

Ch. Calabro called the June 24, 2020 Board of Zoning Appeals Public Hearing #2 to order at 7:46 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 and Trustee Schulte.

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.

Recording Secretary 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 Brad Camposo, builder, on behalf of Michael Doty, property owner of 1232 Ridge Road, Hinckley, Ohio (PPN 01603A35019) requesting a variance to have a shared driveway with 1234 Ridge Road (PPN 01603A35018) which does not meet the driveway requirements required by the Hinckley Zoning Regulations.

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. The Recording Secretary polled the Board as to whether they received the packet of information and inspected the property at 1232 Ridge Road, Hinckley, Ohio 44233.

Response: Calabro – yes and yes inspected on 6/20/2020, Hoop – yes and yes inspected on 6/20/2020, Zeleznak – yes and yes inspected on 6/20/2020, Mainzer – yes and yes inspected on 6/23/2020, Budd – yes and yes inspected on 6/20/2020.

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 there were any letters, phone calls or emails received, there were none.

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.

Ch. Calabro asked the applicant, Mr. Camposo to give a description of the project. Mr. Camposo asked if he and the property owner, Mr. Doty, could be sworn in together so they could both describe the project.

Brad Camposo, Premier Custom Builders, 49 W. Orange, Chagrin Falls, Ohio

Michael Doty, 1232 Ridge Road, Hinckley, Ohio

Mr. Camposo and Mr. Doty were sworn in accordingly.

Mr. Camposo thanked Zoning Inspector Wilson for his help. Mr. Camposo stated that Mr. Doty did a lot split with his father so he could construct his own home. When they pulled the driveway permit through the Ohio Department of Transportation (ODOT) it was determined they didn't meet the front yard requirements for the speed limit on Ridge Road so ODOT issued Mr. Doty a shared driveway permit with his father.

Ch. Calabro asked Mr. Camposo to further explain and Mr. Camposo stated that they have a permit from ODOT for a shared driveway. Mr. Camposo stated that ODOT said they consider the two lots continuous because the property owners (Mr. Doty and his father) are related. Mr. Camposo stated that ODOT would not give a variance for the separate driveway on Mr. Doty's property because the location of the driveway would enter and exit by a hill on Ridge Road and this would be dangerous with the current speed limit and it creates a safety concern.

Mr. Camposo submitted a picture of the proposed driveway location on Ridge Road and stated that it illustrates the safety concern because of the hill.

Ch. Calabro asked Mr. Camposo if he was involved with the lot split and Mr. Camposo stated no. Further discussion followed regarding ODOT's determination regarding the shared driveway.

Ch. Calabro asked what will happen when the lot is sold to someone who is not family.

Mr. Camposo stated that he believes safety is more important. They have an easement ready to be filed if the variance is granted. Ch. Calabro stated they would have to get an easement before the variance could be granted.

Further discussion followed regarding the location of the driveway coming off the road and the concern for safety.

Mr. Doty explained that the ODOT engineer said that possibly the speed limit change for the new school on Ridge Road would allow them have the single driveway in the proposed location, but the school isn't built yet so they can't consider that.

Mr. Zeleznak stated that once the property is legally split the new property owner can apply for the driveway permit.

Mr. Camposo stated that they went to ODOT for the driveway permit but they are in front of the Board of Zoning Appeals because ODOT said they should work with the local municipality.

Mr. Budd asked if they could ask ODOT if once the school is built and the speed limit is changed will ODOT change their decision.

Mr. Camposo stated that ODOT said they can only decide on what is in place now. Mr. Camposo stated that it doesn't change the fact that the shared driveway makes more sense because of the safety issue. Mr. Camposo stated that shared driveways can be difficult but he believes this is the best solution for this property.

Ch. Calabro asked what they plan to do if the variance is not granted.

Mr. Camposo stated they would try to get a variance from ODOT, however, the person they are dealing with at ODOT has told them they won't grant the variance.

Ch. Calabro asked if that is because the two property owners are related.

Mr. Camposo stated that according to ODOT there are 2 reasons they wouldn't grant the variance. Because the two property owners are related and because of the safety issue. Mr. Camposo stated that in this case they believe the safety issues carries with the property and they don't want to cut costs, they want to be safe.

Mr. Zeleznak asked Mr. Camposo to point out the ODOT language regarding the same family sharing a driveway in the ODOT packet that Mr. Camposo submitted.

Mr. Camposo stated they couldn't find the language but they asked ODOT.

Mr. Zeleznak asked if Mr. Doty considered buying the adjoining property where barns are located so there would be a better location for the driveway.

Mr. Doty stated he discussed that possibility with his father, but his father didn't want to sell that property because he wanted to keep his barns.

Discussion followed regarding the reasons for the location of the lot split. Mr. Doty explained further that his father wants to keep his barns and pastures.

Ch. Calabro asked Mr. Doty if he is testifying that if he goes back to ODOT and they deny the variance for the driveway and if the Board of Zoning Appeals denies the variance for the driveway then Mr. Doty will not have access to his property.

Further discussion followed regarding the safety issue of the proposed location of the driveway.

Ch. Calabro stated that they would be granting a variance on someone else's property because there is no easement, possibly the variance, if granted, would have to be contingent on the easement being filed.

Bill Schaefer, 1733 Stony Hill Road, Hinckley, Ohio

Bill Schaefer was sworn in accordingly.

Mr. Schaefer stated that a conditional variance cannot be granted according to the County Prosecutor. Mr. Schaefer stated that they went through this situation almost a year ago, it depends on who a person talks to at ODOT.

Mr. Schaefer suggested that the driveway could be located between the 2 buildings, parallel with the street so it doesn't take up the pasture land.

Mr. Camposo stated that the topography is difficult. Mr. Schaefer stated that the easement must be in place before the variance is granted.

Mr. Camposo asked if the Board finds that they can't grant the variance without the easement can he ask how the Board feels if the easement is filed.

Ch. Calabro stated she can only answer for herself, she cannot grant a variance on something that doesn't exist. Discussion followed.

Ch. Calabro stated that the applicant's option is to go back to ODOT and discuss with them.

Mr. Camposo stated that it is their intention to file the easement and then come back to the Board.

Mr. Budd asked what is at risk, why not file the easement.

Mr. Camposo stated that they didn't think they needed to have it, but when they filed for the variance they started considering it.

Rita Sipowitz – 1753 Maple Hill, Hinckley, Ohio

Ms. Sipowitz was sworn in accordingly.

Ms. Sipowitz asked how the shared driveway would affect her property. She was notified about the public hearing, but her property is located on the opposite side of where the driveway will be.

Mr. Zeleznak explained to Ms. Sipowitz that she was notified because she is an adjoining property owner and the Township is required to notify adjoining property owners when there is a public hearing. Mr. Zeleznak explained to Ms. Sipowitz that regardless of what they do about the driveway she will not be affected.

Mr. Schaefer stated that he can't find any ODOT language that discusses property owners with the same last name. He did find language that references once property is legally split the new property owner may apply for an access point.

Mr. Camposo stated they went to ODOT and described the situation. They did not submit a permit for a shared driveway, ODOT came back to them about a shared driveway because of the safety concerns entering and exiting on Ridge Road with the current speed limit.

Mr. Doty explained that he took care of the lot split himself and he found out after that there would be issues with the driveway.

Ch. Calabro stated that in the process of the lot split the driveway issue should have come up and Mr. Camposo stated that the lot split had to take place before the driveway permit could be applied for.

Ch. Calabro asked if there was anything else. There was nothing else.

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 – No

Hoop – No

Zelesnak – No

Mainzer – No

Budd – No

Factor #2: Is the variance substantial?

Vote:

Calabro – Yes

Hoop – No

Zelesnak - 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
Zelevnak – 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
Zelevnak – No
Mainzer – No
Budd – No

Factor #5

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

Vote:

Calabro – No
Hoop – No
Zelevnak – No
Mainzer – No
Budd – Don't know

Factor #6

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

Vote:

Calabro – No
Hoop – No
Zelevnak – Yes
Mainzer – No
Budd – 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
Hoop – Yes
Zelevnak – No
Mainzer – Yes
Budd – Yes

Ch. Calabro asked for a motion. Mr. Hoop made a motion to approve a variance (AP0243) submitted by applicant Brad Camposo with Premier Custom Builders, on behalf of Michael Doty, property owner of 1232 Ridge Road, Hinckley, Ohio (Permanent Parcel 01603A35019) requesting a variance to have a shared driveway using the property with 1234 Ridge Road (Permanent Parcel 01603A35018) which does not meet the driveway requirement of the Hinckley Zoning Regulations. Zoning Reference Chapter 4 Subsection 4.4.B.

The motion was seconded by Mr. Zelevnak.

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.

Vote: Ch. Calabro – no; Hoop – yes, Zelevnak– no, Mainzer – yes, Budd – no

Ch. Calabro stated that the variance was denied 3-2.

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 June 24, 2020 Board of Zoning Appeals Public Hearing (Doty) adjourned at 8:50 p.m.

Judi Stupka, Recording Secretary

Minutes Approved: _____, 2020

Josephine Calabro, Chairperson

Jeff Hoop, Vice-Chairperson

Dave Zeleznak, Member

Julie Mainzer, Member

Bill Budd, Member