

VILLAGE OF MINSTER ZONING BOARD OF APPEALS

February 14, 2023

AGENDA

7:00 p.m.

1. Call to Order
2. Approval of January 10, 2023 minutes *Steve / Jean*
3. New Business:
 - a) Election of Officers for the 2023 calendar year *President Bono - Jean / Ned*
V-P STEVE - Ned / Jean
5. Old Business:
 - a) Approval of the easement between the Frillings and Williams to bring the Frillings into compliance with the setback variance granted by the Zoning Board of Appeals.
Ned / Jean ~
6. Comments
LDNAGE
7. Adjournment
LDNAGE / STEVE

MINUTES FOR MINSTER ZONING BOARD OF APPEAL

7:00 PM

01/10//2023

Zoning Board Present (P) or Absent (A):

Steve Bruns	P	Brad Garmann, Pres	P
Ned Sielschott	P	Eric Schmiesing	P
Jean Hinker	P	Jim Hearn	P
Don Harrod ZA	P		

Also Present:

Dennis Kitzmiller

- I. There was no public hearing necessary.
- II. The regular meeting was called to order by Brad Garmann at 7:00 pm.
- III. The minutes from the December 13, 2022 meeting were presented to the board. A motion was made by S. Bruns and seconded by N. Sielschott to approve both the minutes from December 13, 2022. Being no further discussion, all members voted in favor of accepting of the minutes.
- IV. New Business
 - a) No new business was presented to the board.

VI. Old Business

D. Harrod updated the board on the Frillings efforts to resolve the encroachment and zoning violation. Harrod was contacted by Phillip Frilling who provided a letter stating that the Frillings had received a settlement offer from the Williams for a permanent easement that would run with the land. The Frilling's have accepted the offer and are working with their attorneys to finalize everything. However, they do not believe that they will have everything finalized by January 13th. Therefore, they are asking for another 30-day extension to allow them to finalize the paper work. An additional thirty days would give the Frillings until February 13th to resolve the issue. Being no further discussion, N. Sielschott motioned to grant the additional thirty-day extension and this was seconded by J. Hinker. All voted in favor.

VI. Comments:

- a) There were no comments.

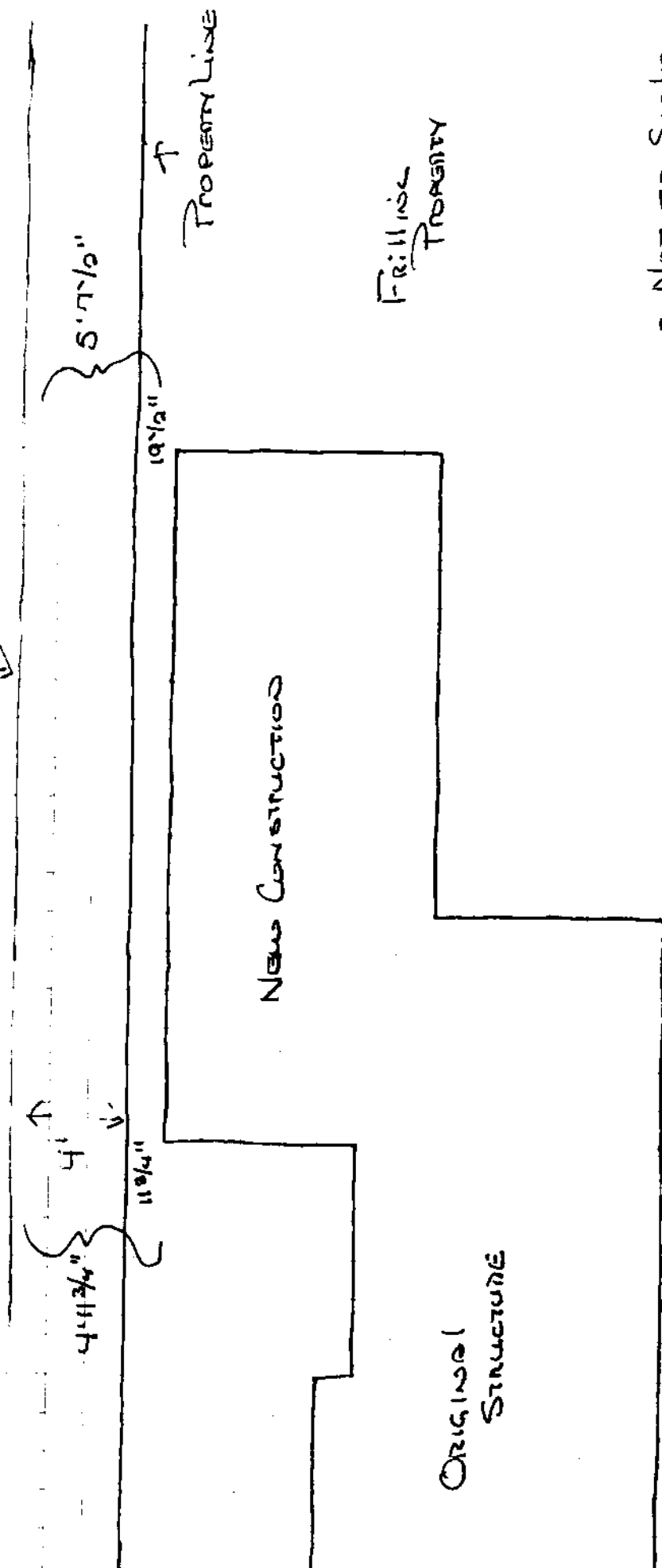
VII. Adjournment

N. Sielschott motioned and E. Schmiesing seconded a motion to adjourn at 7:06 pm. Motion passed.

VARIANCE GRANTED FOR 3'
BASED ON SCHWELL SURVEY

WILLIAMS PROPERTY

EASEMENT
↓



FRILLING
PROPERTY

- NOT TO SCALE -

EASEMENT AGREEMENT

This Easement Agreement ("Agreement") is made and entered into by and between **PHILIP M. FRILLING** and **ERIN M. FRILLING**, formerly known as Erin M. Gavit, husband and wife (collectively, the "Frillings"), and **PAUL WILLIAMS** and **DENISE WILLIAMS**, husband and wife (collectively, the "Williams").

RECITALS:

- A. The Williams are the owners of certain real estate located at 38 S. Hanover Street, Minster, Auglaize County, Ohio, which is more particularly described in Exhibit "A" (the "Williams Property"), and shall become subject to an easement granted in accordance with the terms of this Easement Agreement.
- B. The Frillings are the owners of certain real estate located at 40 S. Hanover Street, Minster, Auglaize County, Ohio, which is more particularly described in Exhibit "B" (the "Frilling Property"), and shall benefit from the creation of the easement in accordance with the terms of this Easement Agreement.
- C. A garage is being constructed on the Frilling Property that runs along a portion of the south property line of the Williams Property. Due to the proximity of the garage to the property line, the Frillings will require an easement over a portion of the Williams Property along its south property line (the "Easement Area"), which shall be used by the Frillings from time to time to maintain and repair the garage located on the Frilling Property. The Easement Area is a strip of land that is four (4) feet wide running along the south property line of the Williams Property that begins at the alley located to the east of the Williams Property and continues westward for one hundred twenty-five (125) feet, which contains a total area of five hundred (500) square feet.

- D. The Williams and the Frillings have agreed on the terms and conditions by which the Williams shall grant to the Frillings, and their respective successors and assigns, an easement over and upon the Easement Area, and desire to reduce to writing the terms and conditions of their agreement.

NOW, THEREFORE, the parties hereto agree as follows:

1. Grant of Easement. The Williams hereby grant and convey to the Frillings, and any future owners of the Frilling Property, a non-exclusive, permanent and perpetual easement over and across the Easement Area that is located on the Williams Property so the Frillings have the ability to properly maintain and repair the garage located on the Frilling Property, subject to the terms of this Agreement. The foregoing easement shall benefit the Frilling Property and shall burden the Williams Property.
2. Compensation for Easement. Compensation for the easement granted by the Williams to the Frillings in accordance with Section 1 above is set forth in the Settlement Agreement and Release dated January ____, 2023, that was previously entered into by the Frillings and the Williams.
3. No Obstruction. No party shall obstruct or authorize the obstruction of any portion of the Easement Area.
4. Restriction on Overhang of Garage. The Frillings shall take the necessary steps to ensure that neither the gutter on the garage nor the soffit constituting the edge of the roof on the garage will overhang over or above any portion of the Williams Property. The Frillings further agree that any water runoff from the Garage be diverted from the Williams' Property and the Easement Area.
5. Repair of Damages to Easement Area. In the event there are any damages to the Easement Area caused by the Frillings or their successors, assigns, agents, guest or invitees in connection with the use, maintenance, or repair of the garage located on the Frilling Property, the Frillings shall be solely responsible for all expenses incurred to repair such damages in order to return the Easement Area to a similar condition as existed prior to the occurrence of such damages. The parties agree the foregoing obligation of the Frillings to be responsible for expenses incurred to repair damages to the Easement Area shall not apply to the repair of damages to the Easement Area caused by the initial construction of the garage. The Williams acknowledge that a portion of the compensation being received by the Williams in accordance with Section 2 above shall compensate the Williams for the expenses incurred by the Williams to repair any damages to the Easement Area caused by the initial construction of the garage.

6. Notice Prior to Accessing the Easement Agreement. Except in the event of an emergency, in which case the Frillings will have immediate access to the Easement Area, the Frillings shall provide a minimum of forty-eight (48) hours notice to the Williams of the Frillings' intent to access the Easement Area for purposes of providing maintenance to, or repair of, the garage. The parties also agree the Frillings will not be required to provide the Williams with the foregoing notice to the extent the Frillings access the Easement Area in connection with routine maintenance of the Frillings' yard that is located to the north of garage along the property line. However, the Williams will not be liable for any injuries to the Frillings sustained in the Easement Area without heaving first provided a minimum of forty-eight (48) hours notice to the Williams of there intent to access the Easement Area.

7. Hold Harmless & Indemnification. The Frillings, for themselves, and their successors, assigns, agents, guests, invitees, and anyone else acting on their behalf, hereby agree to be solely responsible for, hold harmless and indemnify the ~~Williams~~Frillings and their successors, assigns, agents, guests, invitees, and anyone else acting on their behalf, with respect to any and all claims, demands, lawsuits, causes of action and/or liability associated with or arising out of the Frillings' use of the Easement Area or the Frillings' repair of any damages to the Easement Area.

8. Binding Effect. The easement granted pursuant to the terms of this Agreement shall be a perpetual easement, running with the land, for the benefit of the Frilling Property, and shall be binding upon the owner of the Williams Property, and their successors, assigns, personal representatives, and heirs, and shall inure to the benefit of the owner of the Frilling Property, and their successors, assigns, personal representatives, and heirs.

9. Governing Law. This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Ohio without reference to conflict of law principles.

10. Entire Agreement. This Agreement is intended to and does constitute the entire agreement of the parties with respect to the matters contemplated herein. This Agreement supersedes any and all prior understandings, written or oral, between the parties.

IN WITNESS WHEREOF, the undersigned have executed this Easement Agreement as of the dates indicated below.

FRILLINGS:

WILLIAMS:

Philip M. Frilling

Paul Williams

Erin M. Frilling

Denise Williams

STATE OF OHIO

COUNTY OF _____ / ss:

Before me, a Notary Public in and for said County and State, personally appeared the above named PHILIP M. FRILLING and ERIN M. FRILLING, husband and wife, who acknowledged that they did sign the foregoing Easement Agreement and that the same is their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Notarial seal this _____ day of January, 2023.

Notary Public

STATE OF OHIO

COUNTY OF _____ / ss:

Before me, a Notary Public in and for said County and State, personally appeared the above named PAUL WILLIAMS and DENISE WILLIAMS, husband and wife, who acknowledged that they did sign the foregoing Easement Agreement and that the same is their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Notarial seal this _____ day of January, 2023.

Notary Public

This instrument prepared by: FAULKNER, GARMHAUSEN, KEISTER & SHENK, A Legal
Professional Association, 100 South Main Avenue, Suite 300, Sidney, Ohio 45365

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Exhibit "A"

Situated in the Village of Minster, Auglaize County, Ohio, to-wit:

Being Lot Number Thirty-Two (32) and Lot Number Thirty-Three (33) of Block D in said Village, excepting therefrom Fifty (50) feet off the entire south side of Lot Number Thirty-Two (32) of Block D.

Parcel No.: E1500703400 (Lot 33) and E1500703500 (Part Lot 32)

Exhibit "B"

Situate in the Village of Minster, County of Auglaize and State of Ohio, to-wit:

Being that part of Block "D" of Inlot Number Thirty-two (32) described as follows:

***Beginning at the Southwest corner of said lot;
thence North fifty (50) feet;
thence East two hundred nineteen feet seven inches (219'7");
thence South fifty (50) feet;
thence West two hundred nineteen feet seven inches (219'7") to the place
of beginning, with all improvements thereon.***

All subject to the following conditions: Owner of Lot 33 shall have the right to maintain sewer line at the present location on Lot 32. Any building erected on Lot 32 shall be for dwelling occupancy only and shall be placed at least ten (10) feet from north line of lot; excepting private garage erected in connection with dwelling which may be nearer to line providing it is placed back of line with rear of dwelling on Lot 33; said dwelling erected on Lot 32 shall be at least same distance from street as dwelling on Lot 33; grade level of Lot 32 shall at no time be above grade level of Lot 33.

***Property Address: 40 S. Hanover Street, Minster, OH 45865
Real Estate Tax Parcel No. E15-007-036-00***