when rapid fire
automatic, semiautomatic weapons are being
discharged. It's not training when there's
errant bullets that have gone into our
neighbors' yards, windows, et cetera. I'm not
going to worry about the people who go to
shoot having a Second Amendment right. We all
have that right in this country. We know
this.

Trap and skeet is what used to be in the
shooting range. Trap and skeet. Over the
years they have taken advantage by repurposing
the land that was zoned for trap and skeet.

1 The Madison Township zoning says this in black
2 and white language, "trap and skeet." So to
3 change this into something more is a violation
4 of everybody's rights who lives in the
5 neighborhood.

6 So I'm not a lawyer either. All I know is
7 what has gone on and the sound and the noise
8 and the nuisance of this place in our backyard
9 is appalling. Please continue to go with the
10 zoning as the Township has -- has written.
11 Please.

12 Thank you. Do you need my address on this
13 piece of paper?

14 MR. UNGERS: Yes, please.

15 MS. SEVERINO: Did that make sense?
16 Questions?

17 MR. LAMPERT: Hi. My name is Terry
18 Lampert. I live at 6206 Ford Road.

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20 TERRY LAMPERT, of lawful age, having
21 first been duly sworn, testified as follows:

22
23 MR. LAMPERT: To me the Second
24 Amendment is the right to bear arms. You can
25 bear arms, things, there are a lot of places,

1 indoor ranges you can shoot. We are not
2 saying you can't own firearms. I mean, that's
3 our right, but it is not the right to shoot up
4 the neighborhood. I mean, that means people
5 in Cleveland shooting each other, they're
6 following the Second Amendment? I mean -- I
7 mean, that's a little ridiculous, I think,
8 what I said, but to me the right to bear arms
9 does not give you the right to go against
10 zoning and everything. That's just my
11 opinion.

12 Thank you.

13 MS. DIAK: Any other neighbors
14 wish to speak tonight on this matter?

15 MR. DITCHCREEK: My name is George
16 Ditchcreek. I live at 6300 Ford Road.

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18 GEORGE DITCHCREEK, of lawful age,
19 having first been duly sworn, testified as
20 follows:

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22 MR. DITCHCREEK: I'm not going to say
23 anything tonight. I have something here I
24 would like you to listen to. This happened
25 October 1st at 8:00 at night and I recorded

1 this for over a half hour. If I can get it to
2 work. Maybe it won't work. It work over my
3 wifi.

4
5 (Whereupon, Mr. Ditchcreek played an
6 audio clip on his cell phone.)

7
8 MR. DITCHCREEK: So that might give
9 you just a little bit of what we hear all the
10 time. This was October 1st. It started at
11 9:30 in the morning and it didn't quit until
12 9:30 at night. This is a residential area.
13 We have kids that need to be in bed and go to
14 sleep. We have people who work shift work.
15 How are they supposed to get a restful sleep
16 with this? It is not necessary in our
17 neighborhood.

18 Thank you.

19 MS. DIAK: Any final words from
20 the appellate or any neighbors?

21 MR. HARRISON: Actually, yes. While
22 I appreciate all the evidence presented, none
23 of it has any bearing on what we are
24 disputing. We are not disputing noise. We're
25 not disputing anything more than the invalid

1 code section. It doesn't comply to Ohio
2 Revised Code. I've been through a lengthy
3 process where in this room emotional arguments
4 were had. To my understanding of the zoning
5 process, you are a judicial body to consider
6 the law. That's what I ask you do. The State
7 law says one thing, the R code says another.
8 State law should win.

9 Thank you.

10 MS. DIAK: Request a motion to
11 close the public hearing for this Appeal
12 22-002.

13 MR. FRANCIS: So moved.

14 MR. UNGERS: Evan.

15 MR. SIL: Second.

16 MR. UNGERS: Tom.

17 MS. DIAK: Roll call.

18 MR. UNGERS: Mr. Sil?

19 MR. SIL: Aye.

20 MR. UNGERS: Mrs. Diak?

21 MS. DIAK: Aye.

22 MR. UNGERS: Mr. Boyle?

23 MR. BOYLE: Aye.

24 MR. UNGERS: Mr. Dubiel?

25 MR. DUBIEL: Aye.

1 MR. UNGERS: Mr. Francis?
2 MR. FRANCIS: Aye.
3 MS. DIAK: Is there a motion
4 from the Board to deliberate?
5 MR. SIL: I motion.
6 MR. UNGERS: Tom.
7 MS. DIAK: Second?
8 MR. BOYLE: I second.
9 MR. BOYLE: Joe.
10 MS. DIAK: Roll call.
11 MR. UNGERS: Mr. Sil?
12 MR. SIL: Aye.
13 MR. UNGERS: Mrs. Diak?
14 MS. DIAK: Aye.
15 MR. UNGERS: Mr. Boyle?
16 MR. BOYLE: Aye.
17 MR. UNGERS: Mr. Dubiel?
18 MR. DUBIEL: Yes.
19 MR. UNGERS: Mr. Francis?
20 MR. FRANCIS: Aye.
21 MS. DIAK: We will proceed to
22 the back room to deliberate at this time.
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24 (Whereupon, a recess was held while
25 the Madison Township Board of Zoning Appeals

1 deliberated.)

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MS. DIAK: At this time we would like to resume the meeting on the Appeal 22-002 at 8:44 P.M. on November 10, 2022.

MR. UNGERS: 7:42.

MS. DIAK: 7:22. Excuse me.

MR. UNGERS: 7:42.

MS. DIAK: 7:42.

Is there a motion before the Board to approve or deny the appeal?

MR. FRANCIS: I move that we deny this appeal.

MR. BOYLE: I second.

MR. UNGERS: Evan, Joe.

MR. FRANCIS: Our reason for, the proposition is that the Board of Zoning Appeals places a high priority on allowing or disallowing zoning variances that have a negative impact on neighbors and the community. Further, according to the current interpretation by the Board of Zoning Appeals of Section 134.7, an additional accessory structure would expand on the legal nonconforming use of the property.

1 MS. DIAK: Roll call.
2 MR. UNGERS: Mr. Sil?
3 MR. SIL: Aye.
4 MR. UNGERS: Mrs. Diak?
5 MS. DIAK: Aye.
6 MR. UNGERS: Mr. Boyle?
7 MR. BOYLE: Aye.
8 MR. UNGERS: Mr. Dubiel?
9 MR. DUBIEL: Aye.
10 MR. UNGERS: Mr. Francis?
11 MR. FRANCIS: Aye.
12 MS. DIAK: Any old or new
13 business before the Board at this time?
14 MR. UNGERS: I have no new
15 business. We will be meeting next month at
16 our regularly-scheduled meeting, Thursday,
17 December 8th, mainly to approve the minutes at
18 this meeting. We have nothing on the agenda
19 other than that.
20 MS. DIAK: I would like to
21 request a motion to adjourn the meeting.
22 MR. FRANCIS: So moved.
23 MR. SIL: I'll second.
24 MR. UNGERS: Evan, Tom.
25 Ms. DIAK: Okay. I adjourn the

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meeting at 8 -- at 7, excuse me, 45 P.M. on
November 10, 2022.

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(Meeting adjourned at 7:45 P.M.)

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CERTIFICATE

I, Susan Goodell, hereby certify that the foregoing pages constitute a true and complete transcript of the testimony requested to be transcribed from my Stenograph notes, taken at the time and place designated herein.

WITNESS MY SIGNATURE THIS 16th day of November A.D. 2022.



SUSAN GOODELL

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