

Chairman J. Calabro called the June 22, 2022 Board of Zoning Appeals Public Hearing for Solic 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 exparte communication should disclose at this time.

Roll found: Calabro, Hoop, Zeleznak, Schaefer, Wrubel. In the audience was Alternate Schrader, Zoning Inspector Wilson and Trustee Augustine; Trustee 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 Anthony Solic, property owner of the property located at 2245 Ridge Road, 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 a packet that includes the original variance application, letter from the property owners, a site map and property survey all related to the variance request.

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 2245 Ridge Road, Hinckley, Ohio 44233.

Response: Calabro – yes and yes inspected on 6/22/2022, Hoop – yes and yes inspected on 6/18/2022, Zeleznak – yes and yes inspected on 6/18/2022, Schaefer – yes and yes inspected on 6/18/2022; Wrubel – yes and yes inspected on 6/18/2022 .

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.

Anthony Solic, 2245 Ridge Road, Hinckley, OH.

Mr. Solic, applicant, was sworn in accordingly.

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

Mr. Solic explained that he is building a structure on his property that would be located at the bottom of a slope from neighboring properties that has approximately a 24 foot drop from top to bottom. Mr. Solic stated that if he builds allowing for the 30 foot setback the structure would

be 8 feet in the slope, so water run-off from the slope would be resting along the base of the structure. Mr. Solic stated that it is his builder's recommendation that water run-off from the slope not land against the wall of the structure so they would like to move the structure away from the bottom of the slope to the area where the property levels off. Mr. Solic stated he is proposing to build 10 feet from the property line and that will allow the structure wall to be 12 feet from the very bottom of the slope to allow the water run-off to level off and saturate the soil before it reaches the structure wall. Mr. Solic stated in addition he plans to put heated floors in the concrete so if there is any type of cracking or shifting in the concrete that could affect that. Mr. Solic stated his neighbor has a lot of water run off also and can attest to this. Mr. Solic stated the purpose for the variance is for the water run-off, also he would have to take down trees if he built with a 30 foot setback because there are currently trees there that would be right up against the building.

Mr. Zeleznak asked for further clarification of the water run-off, and stated he couldn't find any visuals in the packet. Mr. Solic displayed the water contour map and explained the water run-off and location of the proposed structure using that map.

Ch. Calabro asked Mr. Solic if they have an issue with water run-off at the house. Mr. Solic stated the property is leveled off before it gets to the house to prevent the water run-off from reaching the house. Mr. Solic explained further regarding the slope of the property and the area where it is leveled by his house.

Mr. Zeleznak asked where the water will be running off to and Mr. Solic stated if there is a flat area at the bottom of the slope the water has a chance to go into the soil at that point. Mr. Zeleznak stated he wished there were pictures or a history and Mr. Solic stated he tried to explain that when the site visit took place.

Ch. Calabro asked about language in the application packet that refers to a ravine on the property and if they build close to that it may cause land slip issues with the building and there is not enough space to build on the south side of their house. Ch. Calabro asked if they came in from the north property line and Mr. Solic stated the ravine tapers off when they go toward the back and there isn't enough space there because there is a required set back from the house.

Ch. Calabro asked if drain tile around the building would take care of the water issue and Mr. Solic stated he does plan to put drain tile around the building but he wants to make sure to reduce the amount of water.

Ch. Calabro also referred to language in the packet that stated putting the building 30 feet from the north side of the property would obstruct their view to the backyard from their large bay windows -- Ch. Calabro stated that is not a hardship and then asked Mr. Solic if the hardship is the water issue and Mr. Solic confirmed that is his hardship.

Ms. Wrubel asked Mr. Solic to explain how many feet he needs from the set-back requirement for the water run-off from the slope. Mr. Solic stated that if they built the structure 30 feet from the edge of the property line and the building would be 40 feet wide, they would be 70 feet into the property – that would put the building 8 feet into the slope where the water is running off and the water would be along the base of the building instead of giving the water a chance to level off. Mr. Solic stated if given the opportunity to level off the water could saturate into the soil and wouldn't be against the base of the building.

Ms. Wrubel asked if they received a setback of 20 feet instead of 30 feet that 8 foot area would be satisfied and that would no longer be an issue. Mr. Solic stated it is recommended that it be leveled out for a distance before it hits the base of the building and Mr. Solic stated there is a reference to this in the Ohio Residential Code.

Ch. Calabro asked if the variance was less than 20 feet would that help with their water run-off issue and allow for leveling off. Mr. Solic stated that 20 feet is preferred to have the least amount of water at the base, if the variance was 15 feet it would give them 7 feet of level area instead of the 12 and that would be better than having all the water at the base. Mr. Solic stated there is a substantial amount of water that runs-off.

Ch. Calabro asked Mr. Solic if the north side of his property abuts property on Weymouth in addition to the lot next to him and Mr. Solic stated yes, they would be up against 2 lots owned by one person. Ch. Calabro asked if drawings of the actual building have been submitted and Mr. Solic stated no, they haven't been submitted yet, there was one correction that needed to be made. Ch. Calabro asked if the proposed building is 2400 square feet and Mr. Solic stated that is correct.

Richard Borecky 2261 Ridge Road, Hinckley, Ohio

Mr. Borecky was sworn in accordingly.

Mr. Borecky stated he is Mr. Solic's neighbor. Mr. Borecky stated they have lived in their house for 12 years and they have had substantial water issues. Mr. Borecky stated their garage was built with swales and everything to take care of the property because it sits about 7 feet below the neighbors. Mr. Borecky explained the water issues that they experience every year because

of the water run-off, including water getting under their concrete drive and moving and cracking the concrete. Mr. Borecky stated they already have swales and they still have water issues so he understands the problems that Mr. Solic could have.

Ch. Calabro thanked Mr. Borecky.

Kurt Grigsby – 2149 Hinckley Hills Road, Hinckley, Ohio

Mr. Grigsby was sworn in accordingly.

Mr. Grigsby stated he owns the property to the north of Mr. Solic and the variance would be from his property line and he has no objections to the variance being granted. Mr. Grigsby stated his house is over 400 feet from the property line and it is all trees so from an aesthetic standpoint he has no issues and won't feel encroached upon.

Ch. Calabro and Ms. Wrubel asked for clarification on the location of Mr. Grigsby's property. Ch. Calabro asked Mr. Grigsby to confirm he has no objection to the structure being built 10 feet from the property line and Mr. Grigsby stated that is correct.

Mr. Schaefer asked about a pond on Mr. Solic's property and if any grading was necessary when the house was originally built. Mr. Solic stated the pond was there before he moved in, he just purchased the property last year. Mr. Solic stated he does have history on the house and the builder stated he went overboard on everything when building the house, including using 10 times the amount of gravel that would normally be used and the builder put an I-beam in the basement across the basement so there are no water issues in the basement because of all the extra things the builder did to avoid water issues. Mr. Solic stated the property was leveled by the base of the building and that helps with the water drainage.

Mr. Schaefer asked why grading cannot be done by the outbuilding and Mr. Solic stated there is still a slope there and he wants to put in a concrete drive but he has to put drainage in first to help with the water run-off.

Ch. Calabro asked Mr. Solic if he purchased the property last year and he confirmed he did. Ch. Calabro asked Mr. Solic if he was aware of the 30 foot setback requirement in the Zoning Code when he purchased his property and Mr. Solic stated no.

Mr. Zeleznak asked Mr. Borecky to explain using the map where he lives and where the water run-off is on his property. Mr. Borecky explained where the water run-off is near his driveway and outbuilding and where the run-off is on the rest of his property and how it runs to Mr. Solic's property.

Mr. Zeleznak asked Mr. Solic if he could live with a 15 foot setback instead of 20 feet. Mr. Solic stated he could live with it, but it wouldn't be preferred because of the amount of water that comes through there. Mr. Zeleznak asked if Mr. Solic was still going to put drainage in and Mr. Solic stated yes, but drains can get clogged and there could be problems so he wants to reduce the amount of his risk on the proposed structure. Mr. Solic stated he would rather have the 20 foot setback because it allows for more leveling before the base of the structure.

Ch. Calabro stated she believes a 15 foot variance is just as substantial as a 20 foot variance and there's not another house near the property line. Discussion followed regarding accessory building setback requests.

Ms. Wrubel asked for further clarification on the requested setback and if a 10 foot variance would be enough and Mr. Solic explained that a 10 foot variance wouldn't be enough, the building would still be into the slope and the water run-off would still be sitting against the building, so he needs the requested variance to allow for the ground at the bottom of the slope to level off to absorb the water before it reaches the building.

Mr. Borecky shared some pictures of the water run-off flooding into his garage and explained how the water runs by the property lines along his house and Mr. Solic's house.

Ms. Wrubel asked Mr. Solic the approximate height of the proposed building. Mr. Solic stated it is a height of 14 feet to the ceiling and the peak above that, approximately 24 feet. Mr. Zeleznak asked if that is typical for a 40x60 building and Mr. Solic stated yes. Ms. Wrubel stated she is asking because of views from the neighbors and Mr. Solic stated his neighbors believe they will not be able to see the garage from their houses.

Paul Madachik – 2175 Hinckley Hills Road, Hinckley, Ohio

Mr. Madachik was sworn in accordingly.

Mr. Madachik stated he lives behind Mr. Solic. Mr. Madachik stated he has no problem with what Mr. Solic is doing and what Mr. Solic is describing happens to a lot of people in their area. Mr. Madachik stated he supports what Mr. Solic is doing. Mr. Madachik stated in the winter he can see parts of Mr. Solic's house and he has no objection to Mr. Solic's plan.

Ch. Calabro asked Mr. Madachik for clarification on the map where he lives and Mr. Madachik pointed out his property to the Board.

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
Wrubel – Yes

Factor #2: Is the variance substantial?

Vote:

Calabro –Yes
Hoop – Yes
Zelesnak–Yes
Schaefer – Yes
Wrubel– 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
Zelesnak – No based on testimony.
Schaefer – No
Wrubel – No

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

Vote:

Calabro – No
Hoop – No
Zelesnak – No
Schaefer – No
Wrubel– No

Factor #5

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

Vote:

Calabro – No as testified.

Hoop – No

ZeleznaK – No

Schaefer- No

Wrubel– No

Factor #6

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

Vote:

Calabro – Yes

Hoop – Yes

ZeleznaK – Yes

Schaefer – Yes

Wrubel– 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

ZeleznaK – Yes

Schaefer – Yes

Wrubel – 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 AP0266 submitted by applicant Anthony Solic, property owner of 2245 Ridge Road, Hinckley, Ohio 44233, Permanent Parcel No. 01603D25020, requesting to construct an accessory building in a location that does not meet the required side yard set back of 30 feet, requesting a variance of 20 feet leaving a

side yard at 10 feet. Zoning Reference, Chapter 6 District Regulation Subsection 6R1.4.E and 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, Wrubel – yes

Ch. Calabro stated that the variance granted 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. Mr. Zeleznak moved and Mr. Schaefer seconded. All in favor.

The June 22, 2022 Board of Zoning Appeals Public Hearing for Solic was adjourned at 7:48 p.m.

Minutes by: Judi Stupka, Recording Secretary

Minutes Approved: _____, 2022

Josephine Calabro, Chairperson

Jeff Hoop, Vice-Chairperson

Dave Zeleznak, Member

Bill Schaefer, Member

Lindsey Wrubel, Member