

Chairman J. Calabro called the November 22, 2017 Board of Zoning Appeals Public Hearing to order at 7:10 p.m.

Roll found: Ch. Calabro, Vice Ch. Hoop, Zeleznak, Mainzer, Budd. In the audience were Alternates Boleman and Schaefer, Trustee Schulte, Zoning Inspector Wilson, Zoning Commission Member Bruce Schneider, Nick Lukosavich, Verne Klunzinger, Andrew Klunzinger and Carolyn Chism.

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.

Ch. Calabro stated that any Board member that has any monetary interest or has a conflict including exparte communication should disclose at this time. Member Zeleznak asked to recuse himself from the hearing for reason that he lives at the entrance of the development and is in good relations with those who live within the area. Ch. Calabro asked Alternate Boleman to move into voting member position for the hearing.

Acting Recording Secretary Peterlin read the legal ad and confirmed that the legal notice was mailed to the applicant and adjacent property owners.

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 Chapters 7 and 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. Any person may request a schedule or an agenda be mailed to them, providing a self-addressed and stamped envelope be included with request.

Ch. Calabro stated that this is a hearing for a request submitted by applicant Nick Lukosavich, contractor, on behalf of Verne Klunzinger, property owner of 2553 Morning Star Drive, Hinckley, Ohio (PPN 01603C30025) for a variance from the enforcement of certain Hinckley Township Zoning Resolution Sections to property owned by the applicant.

Ch. Calabro noted that the applicant has submitted an application to this Board of Zoning Appeals and has also submitted certain documents in support of his application.

Ch. Calabro stated that notice of the application was properly given in local newspapers, and the application and supporting documentation has been available for public review and comments. She asked Acting Recording Secretary Peterlin if any letters, phone calls or emails were received. Ms. Peterlin responded that no additional information had been received for the hearing. Ms. Peterlin added that a neighbor stopped by the Zoning Office to view the application packet.

Upon request by Ch. Calabro, Acting Recording Secretary polled the Board as to whether they received the packet of information and inspected the property at 2553 Morning Star Drive, Hinckley, Ohio 44233.

Response: Calabro – yes and yes inspected on 11/18, 2017, Hoop – yes and yes inspected on 11/18/2017, Boleman – yes and yes inspected on 11/18/2017, Mainzer – yes and yes inspected on 11/18/2017, Budd – yes and yes inspected on 11/18/2017.

Ch. Calabro noted that each member of the Board of Zoning Appeals has been provided a copy of the application and supporting documentation.

Ch. Calabro noted for the record that non-written communication or written communication made by known or unknown persons not under oath and not properly given during the hearing are not accepted by the Board of Zoning Appeals as testimony.

Ch. Calabro stated that the Board has the power to grant an applicant's request for variance.

Ch. Calabro stated that all people that wish to give testimony will be sworn in individually and testimonies, if any, shall be given from the podium.

Mr. Verne Klunzinger, property owner of 2553 Morning Star, was sworn in accordingly.

Ch. Calabro asked Mr. Klunzinger to provide to the Board a brief summary of his request.

Mr. Klunzinger stated that he would like to build a 16 x 20 post and beam barn. He referenced the plot plan provided in the packet and explained that the building will be set pretty far back on his property, calling attention to all the trees. He added there is a pathway off the drive that allows access to the location.

Ch. Calabro asked Mr. Klunzinger what the purpose or intended use of the barn is. He responded that it is a two-story building noting that the upstairs will be used as a hobby area for his children and the first floor will be used for storage, i.e. tractor and overflow from the garage.

Ch. Calabro asked about the area on the other side of the property and why the need to request a variance. Mr. Klunzinger responded that there were two reasons for selecting the proposed location. The first reason - there is a septic mound, which when installed, changed the water table levels leaving the wooded area saturated with water. The ground remains soupy during the wet season until June. He added it would be difficult to build a building there with the ground area being so wet. The second reason is that if he chose a different location away from the septic mound and wet area, he would have to remove many of the trees.

Ch. Calabro asked Mr. Klunzinger to clarify the reason, if because of the "mushy" wet area or because of the trees. Mr. Klunzinger responded that it was more due to the "mushy" area. Ch. Calabro asked if the wet area could be resolved with some sort of drainage and Mr. Klunzinger responded that it would be an extensive project to improve drainage away from the barn and involve removing the trees.

Mr. Budd asked if there is going to be a walkway or path leading back to the structure, taking into consideration access by the safety forces, if needed. Mr. Klunzinger responded that the current plan is to access by the existing five foot path. Mr. Klunzinger added that the path could be widened, if needed.

Mr. Budd asked if Mr. Klunzinger had knowledge of the Zoning Regulations when he purchased the property. Mr. Klunzinger responded yes, he did.

Ch. Calabro asked if the barn would be similar to the exterior of the house and Mr. Klunzinger responded yes, that it is similar to the architect design of the home. He added that the plans had been reviewed and approved by the developments Home Owner's Association. He added that the barn will not be visible from the road.

Ch. Calabro stated for the record that the second floor of the building will be used for a hobby area and not for business use. Mr. Klunzinger responded that the second floor will not be used for business purposes and more like a flex space and hobby area.

Ch. Calabro clarified the proposed location to other areas on the property; and asked if other options exist. She reiterated the testimony of Mr. Klunzinger stating that the existing septic mound drains into the wooded area causing a drainage issue; and to improve the drainage would be a costly project. Mr. Klunzinger said that yes, that was the case unfortunately and that when the mound was installed it trapped the water in the low spot.

Ch. Calabro noted for the record the distance from the mound to the corner of the building, and asked if that distance will be sufficient for the County requirements. Mr. Klunzinger responded that yes, the County needs ten (10) feet, and the County verbally said that six (6) to eight (8) feet will suffice as long as they can access the service line.

Ch. Calabro noted that if the Board grants the variance as requested, and the County objects to the location of the barn requesting the ten (10) feet, the barn just can't be simply moved. Mr. Klunzinger would have to reapply with a new variance request. Mr. Klunzinger stated that he understood.

Being no further questions, Mr. Klunzinger 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:

Calabro – Yes

Hoop – Yes

Boleman - Yes

Mainzer – Yes

Budd – Yes

Factor #2: Is the variance substantial?

Vote:

Calabro – Yes

Hoop – Yes

Boleman - Yes

Mainzer – Yes

Budd – 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:

Calabro – No
Hoop – No
Boleman – No
Mainzer – No
Budd – No

Factor #4: Will the variance adversely affect the delivery of governmental services such as fire or ambulance?

Vote:

Calabro – No
Hoop – No
Boleman – No
Mainzer – No
Budd – No

Factor #5

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

Vote:

Calabro – Yes, based on testimony
Hoop – Yes
Boleman – Yes
Mainzer – Yes
Budd – Yes

Factor #6

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

Vote:

Calabro – No
Hoop – No
Boleman – No
Mainzer – No
Budd – 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:

Calabro – Yes

Hoop – Yes

Boleman – Yes

Mainzer – Yes

Budd – 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 the decision was unreasonable or unlawful and will have 30 days from the date of this meeting to appeal.

Ch. Calabro explained the voting process to the applicant as follows: Yes, simple majority with a quorum present is in favor of the applicant and a No, simple majority, or a tie vote denies the applicant’s request. If the vote is favorable to the applicant, the applicant has one year from the date of the hearing to begin construction or to act on the approved request.

Ch. Calabro asked for a motion. Mr. Hoop made a motion to approve a variance (AP0221) submitted by applicant Nick Lukosavich, contractor on behalf of Verne Klunzinger, property owner of 2553 Morning Star Drive, Hinckley, Ohio (Permanent Parcel 01603C30025) requesting a variance to construct an accessory building at the stated address, in a location that does not meet the minimum side yard setback of thirty (30) feet required by the Hinckley Zoning Regulations 6R1.4.E. with a variance of fifteen (15) feet.

The motion was seconded by Ms. Mainzer.

Vote: Ch. Calabro – yes; Hoop – yes, Boleman – yes, Mainzer – yes, Budd – yes

Again, Ch. Calabro stated that the applicant has one-year from the date of the hearing to begin construction and any person adversely affected by the decision has 30 days from this meeting to file suit.

The Board of Zoning Appeals Decision form was signed and a copy given to the applicant.

Ch. Calabro asked for a motion to adjourn the Public Hearing. Ms. Mainzer moved and Ms. Boleman seconded. All in favor.

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The November 22, 2017 Board of Zoning Appeals Public Hearing adjourned at 7:30 p.m.

Minutes by: Suzanne Peterlin, Acting Recording Secretary

Minutes Approved: _____, 2017

Josephine Calabro, Chairperson

Jeff Hoop, Vice-Chairperson

Donna Boleman, Member

Julie Mainzer, Member

William Budd, Member