

Board of Zoning Appeals

Mills – Variance request

July 26, 2017

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Ch. Calabro called the meeting to order at 7:26 p.m.

Roll Found: Calabro, Hoop, Zeleznak, Mainzer and Budd present. Also present was Alternate Member Schaefer, Trustee Schulte, Zoning Inspector Wilson, Mr. Charles Naegle, Mr. James Mills and Ms. Linda Mills.

Ch. Calabro noted that this meeting is being taped for transcription purposes only and the written minutes and attachments, if any, will serve as the official record of this meeting.

Recording Secretary Gienger read the legal ad.

Ch. Calabro stated that the Hinckley Township Board of Zoning Appeals acts within the authority of Section 519 of The Ohio Revised Code and exercises its power as provided under Section 7 & 13 of The Hinckley Township Zoning Regulations. All public hearings are open to the public. All persons wishing to testify must do so from the podium, must identify themselves and give their address and must be sworn in. Evidence and testimony must be pertinent to the hearing. It is the Chairperson's discretion to limit personal comments, personal attacks, opinions, editorializing, and/or repetitious statements or testimony or evidenced previously given. Disruptive persons will lose their right to remain at the hearing. Personal attacks will not be tolerated.

Ch. Calabro stated the hearing is for a variance submitted by Linda Mills, property owner of 1230 Oakwood Lane, Hinckley, Ohio (Permanent Parcel #01603B02006) requesting for a variance to place an accessory building at the stated address, in a location that does not meet the front setback of not less than the principal building required by the Hinckley Zoning Regulations.

Recording Secretary Gienger polled the Board as to whether they received the packet of information and inspected the property at 1230 Oakwood Lane, Hinckley, Ohio (Permanent Parcel #01603B02006).

Response: Calabro – yes and yes inspected on 7/26/17, Hoop – yes and yes inspected on 7/26/17, Zeleznak – yes and yes inspected on 7/26/17, Mainzer – yes and yes inspected on 7/26/17, Budd – yes and yes inspected on 7/26/17.

Ch. Calabro stated that notice of the application was properly given in local newspapers, and the application has been available for public review and comment. She asked Recording Secretary Gienger if any letters, phone calls or emails were received. Mr. Gienger noted there was no additional information received for the hearing.

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Mr. Charles Naegle of 987 Mattingly Road, was sworn in accordingly.

Mr. Naegle stated he has been friends with the Mills for years. He noted one day while on a social visit with the Mills, he noticed the accessory building was in front of the house and realized it didn't meet Hinckley regulations. He noted in discussing the building with Mrs. Mills, she had purchased it for her husband as a gift so they could use it to store boats. He noted she told him she had hired a contractor who told her he would take care of everything, including all permits and meet all Hinckley regulations. Mr. Naegle stated he decided to stop at the Hinckley Town Hall to investigate and found that the contractor had not requested a variance as he suggested he did. He noted that Mr. Wilson, Zoning Inspector, had seen the building recently and inquired about it as well and issued a letter to the owners that they were not compliant with Hinckley Regulations. Mr. Naegle noted the plan is to move the building, using a crane, to the original intended location and the existing concrete pad would remain and be used for parking.

Mr. Zeleznak noted that the setback is 80', not 90' and the drawing states 116' and questioned how the building could have been installed at the wrong location. Mr. Naegle noted that the dimensions in the letter were inaccurate and that Mr. Mills is gone for work for weeks at a time and Mrs. Mills was away for a time when it started, which is how it got installed in the wrong location.

Ch. Calabro asked Mr. Naegle if he is just friends with the family or is actually doing the work. Mr. Naegle stated he has been friends for about 5 years and is just overseeing the work to make sure it is done properly and the original contractor will be the person doing the work.

Ch. Calabro asked Mr. Naegle if he was consulted originally prior to construction, how he came across knowing about the issue and if the family received the letter from Hinckley before he inquired about the issue. Mr. Naegle stated he found out about the issue just recently while visiting with the family and that he inquired with the township at the same time Mr. Wilson had found out about the issue, but his actions were independent of and prior to Mr. Wilson's letter. He stated he is acting as the mediator for the Mills and as a professional contractor, will make sure the work is done properly, but the original contractor will be funding and performing the work.

Ch. Calabro asked Mr. Naegle if he was familiar with the property and asked if he felt there was any other location that this building could be moved to. Mr. Naegle stated it is a 40-acre bowling alley and due to the shape and slopes of the property, there really is no other location to install the building, in his opinion.

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Ch. Calabro noted that regardless of where the building will be moved, it will still remain in front of the house. Mr. Naegle agreed.

Mr. Budd asked Mr. Naegle who would be leading the charge on this building move and if there was a formal agreement on the work to be done. Mr. Naegle stated he will oversee the work but the original contractor will be doing the work. He noted that if the variance is approved, they are then going to meet with the contractor to formalize the work and pull all proper permits.

Mr. Budd asked Mr. Naegle if he was an engineer and noted that most buildings are moved from the bottom and not from the top. Mr. Naegle stated he is not an engineer, but is a professional crane operator and contractor and noted that if for some reason the contractor cannot move the building after proper reinforcements are done, then it will be up to him to figure out a different means to perform the work and move the building.

Mr. Hoop questioned the distance from the building to the street. Mr. Zeleznak noted it really is irrelevant of the distance because regardless of the new location of the building, it will still remain in front of the principal building so the variance request is for the building to be in front of the principal building.

Mr. Budd asked Mr. Naegle if the building could be moved back any further. Mr. Naegle noted that it would require cutting of more virgin growth and they are trying to minimize doing so. Ch. Calabro noted that even if they move the building back further, it would still remain in front of the principal building.

Being no further questions, Mr. Naegle was seated.

There being no further testimony offered, Ch. Calabro asked for a review of the Duncan Factors.

Factor #1

Will the property yield a reasonable return or can there be a beneficial use of the property without the variance?

Vote:

Budd – Yes

Mainzer – Yes

Zeleznak – Yes

Hoop – Yes

Calabro – Yes

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Factor #2

Is the variance substantial?

Vote:

Budd – Yes

Mainzer – Yes

Zelesnak – Yes

Hoop – Yes

Calabro – Yes

Factor #3

Will the essential character of the neighborhood be substantially altered or will adjoining properties suffer a substantial detriment if this variance is granted?

Vote:

Budd – No

Mainzer – No

Zelesnak – No

Hoop – No

Calabro – No

Factor #4

Will the variance adversely affect the delivery of governmental services such as fire or ambulance?

Vote:

Budd – No

Mainzer – No

Zelesnak – No

Hoop – No

Calabro – No

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Factor #5

Did the property owner purchase the property with knowledge of the zoning restrictions?

Vote:

Budd – Don't Know

Mainzer – Don't Know

ZeleznaK – Don't Know

Hoop – Don't Know

Calabro – Don't Know

Factor #6

Can the problem be solved by some manner other than the granting of a variance?

Vote:

Budd – No

Mainzer – No

ZeleznaK – No

Hoop – No

Calabro – No

Factor #7

Does the variance preserve the “spirit and intent” of the zoning requirement and will “substantial justice” be done by granting the variance?

Vote:

Budd – Yes

Mainzer – Yes

ZeleznaK – Yes

Hoop – Yes

Calabro – Yes

Ch. Calabro stated that any person adversely affected by a decision of the Board of Zoning Appeals may appeal to the Court of Common Pleas of Medina County on the ground that such decision was unreasonable or unlawful and will have 30 days from the date of this meeting to appeal. A copy of the signed documents will be given to the applicant at the end of this hearing.

Mr. Hoop stated that this is a motion for a variance for Linda Mills, property owner of 1230 Oakwood Lane, Hinckley, Ohio (Permanent Parcel #01603B02006) requesting for a variance to place an accessory building at the stated address, in a location that does not meet the front

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setback of not less than the principal building required by the Hinckley Zoning Regulations. The request will be for the building to be 116’ from Oakwood Lane as shown on the submitted plans and reference drawings.

Mr. Zeleznak seconded the motion.

Vote: Calabro – Yes, Hoop – Yes, Zeleznak – Yes, Mainzer – Yes, Budd - Yes

Passed by a vote of 5 to 0

Ch. Calabro made a motion to adjourn the Meeting. Ms. Mainzer moved and Mr. Hoop seconded

Vote: Calabro – yes, Hoop – yes, Zeleznak – yes, Mainzer – yes, Budd – yes

Hearing was adjourned at 8:03 p.m.

Todd Gienger, Recording Secretary

Minutes Approved: _____, 2017

Josephine Calabro, Chairperson

Jeff Hoop, Vice Chairperson

Dave Zeleznak, Member

Julie Mainzer, Member

Bill Budd, Member