

# RECORD OF PROCEEDINGS

Minutes of

## MADISON TOWNSHIP BOARD OF ZONING APPEALS ORGANIZATIONAL & PUBLIC HEARING MEETING

Meeting

BEAR GRAPHICS 800-325-8094 FORM NO. 10148

Held

Thursday, January 10, 2019

20

7:00 p.m.

Mr. Frank Walland, Madison Township Zoning Inspector, opened the Organizational Meeting of the Madison Township Board of Zoning Appeals at 7:00 p.m., with the following people present: Mr. Randy Glover, Mr. Tom Sill, Mr. Evan Francis, Ms. L. Diak, and Mr. Bill Dubiel. Mr. Walland was present as Zoning Inspector, as well as Mrs. Howell.

Mr. Francis nominated Mr. Dubiel for Chairman, seconded by Ms. Diak.

Roll call: Mr. Glover: Yes Mr. Sill: Yes Mr. Francis: Yes  
Ms. Diak: Yes Mr. Dubiel: Yes

Chairman Dubiel nominated Mr. Francis for Vice-Chairman, seconded by Ms. Diak.

Roll call: Mr. Glover: Yes Mr. Sill: Yes Mr. Francis: Yes  
Ms. Diak: Yes Mr. Dubiel: Yes

Mr. Francis nominated Ms. Diak for Secretary, seconded by Chairman Dubiel.

Roll call: Mr. Glover: Yes Mr. Sill: Yes Mr. Francis: Yes  
Ms. Diak: Yes Mr. Dubiel: Yes

Mr. Walland asked for a motion to keep the meeting date as the second Thursday of the month at 7:00 p.m., with the alternate day being the third Thursday of the month at 7:00 p.m.

A motion was presented by Mr. Sill to keep the Board of Zoning Appeals meetings as the second Thursday of the month at 7:00 p.m., with the alternate date being the third (3<sup>rd</sup>) Thursday of the month, seconded by Mr. Glover.

Roll call: All "Ayes."

The Organizational Meeting of the Board of Zoning Appeals was closed at 7:02 p.m.

Chairman Dubiel opened the Regular Meeting of the Board of Zoning Appeals at 7:03 p.m., with all members still present.

A motion to approve the minutes from the December 13, 2018 meeting was presented by Mr. Glover, seconded by Mr. Francis.

Roll call: Mr. Glover: Yes Mr. Sill: Yes Mr. Francis: Yes  
Ms. Diak: Yes Chairman Dubiel: Abstain

Chairman Dubiel abstained due to the fact that he was absent at the December 13, 2018 meeting.

Chairman Dubiel stated for the record that there are three issues before the Board this evening and administered the Oath of Accuracy to anyone in attendance who wished to speak during the hearings.

Mr. Walland stated for the record that a Public Hearing was set for this evening for Variance Request #19-001 for Mr. David Rapp, located at 6094 N Ridge Rd., Permanent Parcel #01-B-111-0-00-005-0 and that the property is zoned B-2, Regional Business and A-1, Agriculture.

Mr. Walland informed those in attendance that the applicant owns a parcel of land that wraps around Dean's Restaurant on the south side of N. Ridge Rd. and would like to split off a part of the parcel on the east side of the restaurant as shown on the drawing provided. He also stated that this would leave the remainder of the parcel with a frontage of 48.48 feet. Mr. Walland stated for the record that the applicant is requesting a variance to the minimum lot frontage, which is 100 feet in the B-2 Zoning District. He stated that Mr. Rapp is requesting a lot frontage variance of 51.52 feet in order to split the parcel.

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Mr. Walland stated for the record that the Neighbor/Applicant letters were mailed on December 28, 2018 and the Public Hearing was advertised in The News-Herald Legal Section on December 28, 2018.

Mr. Walland informed those in attendance that Mr. Rapp had initially requested a zoning district change through the Zoning Commission last year, but has since withdrawn that request and is now seeking the variance. He also stated that he received an email from a resident on Burns Rd. who was concerned about the re-zoning. Mr. Walland stated that he believes the resident misunderstood the notice because this is not a re-zoning request.

Mr. David Rapp, 5553 Hummingbird Ct., Geneva, OH. Mr. Rapp informed those in attendance that he was initially looking at a design that would come across from the Walmart entrance and develop the entire parcel, but there was some concern from residents. He stated for the record that he would like to split off the buildable portion along N. Ridge Rd., on the east side of Dean's restaurant. He informed those in attendance it would be an "L" shaped parcel. Mr. Rapp stated that he received a call from someone interested in that parcel. He also stated that the parcel was originally two parcels and he combined them because the "wedge" parcel wasn't usable for anything.

Ms. Diak asked what the dotted line represents on the drawing. Mr. Rapp stated that the dotted line represents how the parcels were when he bought them. He also pointed out the "L" shape parcel on the drawing that he is looking to split. Mr. Sill asked what Mr. Rapp's thoughts are going forward. Mr. Rapp stated that he would like to split off the eastern parcel and then he would maintain the larger parcel. Mr. Sill asked Mr. Rapp if he has contacted ODOT regarding the frontage for the larger portion. Mr. Rapp stated that that portion of frontage already has its own apron. Mr. Walland added that it would not be wide enough for a public right of way.

Mr. Walland asked the Board members to vote on Variance Request #19-001.

Mr. Glover: Yes

Mr. Sill: Yes

Mr. Francis: Yes

Chairman Dubiel: Yes

Ms. Diak: Yes

The Board members voted and unanimously approved Variance #19-001, 5-0 for a 51.52 foot minimum lot frontage variance for Mr. David Rapp.

A motion was presented by Ms. Diak to close the Public Hearing for Variance Request #19-001, seconded by Mr. Sill.

Roll call: All "Ayes."

Mr. Walland stated for the record that the next Public Hearing is for Conditional Use Permit Request #19-001 for Redwood USA LLC located at Green Rd., Permanent Parcel # 01-B-126-0-00-005-0 and the property is zoned B-2 Regional Business. Mr. Walland informed those in attendance that the applicant is requesting a Conditional Use Permit for a Planned Unit Development (PUD), in accordance with Section 142.4.5.7 of the Madison Township Zoning Resolution.

Mr. Walland stated that, at the request of the applicant, this meeting is being held to convey opinions from the Board members as to whether the proposed plan meets the description of a PUD as described in the Madison Township Zoning Resolution and that this is not a vote. He also stated that the Zoning Department is reviewing development features that must be addressed before a vote can take place. He added that the applicant does not want to spend additional time and money if the proposed plan is not viewed favorably by the Board.

Mr. Walland stated for the record that the Neighbor/Applicant letters were mailed on December 28, 2018 and the Public Hearing was advertised in The News-Herald Legal Section on December 28, 2018. Mr. Walland stated that he had received some calls from area residents who had received some false information.

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Mr. John Lateulere, Redwood Living, 7510 Pleasant Valley Rd., Independence, OH. Mr. Lateulere stated that he presented the PowerPoint to this Board several months ago, but did not bring the PowerPoint this evening. Mr. Lateulere informed those in attendance that he is the Senior Vice President of Development for Redwood Living and is joined with Patricia Rakoci, Vice President Development Director, Travis Crane, Civil Engineer, and Mark Majewski, Planner.

Mr. Lateulere informed those in attendance that Redwood is a developer of market rate single story rental townhomes, with two (2) bedrooms, two (2) baths and two (2) car attached garages. He stated that they typically rent in the thirteen to fifteen hundred dollar range (\$1,300 - \$1,500) for base rents and rent rates go up from there. He stated that it is a fairly low density product and that all of Redwood dwellings are ranch style single story homes. Mr. Lateulere stated that Redwood has been in business for twenty-two (22) years and is based in Independence, Ohio. Mr. Lateulere informed those in attendance that the proposed PUD would be located across from Wal-Mart on Green Road.

Ms. Diak asked Mr. Lateulere if the units facing Green Rd. would have a lower or higher rent. Mr. Lateulere stated that they would most likely have a rate about the same as the other units. Mr. Lateulere informed those in attendance that every community that Redwood has ever bought or built is still owned by Redwood. Mr. Sill asked if there were any concerns regarding the proximity to the power lines. Mr. Lateulere replied, no, it's a different life style choice. Mr. Sill asked if there has been a traffic study done. Mr. Lateulere stated that the county is getting ready to make some road changes along Green Road and Redwood would be a participant in those changes. Mr. Walland stated for the record that he has not heard back from the county regarding the traffic study. Mr. Lateulere asked Mr. Mark Majewski, the planner, to go over the land use and zoning issues.

Mr. Mark Majewski, 2895 Edgehill, Cleveland, OH. Mr. Majewski stated that he is a planning and zoning professional with North Star Planning and Design, LLC and that he has forty (40) years of experience. Mr. Majewski stated that in his opinion the proposed Redwood project does comply with the standards that the Township has set for a PUD as summarized in his report that he provided to the Board. The Board had no questions for Mr. Majewski.

Ms. Diak asked Mr. Walland if the run-off issues are being resolved. Mr. Walland replied that that is an on-going issue and that he is concerned with where the stormwater is exiting the site to the northwest, which empties into a nursery, which has ponds for irrigation. Mr. Walland stated that he has spoken to Lake County Soil and Water Conservation District and there are things that do not settle out. He informed those in attendance that the engineering issues will not be addressed until he has received more feedback from the county. Mr. Walland also added the PUD Section states modern planning techniques including various housing types, and that on its face, the project is solely one story rental apartments and nothing else, which is more like the R-4 or R-5 zoning districts, not a PUD.

Mr. Joe Green, 2784 Burns Rd., Madison, OH. Mr. Green stated that he owns property north of the proposed development and water is the issue. He stated the area needs storm sewers, the retention ponds are not going to take care of the problem. Mr. Green reiterated that the only way to get rid of the water problem is to put in storm sewers.

Mr. Walland had the Board put their comments in writing and he read the comments to those in attendance.

Ms. Diak stated that she also is concerned that the proposed project does not meet the requirements for a PUD per the language in the Madison Township Zoning Resolution. Ms.

Diak asked Mr. Lateulere if the capital improvements have been completed on their oldest property, which was stated at the informal presentation last year. Mr. Lateulere stated that the improvements have not been done, hoping to work on the improvements throughout

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2019. Mr. Majewski added that in his opinion the various housing types is not required for a PUD, based on the language in the Zoning Resolution.

A motion was presented by Mr. Sill to continue the Public Hearing for CUP Request #19-001 until February 8, 2019, seconded by Mr. Glover.

Roll call: All "Ayes."

Mr. Walland informed those in attendance that the next item on the agenda is the continued hearing for CUP #18-002, the applicants are Mr. & Mrs. Wyndham, located at 2451 Bennett Rd., Permanent Parcel #01-B-103-0-00-008-0, 01-B-103-0-00-002-0, 01-B-103-0-00-007-0, 01-B-103-0-00-009-0, 01-B-103-0-00-010-0, & 01-B-103-0-00-023-0 and the properties are zoned A-R, Agricultural Residential District. Mr. Walland stated for the record that the applicants are requesting a Conditional Use Permit to operate a Place of Public Assembly in accordance with Section 142.4.5.6 of the Madison Township Zoning Resolution.

Ms. Diak stated for the record that she has discussed the CUP with the Lake County Planning Commission and there are some safety concerns that should be addressed. She stated that in talking with the LCPC, they felt it was more than reasonable to expect the Wyndhams to move any road access at least fifty (50) feet from any property line and that roads need to be improved enough to allow access for emergency vehicles. Ms. Diak also stated that the Wyndhams had agreed to signage to layout the perimeter of the property and it would be unreasonable to have them fence the entire property, but some type of boundary marker indicating the property lines is a reasonable request. Ms. Diak stated for the record that in her opinion, a schedule should be provided to whomever would be interested in it, showing what days they will be holding events, so the neighbors can be aware. Ms. Diak also stated that the LCPC suggested that camping is not part of the use and that the Board can limit the amount of time non-residents spend on the property. Ms. Diak also commented that the Lake County Soil and Water would need to get involved because of the parking and road access. She stated that zoning permits would need to be obtained for the structures that have been erected without permits. Ms. Diak asked about an unlicensed van that is sitting on the property. Ms. Diak stated that there should be a time frame established for the conditions to be met before the final approval of the CUP. Mr. Sill stated that he agrees with a lot of the items Ms. Diak mentioned and stated that there is a cabin near the Blake's property. Mr. Sill stated that he does feel there should be an inspection by the fire department. Mr. Walland stated that the building that Mr. Sill referenced is not near the Blake's property line. Mrs. Howell stated that the northern property line of the Wyndham's property is approximately 1,047 feet in length, running west to east and the Blake's property hits the last 274 feet of that property line and their house is 374 feet from that property line.

Mr. Jeff Wyndham, 2451 Bennett Rd., Madison, OH. Mr. Wyndham stated that almost all of the conditions the Board has mentioned seem entirely reasonable and attainable. Mr. Wyndham stated that in regards to a time limit for the camping, in general a twenty-four (24) hour standard would not be a problem, except for the one specialty event that falls on Memorial Day weekend which would extend past the twenty-four (24) hour limit on camping. Mr. Wyndham also added that there has never been a need for calls for emergency services. He added that the main road in the north half is entirely capable of supporting any emergency vehicle needing to come through. Mr. Wyndham stated that they have had full size lumber deliveries from Carter Lumber. Ms. Diak stated that the driveway needs to be moved at least fifty (50) feet off the property line. Mr. Wyndham stated that they could close the north driveway and have everyone enter at their residence entrance. Ms. Diak stated that as long as fire trucks can get in and out, which means two egresses, unless you have a huge gravel area where a fire truck can turn around. Mr. Wyndham stated that they do have a large gravel area where fire trucks could turn around if need be. Mr. Wyndham also stated that if the road needs to be "hardened" and straightened in order to support the fire trucks, he would consider doing that. He stated that moving the north driveway would not be reasonable. Mr. Wyndham stated that he could re-direct traffic on the north drive, essentially stopping traffic from going by the Blake's portion of that property line at all. Ms. Diak stated to Mr. Wyndham to keep in mind that any drive needed to be fifty (50) feet from any

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property line. Mr. Walland asked if this is a requirement that is in writing. Ms. Diak stated that in her opinion it is a reasonable expectation for the safety of the community. Mr. Wyndham stated that it was not built that way. He added that he is willing to work on an agreeable solution to the northern property line situation.

Mr. Glover asked Mr. Wyndham what time frame would be needed for the camping during the Memorial Day weekend event. Mr. Wyndham stated that the event starts on Thursday and runs through the entire weekend, with guests leaving on Monday.

Mr. Wyndham thanked those Board members who came out to the property to physically take a look at what is there and acknowledged the fact that Ms. Diak has not toured the property.

Kelli O'Neill, 2424 Dock Rd., Madison, OH. Ms. O'Neill stated that the back portion of her property backs up very close to the back portion of the Wyndham's property. She stated that for the record the noise issue that has been brought up, over the years she could hear dim drumming and over the last few years there is absolutely nothing after hours. Ms. O'Neill stated that she has known the Wyndham's for twenty-four (24) years. She added that she has asked the Wyndhams if they stopped having events because she doesn't hear the drumming. She stated that the Wyndhams informed her that they are very considerate of their neighbors and have tried to comply with the noise ordinance. Ms. O'Neill stated that her partner recently passed away and the Wyndhams were kind enough to host a memorial on their property and her entire family attended.

Mrs. Stephanie Blake, 2217 Bennett Rd., Madison, OH. Mrs. Blake stated that maybe if you're on Dock Road you can't hear the noise, but being right next to it, you can hear. She added that they do not have a/c at their house, so their windows are open. Mrs. Blake stated that she is not ok with twenty-four (24) hour camping. She stated it doesn't matter what type of group it is she does not want a campground in her back yard. She also stated that they are creating noise and it is uncomfortable, even if they stayed on their side. Mrs. Blake stated that they are charging for the events and they have built buildings without permission.

Mr. Mike Blake, 2217 Bennett Rd., Madison, OH. Mr. Blake stated that in his opinion it is completely unfair to have saved and bought a piece of property that is residential/agriculture and to have a neighboring property become a campground and assembly grounds. Mr. Blake stated that he is devastated by the fact that it is even being considered to allow an assembly ground to go in next door, when it is not zoned for that. He also stated that he is concerned that this might have a negative impact on his property value. Mr. Blake asked the Board to respect the zoning that was put into place and not to just allow the changes. He added that the sound that comes from the Wyndham's and all the strangers that come up and down their property line is concerning. Mr. Walland clarified for Mr. Blake and everyone else in attendance that a Place of Public Assembly is permitted under a Conditional Use Permit per the Madison Township Zoning Resolution. Mrs. Howell read the text from Section 142.4.5.6.1, indicating it is permitted in any zoning district except M-1. Mr. Blake commented that Mr. Wyndham had stated earlier that he didn't necessarily want the traffic next to his own residence, but he wants it to go next to my land and my home.

Mr. Steven Swinarski, 6810 Warner Rd., Madison, OH. Mr. Swinarski stated that his main purpose today is to support his friends that live on Bennett Rd. and that he would like to know how the Wyndham's perform their services. Mr. Swinarski stated that he does not understand what they do and would like to have more information as to how they worship and what are the mounds on their property. He also questioned what kind of spirits they are accessing. Mr. Swinarski stated that other churches in the area provide assistance to people in various ways and asked if the Wyndham's are prepared to offer the same type of assistance to the people of our community. Mr. Walland stated for the record that the applicant has offered invitation to anyone who would like to attend an event.

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Mr. Wyndham stated that their group practices Paganism and it is not a secret. He stated that what they do is not secret. He stated they are a local congregation and you can find the national church at ADF.org, where you can see the listing of seventy (70) congregations around North America. Mr. Wyndham stated that they are a very minority religion club of fifty (50) or seventy (70) people who show up for their seasonal worship events and the scripts for their ceremonies are readable at their local website, stonecreed.org. He informed those in attendance that they will not be back at Bennett Road until their May Day Holiday. Mr. Wyndham stated that anyone is welcome to attend one of their worship ceremonies. He added that they are open to all people of good will. Mr. Swinarski asked why this needed to be public, why it didn't just stay a private entity. Mr. Wyndham stated that it was brought to the attention of the Zoning Department and that they have been doing things on the "old" half of their property for twenty-five (25) years, we bought more property and built a bigger worship space, moved closer to the neighbors and now we are here before this Board. Mr. Walland clarified to Mr. Swinarski that the type of religion that is practiced is not something that this Board can base their decision on. Mr. Swinarski just wanted to make sure that they would be held to the same standards as any other place of public assembly. Mr. Swinarski stated that in his opinion conditions should be met before a conditional use permit is issued. Mr. Walland clarified for all in attendance that a Conditional Use Permit, is just that, a permit with conditions. Mr. Swinarski stated that he is just not for this request.

Mr. Blake clarified that he does not have an issue with Mr. Wyndham practicing his religion and even assembling people to practice their religion, but that he has an issue with building a campground.

Chairman Dubiel administered Oath of Accuracy to another member of the audience who wished to speak.

Mr. Pete Betchik, 1582 Rosena, Madison, OH. Mr. Betchik stated that in his opinion Mr. Blake's statement goes beyond what is under consideration this evening. He stated that the issue is a permit to allow something that is permitted, conditionally and the conditions have been spelled out. Mr. Walland stated that the conditions are being established. Mr. Betchik stated that marking the boundary should be a condition. Mr. Walland stated to Mr. Betchik that he needs to address the Board with any of his comments not debate with Mr. Blake. Mr. Betchik stated that he does not believe their religion should play a part in the granting of the CUP.

Mr. Anthony Cardilli, 1875 Green Rd., OH. Mr. Cardilli stated that he is a twenty (20) year resident of Madison and he just wanted to make sure that proper disposal of waste is addressed. Mrs. Howell stated for the record that proper waste removal was addressed at a previous meeting for the Conditional Use Permit and that the Wyndham's stated that they bring in port-a-potty units and use a waste disposal company who takes the trash from the property.

Chairman Dubiel administered Oath of Accuracy to another member of the audience who wished to speak.

Mr. Michael Ashington, 1250 Cleveland Ave., Madison, OH. Mr. Ashington stated that he is a friend of Kelli's and that he has been to a couple of the events at Jeff & Sue's. He stated that there are three (3) things he would like to address. He stated firstly, he has never been asked to pay any money whatsoever. He stated the second item is the noise, and at any event he attended the Wyndham's ensured that by 11 pm all noises ceased to a minimum level and the third things is that Pagan's by their very nature are sensitive towards environmental effects because they are nature worshipers. He added that all pollution is very strictly controlled. He thanked the Board for their time.

Mr. Wyndham asked Mr. Walland if a private meeting could be arranged with Mr. Walland or the Board to discuss specific conditions for the CUP. Mr. Walland stated that he recommends the Board present a motion to continue CUP #18-002 and he will check with the

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fire department to see if the fire department feels there is anything that needs to be done. Mr. Walland stated for the record that there have been conditions discussed, but the two main items that need to be addressed to determine if they are reasonable requests are the fencing and moving the northern driveway. Ms. Diak stated for the record that the Board does have the right to deny the permit that the Board does not have to grant it.

Mr. Walland requested a motion to continue CUP #18-002 until the February meeting.

A motion to continue CUP #18-002 until February 8, 2019 was presented by Mr. Sill, seconded by Mr. Glover.


Roll call: All "Ayes."

There being no further business before the Board, a motion was presented to adjourn the meeting by Mr. Glover, seconded by Mr. Francis.

Roll call: All "Ayes."

The meeting was adjourned at 8:50 p.m.

  
Bill Dubiel, Chairman

  
Lora Diak, Secretary

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