

DAYTON LEGAL BLANK CO., FORM NO. 1014B

Etna Township Board of Zoning Appeals

Held

November 27,

2007

**ADJUDICATORY HEARING**

The adjudicatory hearing was called to order by Chairman Goll at 6:38 p.m. on November 27, 2007 at the Etna Township Hall. The meeting was audio and video taped for township records. Mrs. Weber, Mr. Cox, Mr. Goll, Mrs. Rogers, Mr. Johnson, and clerk Laura Brown were present.

The purpose of this hearing is to render a decision from the adjudicatory hearing held on November 15, 2007. The hearing was to consider appeal number 07-17 concerning a sign permit submitted by Jacquelyn A Phillips for 10741 Hazelton-Etna Road. The nature of the appeal is the zoning inspector's interpretation regarding a sign permit being needed for real estate signs. Chairman Goll noted there were no representatives from Jacquelyn Phillips present.

Zoning Inspector Stan Robinson requested the testimony portion of the hearing be re-opened so he can bring a witness forward to provide testimony. The board did not open the testimony portion due to the fact that no representatives were present for Jacquelyn Phillips.

Cheri Rogers moved to deny appeal 07-17 based on the Etna Township Zoning Resolution Article 12 Sections 1202, 1203, 1204, and 1205. As of the Board of Zoning Appeals hearing in August 2007 Mr. Karales was made aware that his signs were found to be non-compliant. In conjunction with this denial I am recommending that the Board of Zoning Appeals make a formal request of the Etna Township Trustees to waive any late fees associated with the signs in questions in appeal 07-17. Rick Cox seconded. Roll Call: Michelle Weber, yes; Rick Cox, yes; David Goll, yes; Cheri Rogers, yes; and Jeff Johnson, yes. Motion passed 5-0.

Jeff Johnson motioned to adjourn the meeting. Rick Cox seconded. Roll Call: Michelle Weber, yes; Rick Cox, yes; David Goll, yes; Cheri Rogers, yes; and Jeff Johnson, yes. Motion passed 5-0.

Mr. Goll adjourned the meeting at 7:16 p.m.

Approved as read December 28, 2007

*Laura Brown*

Laura Brown, Clerk

Approved as corrected/amended \_\_\_\_\_

*David Goll*

David Goll, Chairman

RECORD OF PROCEEDINGS

Minutes of

Meeting

DAYTON LEGAL BLANK CO. FORM NO. 10148

Etna Township Board of Zoning Appeals

Held

November 27,

2007

ADJUDICATORY HEARING

The adjudicatory hearing was called to order by Chairman Goll at 7:04 p.m. on November 27, 2007 at the Etna Township Hall. The meeting was audio and video taped for township records. Mrs. Weber, Mr. Cox, Mr. Goll, Mrs. VanDyne, Mr. Johnson, and clerk Laura Brown were present.

The purpose of this hearing is to consider variance V07-10 regarding fitness center as a permitted use in a general business district. The variance was submitted by Dustin Myer, lessee for the property located at 11091 National Road. The nature of the variance is to allow fitness center use under the NAICS Codes in the General Business zoning.

Chairman Goll explained the process and the principles who wanted to testify and present evidence were sworn in all other witnesses will be sworn in as they give their testimony. Dustin Myers, Samuel Shaffer, and Stan Robinson were sworn in.

Dustin Myer the owner of the Old School Gym testified the bulk of the business is personal training, weight loss, sport specific training with the local schools, and weight lifting/body building. The gym would consist of the typical exercise equipment along with free weights, cardio equipment, wrestling and boxing room that would also be used for aerobics, and nutritional supplement sales. The building is in front of Maverick Motors on the same property owned by Sam Shaffer. Dustin and his partner have already notified the landlord for the building in Pataskala. This business is the way they support their families and to wait for the specific code 713940 to be added to the NAICS codes would affect their income. If they would have known ahead of time they would have applied earlier. The current hours in Pataskala are 5 a.m. to 9 p.m. and weekends are 7 to 7 and would never be an all night fitness center.

Stan Robinson testified when the NAICS codes were passed it stated if it is not on the list the Zoning Inspector could not issue a permit. Stan Robinson felt the Board of Zoning Appeals could vary from the rule. He does not have an issue with the use. Stan Robinson presented the advertisement as Exhibit 1 and stated he did not show where they advertised for weight loss. Dustin Myer stated the program "New You" as featured on 97.1 FM is a weight loss program. Mr. Myer stated the bulk of the business is working with personal trainers. Stan Robinson stated he would not call it a weight loss center.

Dustin Myer stated they will lease from Sam Shaffer. Stan Robinson stated Sam did check when they started to remodel but did not remember discussing the use for the building. Sam Shaffer stated he should have checked to verify the use would be allowed in general business.

Rick Cox moved to close the testimony portion of the hearing at 7:16 p.m. Michelle Weber seconded. Roll call: Michelle Weber, yes; Rick Cox, yes; David Goll, yes; Claudette VanDyne, yes; and Jeff Johnson, yes. Motion passed 5-0.

Rick Cox reviewed the NAICS codes under General Business. He referenced 611620 Sports and Recreation Instruction, 812191 Diet and Weight Reducing Centers, 812990 All Other Personal Services (Personal fitness trainer is listed here), and 446191 Food (Health) Supplement Stores. Rick Cox feels he would fit under those codes. Rick Cox feels it would also fall under G, Conditionally Permitted Uses.

Jeff Johnson stated the board needs to decide if the applicant meets the criteria of Section 513 Item 5. He feels the applicant has encountered practical difficulties.

David Goll moved to grant the variance for fitness and recreational sports center, 713940 NAICS Codes based on the fact it fits Section 513, a thru g of the Zoning Resolution. Michelle Weber seconded. Roll call: Michelle Weber, yes; Rick Cox, yes; David Goll, yes; Claudette VanDyne, yes; and Jeff Johnson, yes. Motion passed 5-0.

Rick Cox motioned to adjourn the meeting. Jeff Johnson seconded. Roll Call: Michelle Weber, yes; Rick Cox, yes; David Goll, yes; Claudette VanDyne, yes; and Jeff Johnson, yes. Motion passed 5-0. Mr. Goll adjourned the meeting at 7:40 p.m.

Approved as read December 8, 2007

Approved as corrected/amended \_\_\_\_\_

*Laura Brown*

Laura Brown, Clerk

*David Goll*  
David Goll, Chairman

Etna Township Board of Zoning Appeals

Held November 27, 19 2007

ADJUDICATORY HEARING

The adjudicatory hearing was called to order by Chairman Goll at 7:42 p.m. on November 27, 2007 at the Etna Township Hall. The meeting was audio and video taped for township records. Mrs. Weber, Mr. Cox, Mr. Goll, Mrs. VanDyne, Mr. Johnson, and clerk Laura Brown were present.

The purpose of this hearing is to consider appeal 07-19 regarding a denial of a fence permit for 30 Cameron Drive submitted by Sheila Plunk. The nature of the appeal is concerning the rear yard being the side yard.

Chairman Goll explained the process and the principles who wanted to testify and present evidence were sworn in all other witnesses will be sworn in as they give their testimony. Stan Robinson was sworn in. For the record Sheila Plunk was not in attendance and she was called and declined attending.

Stan Robinson stated Sheila Plunk applied for a fence permit for the property. Stan feels the property has two front and two side yards. The fence has not been installed. The dotted line on the plot plan is where she wants to install the fence. Stan stated she is violating the side yard rule in Section 1034.

Claudette VanDyne referenced the diagram in the Zoning Resolution. Rick Cox agrees that a corner lot has two front yards and two side yards.

Rick Cox moved to close the testimony portion of the hearing. Michelle Weber seconded. Roll Call: Michelle Weber, yes; Rick Cox, yes; David Goll, yes; Claudette VanDyne, yes; and Jeff Johnson, yes. Motion passed 5-0.

Claudette VanDyne moved to approve the appeal based on Section 1034 and the lot term diagram. It is not a set back issue; she is well within the setback requirements. She is not impeding any vision in reference to Section 1008, 1009, and 1010. By the description of the lot terms of determining where a side yard ends and a rear yard begins it is by the permanent structure. Michelle Weber seconded. Roll Call: Michelle Weber, yes; Rick Cox, yes; David Goll, yes; Claudette VanDyne, yes; and Jeff Johnson, yes. Motion passed 5-0.

Rick Cox motioned to adjourn the meeting. Claudette VanDyne seconded. Roll Call: Michelle Weber, yes; Rick Cox, yes; David Goll, yes; Claudette VanDyne, yes; and Jeff Johnson, yes. Motion passed 5-0. Mr. Goll adjourned the meeting at 8:12 p.m.

Approved as read December 28, 2007

Approved as corrected/amended \_\_\_\_\_

*Laura Brown*

Laura Brown, Clerk

*David Goll*

David Goll, Chairman

RECORD OF PROCEEDINGS

Minutes of

Meeting

DAYTON LEGAL BLANK CO. FORM NO. 1348

Etna Township Board of Zoning Appeals

Held November 27, 2007 19

Regular Meeting

The meeting was called to order by Chairman Goll at 8:16 p.m. on November 27, 2007 at the Etna Township Hall. The meeting was audio taped for township records.

Roll Call: Mrs. VanDyne, Mrs. Weber, Mr. Cox, Mr. Goll, Mr. Johnson, and Laura Brown present.

The purpose of this meeting was to approve minutes and sign the final orders from the meeting on November 15, 2007.

Rick Cox moved to waive the public reading, approve the minutes and sign the final order from the adjudicatory hearings on November 27, 2007. Michelle Weber seconded. Roll Call: Michelle Weber, yes; Rick Cox, yes; David Goll, yes; Claudette VanDyne, abstain, and Jeff Johnson, yes. Passed 4 yes 1 abstain.

Rick Cox moved to adjourn the meeting. David Goll seconded. Roll Call: Michelle Weber, yes; Rick Cox, yes; David Goll, yes; Claudette VanDyne, yes; and Jeff Johnson, yes. Motion passed 5-0.

Mr. Goll adjourned the meeting at 8:17 p.m.

Approved as read December 28, 2007

Approved as corrected/amended \_\_\_\_\_

Laura Brown  
Laura Brown, Clerk

David W. Goll  
David Goll, Chairman