

Chairman J. Calabro called the January 26, 2022 Board of Zoning Appeals Public Hearing for Hinckley Land Holdings to order at 7:35 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 exparte communication should disclose at this time.

Roll found: Calabro, Hoop, Zeleznak, Budd, Schaefer. In the audience was Zoning Inspector Wilson and Trustees Augustine, Ascherl and Swedyk attended virtually.

The 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 or virtually, 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 Chris Bender, agent, on behalf of Hinckley Land Holdings, LLC, property owner of Black A in the Reserve at Pine Valley, 2707 Hidden Pine Lane, Hinckley, Ohio requesting 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, which includes the following: original application; rendering of proposed sign; and site maps.

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 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 and there were none.

Ch. Calabro asked the Recording Secretary to poll the Board as to whether they received the packet of information and inspected the property at 2707 Hidden Pine Lane, Hinckley, Ohio 44233.

**Response: Calabro – yes and yes inspected on 1/26/2022, Hoop – yes and yes inspected on 1/22/2022, Zeleznak – yes and yes inspected on 1/22/2022, Budd – yes and yes inspected on 1/22/2022; Schaefer – yes and yes inspected on 1/22/2022 .**

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 written communication from persons not present this evening may include communication that are not made by affidavit because these communications are made by persons not under oath they are not accepted by this Board. Written communication may include writing by affidavit by persons not present this evening and therefore cannot be subjected to cross examination. These affidavits will not be given much weight, if any, in the decision of the Board on this matter.

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

Ch. Calabro stated that on behalf of the virtual audience we ask that everyone save personal conversations until after the meeting as additional voices cause confusion for those attending virtually.

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 or virtually.

**Chris Bender, 22700 Royalton Road, Strongsville, OH.**

Chris Bender, applicant, was sworn in accordingly.

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

Mr. Bender stated that he represents Hinckley Land Holdings, they are the developer of the subdivision known as The Preserve at Pine Valley. It is a 30 lot subdivision with larger lots. Mr.

Bender stated they had anticipated putting an entrance monument on the north side of the new street and they discovered when they began the application process for the permits that they didn't have the proper setbacks. They discovered that the area where they intended to put the monument sign was constricted and they had to comply with both the setback from the right of way for their new street as well as the setback from W. 130<sup>th</sup> Street, which they deeded an additional piece of property to the County to widen the right of way at that point, so that forced them a little further from W. 130<sup>th</sup>. Mr. Bender stated they are good as far as county and township setback lines for right of ways and the visibility is good, the problem they have is that the situation forced them to propose to build this monument closer to their northern neighbor, Mr. Rupert. Mr. Bender stated they are proposing that in order to meet the right of way setbacks they are 5 ½ feet from Mr. Rupert's property. Mr. Bender stated that everyone should have illustrations of the proposed monument, it is basically a stone monument with some ground lighting and possibly a coach light on the top and there is no advertising and no addresses, no numbers, it only has the logo which identifies the location.

Mr. Bender stated he discussed this with Mr. Rupert, who is their neighbor to the north. His house is situated about 150 feet off the road and his home is on the north end, so he is quite a distance from where this location is. Mr. Bender stated that he would like to note that Mr. Rupert has a circular driveway, and in discussing this matter with Mr. Rupert, he told Mr. Bender that there have been a lot of people using his yard as a turnaround and Mr. Bender stated this is a hardship that he wants to prevent. Mr. Bender stated that Mr. Rupert has several young grandchildren that play in the side yard and W. 130<sup>th</sup> Street is busy and people do pull into Mr. Rupert's yard to turn around and that's not fair to Mr. Rupert. Mr. Bender stated that his thought is that if they create this monument with lighting, traffic going into their new subdivision, as well as delivery trucks, will be able to identify Hidden Valley. Mr. Bender stated that he thinks that all of the board members observed during the site visit that the county signs which are up on poles are hard to see and they want to prevent people from missing the street.

Mr. Bender stated their plan is to landscape around it and they will be landscaping the entire length of the common area along Mr. Rupert's property with evergreen trees and they will do the same thing on the other side. Mr. Bender stated he has not spoken to their neighbor on the south, but she is not directly affected, although Mr. Bender stated he has seen trucks and other vehicles pull into her driveway to turn around when they have missed the subdivision street. Mr. Bender stated that he thinks the hardship would be that they want to avoid any problems in the future with this. Mr. Bender stated that Mr. Rupert has been very helpful and Mr. Rupert has said he doesn't have a problem with it, but Mr. Rupert asked Mr. Bender to make sure that there is visibility for anyone pulling out of Mr. Rupert's driveway. Mr. Bender stated that the sign would

be quite a distance from W. 130<sup>th</sup> so he doesn't believe it will cause any visibility issues. Mr. Bender stated that he believes the lights will be helpful for everybody.

Ch. Calabro stated that Mr. Rupert is not present this meeting so she would think that means he has no objection and Mr. Bender stated that he advised Mr. Rupert about the meeting and the site visit and Mr. Rupert told Mr. Bender to tell the Board what he said.

Mr. Zeleznak stated it would have been to Mr. Bender's advantage if Mr. Rupert had shown up and Mr. Bender agreed but stated he did appreciate that Mr. Rupert didn't object to the sign.

Mr. Zeleznak asked if the County plans to put street lights in front of the subdivision. Mr. Bender stated he is not aware of anything like that, there was nothing proposed on their electrical plan and they are waiting for Ohio Edison to complete their electric installation. Mr. Zeleznak stated he lives near 2 subdivisions and neither one has monument or signs, just road signs, they do have lights and everyone seems to find them okay.

Zoning Inspector Wilson stated that on March 30 the Trustees amended the code so that it says a streetlight will be installed and paid for by the developer, however, the monthly cost will be paid by the Township. Zoning Inspector Wilson stated Mr. Bender will have to put a street light out there. Mr. Bender stated he doesn't object to that because he believes in safety, but does that apply since they were already approved and in and Zoning Inspector Wilson stated no. Mr. Bender stated if they will pay for the monthly maintenance that's fine.

Ch. Calabro asked for explanation of maintenance of what and Zoning Inspector Wilson stated that regarding the streetlight that Mr. Bender will put up, according to what the Trustees did on March 20, the monthly cost will be paid by the Township.

Ch. Calabro asked who will maintain the landscaping. Mr. Bender stated the Homeowners Association has the responsibility to maintain all landscaping, all common areas and the detention basins and mailbox kiosks, so this will be part of what is covered in the covenants. Mr. Bender stated that they maintain the landscaping for as long as there are enough homeowners to take over.

Ch. Calabro asked if the hardship is that there is concern about deliveries missing the street and they will utilize the residents' private drives and Ch. Calabro stated she can see that point.

Mr. Schaefer asked for an explanation of why he didn't move it closer to the street versus putting it closer to the neighbor.

Mr. Bender asked if Mr. Schaefer is asking about moving it closer to the new street and Mr. Schaefer stated yes, the new street. Mr. Bender stated that there is a substantial swale area for storm water parallel to the pavement and beyond that is the water, electric and gas line, so that is all within the Township/County right of way, and they certainly don't want to be near those, they don't want to obstruct those lines or put anything on top of those and they don't want to put it in the swale.

Mr. Zeleznak asked if basically the swale and the utility corridor take up the right of way and Mr. Bender stated yes. Mr. Schaefer stated that basically that is part of their hardship as well and Mr. Bender stated yes.

Mr. Budd stated it seems Mr. Bender is doing everything he can to minimize the variance and Mr. Bender stated that is correct. Mr. Budd stated the area they are requesting with the 5 foot variance is the only location, because there is no other location because it can't go on the utility corridor on the Township/County right of way and Mr. Bender stated yes.

Ch. Calabro and the other board members had no further questions.

**Richard Pearl – 1795 King Road, Hinckley, Ohio**

Mr. Pearl was sworn in accordingly.

Mr. Pearl stated he has more of a procedural question for the Board and he doesn't want to interfere with the granting of the variance in any way. Mr. Pearl stated that as a member of the steering committee for the comprehensive plan, they had a meeting last night and one of the residents brought up the issue of limiting light pollution. Mr. Pearl stated he doesn't think that has any affect on this but he wondered if the Board would comment or ask about that.

Mr. Bender stated they utilize low voltage at ground level just to accentuate the trees and bushes, the only thing they may have is one upright, vertical light on the lettering on the sign that describes Pine Valley. Mr. Bender stated they have a little tower with a light on top, 6 feet off the ground, and it is a coach light. Mr. Bender stated as they move to the east, their landscaping continues with ground lighting but it will decrease as they get back into the subdivision. Their first subplot is approximately 600 feet down the road into the subdivision so this will be a long, dark stretch of road so they would like to have the ground lighting. Mr. Bender stated he understands the issue with light pollution and he believes they have addressed that with the type of lighting they are using.

Mr. Schaefer asked that when they put the street light in could they put in a yellow light, that's all the State of Ohio is using on the freeway. Mr. Schaefer asked if that could be requested. Mr. Bender stated that his understanding is that Ohio Edison and CEI have a standard street light that they use. Mr. Bender stated he just agrees to pay for the light and the electric company puts it in and they don't get to pick. Mr. Schaefer stated Mr. Bender can make the request and Mr. Bender stated he will make the request.

Mr. Zeleznak asked if the coach light is just decorative and Mr. Bender agreed. Mr. Zeleznak asked if the lights on the sign will be LEDs just directed on the sign and Mr. Bender stated yes.

Ch. Calabro asked Mr. Pearl if that answers his question. Mr. Pearl stated he has no further objection, this was just a procedural question that he thought the Board should consider.

Mr. Schaefer stated that he made a request, but when doing a conditional that is where they can mandate it and Mr. Pearl stated he understood the difference.

Vice Chair Hoop asked for clarification on the variance footage. Mr. Bender stated he believes it is 19 ½ feet and Zoning Inspector Wilson confirmed that.

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

Zeleznak–Yes

Schaefer – Yes

Budd – Yes

**Factor #2:** Is the variance substantial?

Vote:

Calabro –Yes

Hoop – Yes

Zeleznak–Yes

Schaefer – 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  
Zeleznak – No  
Schaefer – 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  
Zeleznak – No  
Schaefer – No  
Budd– No

**Factor #5**

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

Vote:

Calabro – Ch. Calabro stated she doesn't know  
Hoop – No  
Zeleznak – No  
Schaefer- No  
Budd– No

**Factor #6**

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

Vote:

Calabro – No  
Hoop – No  
Zeleznak – No  
Schaefer – 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

Zeleznak – Yes for safety reasons

Schaefer – 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 grounds the decision was unreasonable or unlawful.

Ch. Calabro asked for a motion. Mr. Hoop made a motion for variance AP0261 submitted by applicant Chris Bender, agent on behalf of Hinckley Land Holdings LLC, property owner of Block A in the Reserve at Pine Valley (2707 Hidden Pine Lane), Hinckley, Ohio 44233, Permanent Parcel No. 01703A16030, requesting to install a subdivision entry way monument sign at said property location that does not meet the side yard setback of 25 feet. Requesting a variance of 19.5 feet from the 25 feet setback. Zoning Reference, Chapter 10 Sign Regulation Section 10.3.E.2.b.2.

The motion was seconded by Mr. Zeleznak.

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 –yes; Hoop – yes, Zeleznak– yes, Schaefer – yes, Budd – yes

Ch. Calabro stated that the variance passed 5-0

Ch. Calabro stated they have one year from the date of this hearing to begin construction or to act on this request and anyone adversely affected by this decision has 30 days from the date of the approval of the meeting minutes to file an appeal. The minutes are typically approved at the next regular meeting and upon approval of the meeting minutes they will be posted and available on the Township website.

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

Ch. Calabro asked for a motion to adjourn the Public Hearing. Ms. Schaefer moved and Mr. Budd seconded. All in favor.

The January 26, 2022 Board of Zoning Appeals Public Hearing for Hinckley Land Holdings was adjourned at 8:05 p.m.

Minutes by: Judi Stupka, Recording Secretary

Minutes Approved: \_\_\_\_\_, 2022

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Josephine Calabro, Chairperson

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Jeff Hoop, Vice-Chairperson

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Dave Zeleznak, Member

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Bill Budd, Member

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Bill Schaefer, Member