

Vice Ch. Hoop called the August 24, 2022 Board of Zoning Appeals Public Hearing for Anderson to order at 7:25 p.m.

Vice Ch. Hoop 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.

Vice Ch. Hoop 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 had an excused absence, Hoop, Zeleznak, Schaefer, Wrubel, Schrader. In the audience Zoning Inspector Wilson and Trustee Augustine. Mr. Schrader moved to a voting role due to the absence of Ms. Calabro.

The Recording Secretary read the legal ad and confirmed that the legal notice was mailed to the applicant and adjacent property owners.

Vice Ch. Hoop 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.

Vice Ch. Hoop stated that this is a hearing for a request submitted by applicant Jacob Yoder, builder, on behalf of Richard Anderson, property owner of the property located at 1508 State Road, Hinckley, Ohio requesting a variance from the enforcement of certain Hinckley Township Zoning Resolution sections to property owned by the applicant.

Vice Ch. Hoop noted that the applicant has submitted a packet that includes the original variance application, letter from the property owner, a rendering of a site map and other related materials to the variance request.

Vice Ch. Hoop 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.

Vice Ch. Hoop noted that each member of the Board of Zoning Appeals has been provided a copy of the application and supporting documentation.

Vice Ch. Hoop asked the Recording Secretary if there were any letters, phone calls or emails received and there were none.

Vice Ch. Hoop asked the Recording Secretary to poll the Board as to whether they received the packet of information and inspected the property at 1508 State Road, Hinckley, Ohio 44233.

**Response: Hoop – yes and yes inspected on 8/20/2022, Zeleznak – yes and yes inspected on 8/20/2022, Schaefer – yes and yes inspected on 8/20/2022; Wrubel – yes and yes inspected on 8/20/2022; Schrader – yes and yes inspected on 8/20/2022,.**

Vice Ch. Hoop 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. Vice Ch. Hoop 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.

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

Vice Ch. Hoop 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.

Vice Ch. Hoop 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.

**Jacob Yoder, 125 Co. Rd. 30A, Jeromesville, OH 44840 (builder).**

**Richard Anderson, 1508 State Road, Hinckley, OH 44233 (property owner).**

Mr. Yoder and Mr. Anderson were each sworn in accordingly.

Vice Ch. Hoop asked the applicant and property owner if they have any additional information regarding the variance.

Mr. Anderson stated they applied for a 25 foot variance but they now can be 31 feet from the property line. Mr. Anderson stated this puts him in a safe place with regard to the septic, he asked if it was ok to make that change to his request.

Mr. Zeleznak stated there is no problem with that because the applicant needs less of a variance so they will approve the original variance request, but the applicant can build further away from the property line than what he requested.

Mr. Anderson stated he is requesting the variance because without the variance he would have to build on the main septic line from the house which goes to their septic tank. Mr. Zeleznak asked if this location is the only place on the property that he feels he can put the building. Mr. Anderson stated there is no other place to put the building because everywhere else has concrete.

Mr. Zeleznak asked if Mr. Anderson was aware of the zoning rules and Mr. Anderson stated yes he was.

Ms. Wrubel asked for clarification on the location of the proposed building on a map provided by the applicant where it shows the building in the woods, but they are building in the clearing. Mr. Anderson stated he cleared the trees.

Zoning Inspector Wilson stated he didn't have anything to add. Mr. Zeleznak stated the Board members observed the septic system when they were at the site visit. Vice. Ch. Hoop asked what the total acreage is on the property and Mr. Anderson stated 7 acres, it is mainly woods and long and narrow.

No further testimony was offered.

Vice Ch. Hoop asked for a motion. Mr. Zeleznak made a motion to approve a requested side yard variance (AP0268) of 25 feet from the required minimum setback of 50 feet at the property owned by Richard Anderson located at 1508 State Road, Hinckley, Ohio (Permanent Parcel Number 01603D05032) to construct an accessory building that does not meet the side yard setback of 50 feet. Approval of this requested variance would require that the proposed accessory building be erected no closer than 25 feet from the north property line.

Before the motion was seconded Vice Ch. Hoop 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:

Hoop – Yes  
Zelesnak–Yes  
Schaefer – Yes  
Wrubel – Yes  
Schrader -- Yes

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

Vote:

Hoop – Yes  
Zelesnak–Yes  
Schaefer – Yes  
Wrubel– Yes  
Schrader -- 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:

Hoop – No  
Zelesnak – No  
Schaefer – No  
Wrubel – No  
Schrader -- No

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

Vote:

Hoop – No  
Zelesnak – No  
Schaefer – No  
Wrubel– No  
Schrader -- No

**Factor #5**

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

Vote:

Hoop – Yes  
Zelesnak – Yes  
Schaefer- Yes  
Wrubel– Yes  
Schrader -- Yes

**Factor #6**

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

Vote:

Hoop – No  
Zelesnak – No  
Schaefer – No  
Wrubel– No  
Schrader -- 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:

Hoop – Yes  
Zelesnak – Yes  
Schaefer – Yes  
Wrubel – Yes  
Schrader -- Yes

Vice Ch. Hoop stated that they have already had a motion and asked for a second.

The motion was seconded by Ms. Wrubel.

Vice Ch. Hoop 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.

Vice Ch. Hoop 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: Vice Ch. Hoop –yes; Zeleznak– yes, Schaefer – yes, Wrubel – yes; Schrader – yes

Vice Ch. Hoop stated that the variance was granted 5-0.

Vice Ch. Hoop 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.

Vice Ch. Hoop asked for a motion to adjourn the Public Hearing. Mr. Zeleznak moved and Ms. Wrubel seconded. All in favor.

The August 24, 2022 Board of Zoning Appeals Public Hearing for Anderson was adjourned at 7:44 p.m.

Minutes by: Judi Stupka, Recording Secretary

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

\_\_\_\_\_  
(absent)  
Josephine Calabro, Chairperson

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Jeff Hoop, Vice-Chairperson

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Dave Zeleznak, Member

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

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Lindsey Wrubel, Member

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Tom Schrader, Member