

RECORD OF PROCEEDINGS

Minutes of

MADISON TOWNSHIP BOARD OF ZONING APPEALS REGULAR MEETING & PUBLIC HEARING MINUTES

Meeting

GOVERNMENT FORMS & SUPPLIES 844-224-3338 FORM NO. 10148

Held Thursday, December 9, 2021 20
7:00 p.m.

Chairman Francis opened the Meeting of the Madison Township Board of Zoning Appeals at 7:02 p.m., with the following people present: Mr. J. Boyle, Ms. L. Diak, Mr. B. Dubiel, Mr. E. Francis, and Mr. T. Sill. Mrs. M. Howell was present as Zoning Inspector and Mr. M. Ungers was present as Assistant Zoning Inspector.

A motion to approve the minutes from the November 4, 2021 Meeting was presented by Mr. Sill, seconded by Ms. Diak.

Roll call: All "Ayes."

Mrs. Howell stated for the record that the first item on the agenda is the Public Hearing for Variance Request #21-007 for Mr. Mark Swortwood. She stated for the record that the property is located at 7723 Lake Shore Blvd., Permanent Parcel #01-A-089-A-00-008-0, and is zoned R-2, Single Family Residential. Mrs. Howell informed those in attendance that Mr. Swortwood is seeking a seven (7) foot, eight (8) inch variance to the average front yard setback, for his proposed garage addition.

Mrs. Howell stated that per Section 107.3 of the Madison Township Zoning Resolution, the minimum front yard setback is forty (40) feet. Mrs. Howell also stated for the record that per Section 125.3 of the Madison Township Zoning Resolution, an average front yard setback may be used to determine front yard setback requirements in a given area. She added that in November of 2000, the Board of Zoning Appeals established the average front yard setback along this stretch of Lake Shore Blvd. to be thirty-one (31) feet, six (6) inches. Mrs. Howell stated that in her opinion, the request is similar to those of other properties in the immediate area that have obtained a front yard setback variance.

Mrs. Howell stated for the record that the Owner and Neighbor letters were mailed on November 23, 2021 and the Public Hearing was advertised in The News-Herald Legal Section on November 26, 2021. She added that there has been no contact from area residents regarding this hearing.

Chairman Francis administered the Oath of Accuracy to any member in attendance who wished to speak during the Public Hearing this evening.

Mr. Swortwood, 7729 Lake Shore Blvd. Madison, OH 44057

Mr. Swortwood thanked the Board for meeting and explained that his request for the variance is due to the sixty-six (66) foot right of way of Lake Shore Blvd. He informed the Board that many other homes on the street are closer to the road than the variance he is requesting. Mr. Swortwood explained that they have owned the house at 7729 Lake Shore Blvd for six (6) years and recently purchased 7723 Lake Shore Blvd. from his mother. He explained that since buying the house they decided they would like more space for vehicles and storage for their belongings as well as utilities.

Mr. Swortwood specifically asked the Board what was the story with the garage located at 7691 Lake Shore Blvd as well as the storage shed located at 7703 Lake Shore Blvd. Mrs. Howell responded that 7691 Lake Shore Blvd Variance took place under Frank and she did not know the story off hand but that 7703 Lake Shore Blvd. was noticed as being closer to the road than the variance allowed while Assistant Zoning Inspector, Max Ungers was on the road closing Zoning Permits. She continued that the owners were contacted and they explained that the shed was placed there by a contractor when they were not present. Mrs. Howell informed the Board that after speaking with Madison Township Solicitor, Gary Pasqualone, it was decided that it was not an issue since the permit was two (2) years old and there has not been any complaints since it has been installed in that location.

Mr. Swortwood stated that his addition will be significantly further from the road compared to those variances. He continued that based on what Mr. Ungers told him that if you go further West down the road the right of way changes. Mr. Ungers stated that there are a number of things in North Madison that the Zoning Department deals with that were in place before

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Zoning existed and there is no easy explanation for, and this stretch of Lake Shore Blvd. is certainly one of them. Mr. Dubiel stated that he went and looked at the property and determined that the variance would not infringe on the neighbors at all.

Chairman Francis asked if there were any further questions regarding this variance request. The Board had no further questions. Chairman Francis asked the Board to vote.

Ms. Diak: Yes Mr. Francis: Yes
Mr. Boyle: Yes Mr. Sill: Yes Mr. Dubiel: Yes

The Board members unanimously approved Variance #21-007.

Mrs. Howell informed Mr. Swortwood that he can now move forward with obtaining a Zoning Permit for the addition and then obtain the necessary permits from the Lake County Building Department. Mr. Swortwood stated that he would come to the office tomorrow to obtain his Zoning Permit.

Mr. Swortwood thanked the Board for their time and also added that it was a true pleasure working with Michele & Max. He stated that he has never worked with a public office where the workers were so pleasant and helpful.

A motion to close the Public Hearing for Variance #21-007 was presented by Mr. Sill, seconded by Mr. Dubiel.

Roll Call: All "Ayes."

Chairman Francis asked if there was any new or old business. Mrs. Howell stated for the record that she has provided each Board member with an article from The News-Herald that pertains to Medical Marijuana Retail Dispensaries. She informed the Board that she felt it was important for the Board of Zoning Appeals (BZA) as well as the Zoning Commission (ZC) to understand a timeline in order to know what has transpired on this subject through the years.

Mrs. Howell informed the Board that in 2016, Ohio Revised Code (ORC) Section 519.21 (D) allowed townships to prohibit or limit the number of Medical Marijuana Cultivators, Processors, or Retail Dispensaries. Mrs. Howell stated for the record that, in September of that year, Chris Bernard sent an email to Frank Walland, Tim Brown, Ken Gauntner and Michelle Howell giving them a heads-up about the passage of House Bill (HB) 523 Medical Marijuana. She stated that at a ZC Meeting on June 12, 2017, Frank Walland informed the Board of a Zoning Workshop he had attended and had learned about HB 523, which became effective September 8, 2016 and he suggested that the Board begin crafting language if they wished to prohibit Medical Marijuana in any way. Mrs. Howell explained to the BZA that the ZC agreed to do nothing at that time and that Mr. Gauntner was present for the meeting for the rezoning of Laurentia. She also informed the Board that Frank Walland was present for the Trustees Meeting on June 13, 2017 and provided the same information and suggestions to the Trustees that evening.

Mrs. Howell added, now fast forward to October 29, 2021. She informed the Board that she had received a couple calls regarding our language for Medical Marijuana Retail Dispensaries. She informed any callers that we had no language on Medical Marijuana and directed them to our Zoning Map, available on our website, to view the business districts where small retail was permitted as this is what she felt it was considered. Mrs. Howell stated that she informed Mr. Brown of her opinion, they both agreed and she then sent an email to the Trustees giving them a heads-up about the calls and informed them that the State was having a lottery for additional certificates for Medical Marijuana Dispensaries. She explained that multiple emails were exchanged between several people and that Mr. Brown shared Painesville Township's and Wickliffe's opinions that they had no regrets and no issues with their experiences with the Medical Marijuana Dispensaries located in their municipalities.

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Mrs. Howell informed the Board that on November 14, 2021 her mother passed away and that she was not present for work the following day. She stated that Max Ungers received a Zoning Verification Request on November 15, 2021 and shared it with Mr. Brown, who said he would take care of it. She informed the BZA that on November 16, 2021 a Special Trustees Meeting for November 17, 2021 was posted on the website. Mrs. Howell stated that the deadline for the lottery was November 18, 2021. She explained to the Board that she was not able to attend the Trustees Special Meeting due to her mother's private viewing, which took place at that time, and Mr. Ungers was not able to attend due to the fact that he was undergoing surgery at the time of the meeting. She informed the Board that the Trustees adopted Resolution #21-124 imposing a six (6) month moratorium allowing no approvals or permits to be issued for any Medical Marijuana Cultivators, Processors, or Retail Dispensaries.

Mrs. Howell stated that on November 18, 2021 she read the News-Herald article regarding the Special Meeting and was so bothered by the information in the article that she came to work early the next day to download a copy of the recording to listen to it at home. She explained to the BZA that she was extremely bothered that some of the information stated in the Special Trustees Meeting was not at all accurate. She said the inquiries, starting on October 29th were known, and that the article made it seem like the Zoning Department had done something wrong. Mrs. Howell stated that in her opinion the Zoning Department did nothing wrong and that the Trustees knew of our authority to create language way back and did nothing. She also stated that if she had been in the office on November 15th, she would have sent the verification request without inquiring with Mr. Brown. She added that the Zoning Department gets Zoning Verification Requests all the time, and in her opinion that was what these individuals were requesting. She continued that the inquirers had to do a lot of homework to narrow down the properties they wanted to enter into the State Lottery with no guarantee they would be picked, and if the Township didn't want anything to do with these types of businesses then language should have been created years ago. Mrs. Howell mentioned that she heard there was a lot of chatter on Facebook about the issue and that there were 35 people at the special meeting and nobody spoke against it. Mrs. Diak questioned why Mr. Brown handled the verification request. Mrs. Howell said she did not know, but the Zoning Department normally handles all zoning requests. She stated because of what was mentioned in the article she wanted both the BZA and the ZC to be aware of the factual timeline. Mr. Ungers stated that there was a lot said between the inquiring parties and the Zoning Department over this issue and the article summarized it much differently and he agreed with the need to be clear of the factual timeline with both Boards. Mrs. Howell stated that the Trustees adopted Resolution #21-131 requesting that the ZC hold a Public Hearing for proposed text changes to Section 101, Definitions and Section 142.4.5, Conditional Use Permits – Specific Requirements, New Section 142.4.5.29 Medical Marijuana Cultivators, Processors, and Retail Dispensaries.

There being no further matters before the Board, a motion was presented by Mr. Sill to adjourn the meeting, seconded by Mr. Boyle.

Roll call: All "Ayes."

The meeting was adjourned at 7:32p.m.



Evan Francis, Chairman



Joseph Boyle, Secretary

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