

Chairman J. Calabro called the March 23, 2022 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, Schaefer. Wrubel had an excused absence and alternate Schrader had an excused absence. In the audience was Zoning Inspector Wilson and Trustee Augustine attended.

Ch. Calabro stated that there is not a full Board due to the excused absences, there are only 4 members present. Ch. Calabro stated to the applicant that it is up to them if they want to proceed with a Board of only 4 or if they would like to wait until there is a full Board of 5 which would take them to the April meeting. The applicant asked what the benefit is of waiting until there is a full Board. Ch. Calabro stated with only 4 members they could end up in a tie, which is a denial or they could end up with a denial vote or they could get the variance granted. Ch. Calabro stated it is the same options but there is only 4 instead of 5 members and they need to give you that option. Mr. Zeleznak stated that if there is a tie vote the applicant would be denied the Variance. The applicants discussed between themselves and decided they are fine moving forward this evening with a Board of 4 members.

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 Darcy Chaddock, property owner of the property located at 233 Stone Canyon Court, Hinckley, Ohio 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, including a letter from the property owners, renderings of the drawings of the pool placement on the property and a site map.

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 the Recording Secretary stated an email was received from Ryan Shore and admitted into record.

Ch. Calabro asked the Recording Secretary to poll the Board as to whether they received the packet of information and inspected the property at 233 Stone Canyon Court, Hinckley, Ohio 44233.

**Response: Calabro – yes and yes inspected on 3/19/2022, Hoop – yes and yes inspected on 3/19/2022, Zeleznak – yes and yes inspected on 3/19/2022, Schaefer – yes and yes inspected on 3/23/2022.**

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

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 asked the applicant to come to the podium.

**Darci Chaddock, 233 Stone Canyon Court, Hinckley, OH.**

Ms. Chaddock was sworn in accordingly.

Ch. Calabro asked Ms. Chaddock to provide to the Board a brief summary of her request.

Ms. Chaddock stated they have an interesting lot, which includes a shallow backyard and a lot of topography and they are trying to find the best placement for the pool, it will take up the majority of their backyard space. They realized when they submitted for the permit, they didn't realize the 15 foot side-yard set back and the 15 feet set-back from the closest structure. Ms. Chaddock stated they can work with the 15 feet from the side yard, but they are hoping for a variance of 5 feet closer to their deck structure, which is elevated, it is quite a way from their home. Ms. Chaddock is asking for a 5 foot variance so the pool is 10 feet away from the corner of the deck. Ms. Chaddock stated that the portion of the pool closest to the deck, if there were safety concerns of anyone jumping into the pool from the elevated deck, the deep end of the pool is on the far opposite side of the pool and there is only about a 10" deep sun ledge that is about 8 feet in width. Ms. Chaddock stated it is really not enticing to jump into the pool from the elevated deck for this reason.

Ch. Calabro asked if there is any place else to put the pool and Ms. Chaddock stated if they tried to push it back there is topography that leads into a ravine that falls off quickly to a stream so they are trying to utilize the flattest area in their backyard for the pool. They are hoping for the variance in order to maximize safety as well as the usage of the yard before it starts slanting down.

Ch. Calabro asked if the topography of the land is their hardship and Ms. Chaddock stated yes.

Mr. Zeleznak asked with the slope in the back will they have a retaining wall and will it require reinforcement because it seems the way it is set the pool will really be sitting up before it starts dropping off. Mr. Zeleznak wondered about the safety of the pool and the land giving away.

Ms. Chaddock stated that most of the pool area will be excavated within the same level of the current topography, the back edge is about 1 – 1 ½ foot sloped and they don't have a concern regarding the structure because there is steel reinforcement around the outer edges and it would only be the back corner that would be down and it is held in place with concrete.

Ch. Calabro asked for confirmation it is in inground pool and Ms. Chaddock confirmed it is an inground pool. Ch. Calabro asked if they were aware of the zoning restrictions and Ms. Chaddock stated no, not when they originally submitted.

Mr. Hoop stated that when they received the original packet there was a drawing showing the pool location perpendicular to the house and then there was a revise one where the pool location is a bit offset, which one are they going with. Ms. Chaddock stated they are going with the angled version. Ch. Calabro asked if there is a date on the drawing and is there a difference between the first and second drawing. Ch. Calabro asked for the date for the record and it was determined that it was received on March 18, 2022.

Ch. Calabro asked if anyone in the virtual audience had any comments and there were none.

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

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

Zelesnak – Yes

Schaefer – Yes

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

Vote:

Calabro – No

Hoop – No

Zelesnak – No

Schaefer – No

**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  
Schaefer – 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  
Schaefer – No

**Factor #5**

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

Vote:

Calabro – No  
Hoop – No  
Zelevnak – No  
Schaefer- No

**Factor #6**

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

Vote:

Calabro – No  
Hoop – No  
Zelevnak – No  
Schaefer – 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  
Schaefer – 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 AP0264 submitted by applicant Darci Chaddock, property owner of 233 Stone Canyon Court, Hinckley, Ohio 44233, Permanent Parcel No. 01603B06116, requesting to install an in-ground pool at the said address in a location that does not meet the required set back of 15 feet from principal building. Applicant is seeing a variance of 5 feet, locating the in-ground pool 10 feet from a principal building, using the revised second drawing dated 3-18-22. Zoning Reference: Chapter 6 District Regulations, Sub Section 6R1.6.A.1.

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

Ch. Calabro stated that the variance passed 4-0

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. Mr. Schaefer moved and Mr. Zeleznak seconded. All in favor.

The March 23, 2022 Board of Zoning Appeals Public Hearing for Chaddock was adjourned at 7:23p.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

\_\_\_\_\_  
Bill Schaefer, Member

\_\_\_\_\_  
(absent)  
Lindsey Wrubel, Member