

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, July 14, 2022** _____ 20 _____
7:00 p.m.

Chairman Diak opened the Meeting of the Madison Township Board of Zoning Appeals at 7:07 p.m., with the following people present: Mr. J. Boyle, Mr. B. Dubiel, Mr. T. Sill. Mr. M. Ungers was present as Interim Zoning Inspector. Mr. E. Francis was absent.

A motion to approve the minutes from the June 29, 2022 Meeting was presented by Mr. Sill, seconded by Mr. Dubiel.

Roll call: All "Ayes."

Mrs. Diak stated for the record that the next item on the agenda is the Public Hearing for Appeal Request #22-001, for applicant Neil Harrison representing C4 Shooting and Training Center located at 6347 E. Loveland Rd. Madison, OH 44057, Permanent Parcel # 01-A-021-0-00-011-0

Mr. Ungers informed those in attendance that Mr. Harrison is present to appeal the decision of denial to his permit application for an addition to a pavilion located at 6347 E. Loveland Rd. He stated that Mr. Harrison first applied for the permit on April 25, 2022. That permit was denied on May 2, 2022. He informed those in attendance that Mr. Harrison then submitted his Application for Appeal to the denied permit on June 1, 2022 which led to the public hearing.

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

Mr. Neil Harrison, 6347 E. Loveland Rd., Madison, OH.

Mr. Harrison informed those in attendance that he is appealing the denial of the application to expand an already permitted and approved pavilion because of four (4) separate factors. He stated primarily because of the fact that the pavilion was already an approved building and was constructed as an accessory building under Madison Township Zoning Resolution Section 105.1.8. Mr. Harrison explained that that building is used as an accessory building like any other accessory structure found in the Agriculture Residential (AR) district. He continued stating that there is nothing special or nonconforming about the buildings use. Mr. Harrison informed the Board that the second reason comes from the Ohio Revised Code (ORC), which allows for extension of nonconforming uses. He continued saying every other township around Madison allows that provision. Mr. Harrison then stated that in his letter presented to the Board the attorney provided a case law to support their appeal. He then informed the Board that their final reason for appeal was that even if they accepted Madison Townships false accusation that the structure in question was used as a shooting pavilion, ORC 9.64 would support allowing the extension of such a structure. He explained that it was for all of those reasons that he hoped the Board would allow them to extend on an already approved, permitted pavilion that a previous Zoning Inspector granted them to build.

Chairman Diak asked the Interim Zoning Inspector, Max Ungers, to state the reason for the denial.

Mr. Ungers informed the Board and those in attendance that the denial of the permit came from an interpretation of Section 134.7 in the Madison Township Zoning Resolution which states, "Any building arranged, intended, or designed for a non-conforming use, the construction of which has been started at the time of the passage of this Resolution, but not completed, may be completed and put into such non-conforming use, provided it is done within one (1) year after this Resolution takes effect." Mr. Ungers stated that according to the current zoning offices interpretation of Section 134.7, the approved permit to construct the pavilion at 6347 E. Loveland Rd. in February 2020, should not have been issued. That created a new structure on an already legal nonconforming property. Therefore, the Permit to further add on to that structure was denied on May, 2nd.

Mr. Harrison reiterated to the Board that it was that precise lack of language in the Madison Townships Zoning Resolution that violates Ohio Revised Code 519.19 which requires an

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ability for a nonconforming use to extend that nonconforming use. He stated again that their primary argument was actually that the construction of a new accessory building was not an extension of a nonconforming use. He continued it is simply a new accessory building as permitted in the language for the AR district.

Chairman Diak asked if there were any adjacent property owners that wished to address the Board. With no response Chairman Diak requested the Board's right to deliberations.

A motion to deliberate was presented by Mr. Sill, seconded by Mr. Dubiel.
Roll call: All "Ayes."

Upon return from deliberations with the following Board members still present: Mr. J. Boyle, Mr. B. Dubiel and Mr. T. Sill. Chairman Diak requested a motion from the Board.

A motion to deny the appeal was presented by Mr. Sill who stated, the reason for denial came from the Board's opinion that the permit for the existing accessory structure should not have been issued and allowing the addition to that accessory structure would expand the nonconforming matters on the parcel, which would set the wrong precedent for the community moving forward. Seconded by Mr. Dubiel.

Roll Call: All "Ayes."

A motion to close the Public Hearing for Appeal #22-001 at 7:25p.m. was presented by Mr. Sill, seconded by Mr. Boyle.

Roll Call: All "Ayes."

Chairman Diak asked if there was any old or new business.


Mr. Ungers stated that there was no new business before them at the time being and that he would be out of town during their next potential meeting date. Therefore, if needed, the alternate date would be used.

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

Roll call: All "Ayes."

The meeting was adjourned at 7:26p.m.


Lora Diak, Chairman


Tom Sill, Secretary