

Chairman Calabro called the July 22, 2020 Board of Zoning Appeals Public Hearing to order at 7:00 p.m.

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 ex parte communication should disclose at this time.

Roll found: Calabro, Hoop, Zeleznak, Mainzer, Budd. In the audience: Alternates Schaefer and Wolny, Trustee Schulte and Zoning Inspector Wilson.

Ch. Calabro stated that out of an abundance of caution, and under the current circumstances, the meeting is being conducted following the rules of social distancing and the meeting will be conducted as briefly and to the point as possible, and it would be appreciated if audience members could keep comments to the point and pertinent to this meeting.

Ch. Calabro asked the Recording Secretary to read the Public Hearing Notice that was published in the Medina County Gazette on July 6, 2020, a copy of which is on file in the Zoning Office at Hinckley Town Hall. The Public Hearing Notice was read by the Recording Secretary. Ch. Calabro asked the Recording Secretary to confirm that the legal notice was mailed to the applicant and adjacent property owners and the Recording Secretary confirmed.

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 John Sumodi, proposed buyer of property located at 1824 West Drive, Hinckley, Ohio (PPN 01603D15063) requesting two variances to construct a new home, at the stated address, in a location that does not meet 1) the minimum front yard setback of 90 feet or 120 feet from the centerline on a private street; and 2) the minimum rear yard setback of 50 feet required by the Hinckley Zoning Regulations.

Ch. Calabro stated for the record that the original variance application was made by applicant John Sumodi on behalf of Michael Brookins. As of July 9, 2020, property was transferred to an LLC owned by Mr. Sumodi. Therefore, these variances are being requested by Mr. Sumodi for himself as the property owner. Ch. Calabro asked Mr. Sumodi to confirm this and he did.

Ch. Calabro also noted that although we may discuss and review these variances simultaneously, we will be voting on each variance separately.

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. Ch. Calabro asked the Recording Secretary to poll the Board as to whether they received the packet of information and inspected the property at 1824 West Drive, Hinckley, Ohio 44233.

Response: Calabro – yes and yes inspected on 7/19/2020, Hoop – yes and yes inspected on 7/18/2020, Zeleznak – yes and yes inspected on 7/18/2020, Mainzer – yes and yes inspected on 7/18/2020, Budd – yes and yes inspected on 7/18/2020.

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 asked the Recording Secretary if any letters, phone calls or emails were received. The Recording Secretary responded that a letter was received in the Hinckley Township Administrative office from Stephanie Kutsko, Cleveland Metroparks regarding the hearing, in addition there were 2 requests for packet materials and one visit to the Hinckley Administrative office regarding the hearing.

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.

John Sumodi, 2085 Center Road, Hinckley, OH.

Mr. John Sumodi, applicant, was sworn in accordingly.

Mr. Sumodi stated that he is asking for two variances. With regard to the rear variance, due to the elevation of the driveway the house has to be shifted back because there is a 30' elevation change from the road to the house, which would require the house to be moved back on the property. Mr. Sumodi stated that neighbors around the property all have the same setback. The challenge of the location requires the request for the variance from the rear setback.

Ch. Calabro asked for clarification on the variance and Mr. Sumodi stated he is asking for a 34' variance from the property line.

Mr. Sumodi stated that based on the letter he received from the Metroparks he will have to revise his initial variance request for the front yard setback. Mr. Sumodi stated that based on the information received from the Metroparks he had to revise his floor plan which changed the setback from a 90' setback to an 80' setback. Mr. Sumodi stated he just found out when he received the letter the day before this meeting. Mr. Sumodi stated he is trying to get as much room in the rear for sufficient flat space for the septic and well.

Ch. Calabro asked if Mr. Sumodi is revising his front yard variance request and Mr. Sumodi stated he is revising his front yard variance request to a 10' variance, from 90' to 80'. Ch. Calabro asked if it will be the same footprint and Mr. Sumodi confirmed it will be the same, he is just turning the house to make the most of the yard as possible.

Ch. Calabro stated that of the two variances, the front yard variance is the most troubling so if the applicant is reducing by approximately 75% it becomes less of an issue.

Mr. Zeleznak asked for clarification on the front yard variance request. Mr. Sumodi was originally asking for 78', then 34', what is Mr. Sumodi asking for now so the Board is clear on the variance request. Mr. Sumodi stated he is asking for a 10' variance request in the front based on the information he received from the Metroparks which required him to alter the variance request to take into consideration the setback requirements for the Metroparks property.

Mr. Budd asked about the Metroparks letter which stated they required 80' from Metroparks property, how far does the Metroparks property extend from the road. Mr. Sumodi asked Mr. Travis Crane from TGC Engineering to respond.

Travis Crane, TGC Engineering, LLC, 1310 Sharon Copley Road, Sharon Center, OH

Mr. Travis Crane was sworn in accordingly.

Mr. Crane stated it is their opinion that the Metroparks property ends on the western right of way of West Drive. Mr. Budd asked for clarification of the distance of the right of way from the road. Mr. Crane stated the right of way is 60' wide, on the drawings the center of road is not exactly in center of right of way, there is 60' private right of way that they own and their property line is the western edge of West Drive. Mr. Budd asked for further clarification of the setback from the Metroparks property line. Mr. Crane stated that the Township setback from the Metroparks right of way is 90' and the Metroparks deed restriction states 80'.

Mr. Budd stated he is trying to determine where the Metroparks' deed restriction of 80' starts. Mr. Crane stated it starts at the right of way and Mr. Budd asked if that is the same place the Township's Zoning starts.

Zoning Inspector Wilson explained how he measures to determine the right of way.

Mr. Budd stated it looks like the Metroparks owns some property between the roadway and the applicant's property so from the Metroparks's property are we all talking about the same 80'. Mr. Crane confirmed that it's the same starting point and he pointed out on the drawings what he was talking about.

Mr. Hoop asked when all four lots were combined what is the total acreage and Mr. Sumodi stated it is 2.005.

Ch. Calabro asked if there was anything else that the Metroparks conveyed to Mr. Sumodi during the conversations he had with them earlier in the day. Mr. Sumodi stated that they had a conversation about the driveway permit.

Ch. Calabro stated that the reduction of variance to 10' addressed a lot of her concerns. Mr. Zeleznak stated that addressed his concerns as well.

Ch. Calabro asked for the record what does Mr. Sumodi state his hardship is and Mr. Sumodi explained that the elevation change of 30' from the road to the house location is the hardship. He has to push back the house to get the driveway in and he can't move anything farther to the right because of the septic.

Ch. Calabro stated that Mr. Sumodi said he would have to move the house to accommodate the 10' variance and she wants to make sure if this variance is approved it has to remain at 10', they would have to start all over if the 10' variance had to be changed. Mr. Sumodi stated he understood that.

Ch. Calabro asked if there were any more questions or comments from the Board, there were none.

Ch. Calabro invited anyone from the audience to speak.

Lisa and Scott Rushworth, 1006 Bellus Road, Hinckley, OH

Lisa and Scott Rushworth were sworn in accordingly.

Mr. and Mrs. Rushworth explained that they are concerned regarding the rear setback variance request because they stated they would be able to see the applicant's home and they want to maintain the rural characteristic of their property. Mrs. Rushworth stated that the applicant's house would be about 15 feet away and that does not allow for a rural feeling. Mr. and Mrs. Rushworth explained that they do not see a hardship, it's not that the lot is unbuildable, it's that the house doesn't fit the lot. They have

trees on the property line, however, they are high canopy trees and they would still be able to see the applicant's house. Discussion followed regarding location of the Rushworth property.

Mr. Zeleznak stated that right now their driveway is behind the lot and suppose there were 4 separate lots, would they have a problem with 4 separate 2-story houses built 15 feet from the property line on those 4 lots.

Mrs. Rushworth stated it would depend on the design of the houses.

Discussion took place regarding lot size and if the lots by themselves would be buildable and the consolidation of the lots.

Ch. Calabro asked the Rushworth's what solution they are asking for and Mr. and Mrs. Rushworth stated they would like the 50' setback.

Mr. Budd asked the Rushworth's if they were concerned about the look of the proposed house and they stated they want to maintain a natural landscape and appearance and that they want to look at trees not a house.

Ch. Calabro asked if the applicant planted more trees so it would look like a green fence would that be acceptable and Mr. and Mrs. Rushworth stated that wouldn't be enough with a 16' depth but it would be better with a 50' depth.

Mr. Budd stated that the Board was trying to find a solution for a natural landscape that would work for both parties.

Mr. and Mrs. Rushworth stated that they would prefer the variance not be granted.

Bill Schaefer, 1733 Stony Hill Road, Hinckley

Mr. Schaefer was sworn in accordingly.

Mr. Schaefer explained further about the lots in question and his experience as the former Zoning Inspector regarding those lots. Mr. Schaefer stated that the previous owners came to him when he was Zoning Inspector to get a variance for a shared driveway so there could be four (4) buildable lots. Mr. Schaefer stated he contacted the Medina County Prosecutor's office and was told that the lots were not buildable.

Mr. Schaefer stated that now that the lots are combined there will be setback problems because the proposed house is larger than the lot allows which is why the applicant came in for a variance.

Ch. Calabro asked if anyone had anything to add and Mr. Sumodi asked to address Mr. and Mrs. Rushworth's concerns.

Mr. Sumodi stated that it's his belief that based on the drawings he doesn't believe that Mr. and Mrs. Rushworth would see his house from inside their house, maybe just from their driveway. Mr. Sumodi referred to drawings to describe what he was talking about.

Ch. Calabro asked Mr. Sumodi if there was anything that he could do to either lessen the variance or eliminate it completely by modifying the house and Mr. Sumodi stated no, he has already modified as much as he can. The location of the driveway and the 30' elevation fall limits what he can do.

Mr. Sumodi stated he would be willing to plant pine trees on the property line.

Mr. Zeleznak stated that during the inspection he walked to the back corner of the property and didn't realize there was a driveway on the neighboring property and he didn't see a house on the neighboring property until he was almost at the edge of the cliff.

Mr. and Mrs. Rushworth explained that it wasn't just a matter of seeing the applicant's house from the inside of their house, they want to be able to sit outside and walk their property and still maintain the rural feel. Further discussion followed.

Mr. Zeleznak stated he understands what they are talking about, he lives on a piece of property that was surrounded by open space for 40 years and then a development was built and now he sees houses, and that is just progress.

Mr. and Mrs. Rushworth emphasized again that they would like to maintain their natural, rural setting and they do not want the variance granted.

Ch. Calabro stated that she understands their point and she thanked Mr. and Mrs. Rushworth.

Ch. Calabro asked Mr. Sumodi if he was aware of the zoning restrictions when he decided to consolidate the lots and Mr. Sumodi stated no.

There being no further testimony offered, Ch. Calabro asked for a review of the Duncan Factors for both variances, the first response will be for the front variance request and the second response will be for the rear variance request.

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.

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 and Yes
Hoop – Yes and Yes
Zelesnak – Yes and Yes
Mainzer – Yes and Yes
Budd – Yes and Yes

Factor #2: Is the variance substantial?

Vote:

Calabro – No and Yes
Hoop – No and Yes
Zelesnak – No and Yes
Mainzer – No and Yes
Budd – No and 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 and No
Hoop – No and No
Zelesnak – No and No
Mainzer – No and No
Budd – No and No

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

Vote:

Calabro – No and No
Hoop – No and No
Zelesnak – No and No
Mainzer – No and No
Budd – No and No

Factor #5

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

Vote:

Calabro – No and No
Hoop – No and No
Zelesnak – No and No
Mainzer – No and No
Budd – No and No

Factor #6

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

Vote:

Calabro – Yes and Yes
Hoop – Yes and Yes
Zelesznak – Yes and Yes
Mainzer – No and No
Budd– Yes and Yes

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 and Yes
Hoop – Yes and Yes
Zelesznak – Yes and Yes
Mainzer – Yes and Yes
Budd – Yes and Yes

Ch. Calabro asked for a motion for the first variance for the front yard setback. Mr. Hoop made a motion to approve a variance (AP0244) submitted by applicant John Sumodi, property owner of 1824 West Drive, Hinckley, Ohio (Permanent Parcel 01603D15063) requesting twos variances to construct a new home at the stated address that does not1) meet the front yard setback of 120 feet requesting a variance of 10'. Reference Chapter 6 Subsection 6R1.4.D.

The motion was seconded by Mr. Zelesznak

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 vote.

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

Ch. Calabro stated that the first variance for the front yard setback was granted 5-0.

Ch. Calabro asked for a motion for the second variance for the rear yard setback. Mr. Hoop made a motion to approve a variance (AP0244) submitted by applicant John Sumodi, property owner of 1824 West Drive, Hinckley, Ohio (Permanent Parcel 01603D15063) requesting a variance to construct a new home at the stated address that does not meet the minimum rear yard setback of 50 feet, the proposed setback would be 34' asking for a variance of 16 feet.

The motion was seconded by Mr. Zeleznak

Ch. Calabro asked for a vote.

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

Ch. Calabro stated that the second variance for the rear yard setback was granted 5-0.

Ch. Calabro stated again that the applicant has one year from the date of this hearing to begin construction or act upon the approved request and anyone adversely affected has 30 days from the date of this hearing 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 Mr. Budd seconded. All in favor.

The July 22, 2020 Board of Zoning Appeals Public Hearing adjourned at 8:06p.m.

Minutes by: Judi Stupka, Recording Secretary

Minutes Approved: _____, 2020

Josephine Calabro, Chairperson

Jeff Hoop, Vice-Chairperson

Dave Zeleznak, Member

Julie Mainzer, Member

Bill Budd, Member