

Chairman J. Calabro called the October 26, 2022 Board of Zoning Appeals Public Hearing for Sabella/Hirkala 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.

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 Leon Sampat, architect, on behalf of property owners of the property located at 2668 Stony Hill Road, Hinckley, Ohio requesting a variance from the enforcement of certain Hinckley Township Zoning Resolution sections to property owned by George Sabella and Patricia Hirkala.

Ch. Calabro noted that the applicant has submitted a packet that includes the original variance application, letter from the property owner, site maps and blueprints of the proposed structure 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 the Recording Secretary stated there were no phone calls or emails, there was one resident visit to the Township office.

Ch. Calabro asked the Recording Secretary to poll the Board as to whether they received the packet of information and inspected the property at 2668 Stony Hill Road, Hinckley, Ohio 44233.

Response: Calabro – yes and yes inspected on 10/22/2022, Hoop – yes and yes inspected on 10/22/2022, Zeleznak – yes and yes inspected on 10/22/2022, Schaefer – yes and yes inspected on 10/24/2022, Wrubel – yes and yes inspected on 10/26/2022 .

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 and all who speak must state their name and address.

George Sabella and Patricia Hirkala, 2668 Stony Hill Road, Hinckley, OH.

Mr. Sabella and Ms. Hirkala, property owners, were sworn in accordingly.

Ch. Calabro asked Mr. Sabella and Ms. Hirkala to provide to the Board a brief summary of their request.

Mr. Sabella stated the proposed building is an additional garage on the other side of their driveway from the existing garage. It will be even with the front of the house and it will be identical to the existing garage, it will be aesthetically pleasing. Mr. Sabella stated it will be used to store a car and lawn equipment that is shared by himself and neighboring residents. Mr. Sabella stated the residences sharing the lawn equipment were all built by the same builder and they share the lawn equipment to maintain all of the property in that area. Mr. Sabella stated the proposed building will also include an office for his wife. Mr. Sabella stated during COVID they turned their existing garage into a workout area and they also store motorcycles in the existing garage, so there is no room for his car. Mr. Sabella stated there is no other place to put an office on the property because it is a two-bedroom home, if they added an office it would have to be on the back of the house and that would require going through a bedroom to access the office. Mr. Sabella stated this was based on the recommendation by his architect, Leon Sampat.

Mr. Sabella stated that their requested variance is approximately 26 ½ feet. Mr. Sabella stated his neighbors support his proposed project. Ms. Hirkala stated she sees patients virtually so having the office in the proposed building would allow for the privacy her patients require. Mr. Sabella stated that the appearance of the property will look better after the building is constructed and explained that his neighbors are in favor of the project and agree that it will look nice. Mr. Sabella stated they have been working on this for two years and they feel that this is the best option for them and the community.

Mr. Zeleznak asked how this would be beneficial to the community and how it would make the property look better. Mr. Sabella stated that it is an expensive building so it will increase the property value which is a good thing for the community and their neighbors. Mr. Sabella stated that he has looked at a lot of properties that have garages on either side of the house and it is a pleasing look.

Ch. Calabro stated it is not the purpose of the Board to judge the look of the building, what they are considering is the requested variance. Ch. Calabro asked Mr. Sabella if this building could be built somewhere else on the property so they wouldn't have to request this variance.

Mr. Sabella stated they have consulted with a few different architects and contractors and it was determined the building cannot go into the backyard because a driveway would be required and that would have to be built over the septic system. Mr. Sabella stated if they put a driveway on the north side of the house it would look terrible, the location they are proposing is functional and looks very nice.

Mr. Zeleznak stated he has a problem with the substantial variance request. Mr. Zeleznak stated there are other options and the fact that this helps the neighbors is not a hardship. Mr. Zeleznak suggested possibly moving the building 10 feet from the property line to reduce the substantial size of the variance. Mr. Zeleznak stated the requested 3 ½ foot from the property line causes a maintenance problem and even though the existing neighbor has no problem with the proposed building being 3 ½ feet from the property line, in the future there could be a problem if they move or if the neighbor moves and someone new moves in.

Mr. Sabella stated the depth of the proposed building is 23 feet from the edge of the driveway so if they moved the building to accommodate 10 foot from the property line that would take 7 or 8 feet away from the 23 feet leaving only 15 feet and then they couldn't get a car in the proposed building. Ch. Calabro stated they could come in on top of the existing concrete. Ch. Calabro stated the original site plan when the house was built shows the existing concrete being 25 feet and the minimum for a turnaround is 24 feet. Ch. Calabro stated what they currently have is 37 feet 11 ½ inches so if they came in 10 feet the building would be narrow, but the building could be moved 6 ½ feet toward the other garage. Mr. Sabella stated he was concerned that there wouldn't be enough room for a turnaround and Ch. Calabro stated that there is a possibility that this can be done so they wouldn't have to ask for such a substantial variance.

Ch. Calabro asked Mr. Sabella what his hardship is and Mr. Sabella stated they need a place to park the cars and office space for his wife. Mr. Sabella stated his concern with moving the proposed building closer to the house is the landscaping will not look as nice and the peaks on the house will be too close and it will not look nice. Mr. Sabella stated if they move the building an additional 6 feet they lose the curb appeal.

Ms. Wrubel asked if they considered building onto the existing garage and doing an addition to the house so there is one building instead of two. Mr. Sabella stated they did consider it, but it would not look nice and the flow didn't make sense.

Ms. Wrubel inquired about how long they have lived on the property and Mr. Sabella stated they purchased the property in April – they moved in 2018.

Mr. Schaefer stated at the last public hearing he asked Mr. Sabella about putting an addition on the back and Mr. Sabella stated the only place he could put it would be at the back of a bedroom – Mr. Schaefer asked if they have a full basement and couldn't they put their exercise equipment and an office in their basement. Mr. Sabella stated they do have a full basement and they use it for storage. Mr. Sabella stated his wife's job requires privacy for patients that she works with and so they are looking for an office area that allows for privacy away from the home. Mr.

Schaefer stated this is a huge variance. Discussion followed regarding the possibility of a 20 foot variance. Ch. Calabro stated that according to what Mr. Sabella wrote in his request his hardship is that he wants to keep the existing driveway cement, but the issue here is the substantial variance.

Mr. Sabella stated there is a lot of property between them and the neighboring house and it really isn't used. Mr. Sabella stated the landscaping is laid out in a way that makes the proposed plan work perfectly and it wouldn't look right if they did it differently. Further discussion followed regarding how the driveway and building would look if they moved it to accommodate a 20 foot variance.

Mr. Schaefer stated that aesthetics are not taken into consideration when the Board votes, they use the Zoning Code. Mr. Schaefer stated that regarding maintenance of property along a property line, things can change when neighbors move. It may be difficult to do property maintenance, including roof maintenance, if a fence or building is close to or on the property line and a neighbor won't allow access to their property when it's necessary to put up a ladder or something similar to that. Mr. Sabella stated the adjoining property is basically unused land and Mr. Zeleznak stated that Mr. Sabella would not be able to put a ladder within 3 ½ feet (his requested variance) of his proposed building to do maintenance because he would need more room for the ladder and that would intrude on his neighbor's property and his current neighbor may be fine with that, but the next person who moves in may not be okay with it.

Mr. Zeleznak stated that the variance is substantial and he has a problem with it. Mr. Zeleznak stated if they move the proposed building 6 ½ feet they are not going to lose anything and even though aesthetics are not considered by the Board he feels it will still look good. Further discussion followed regarding the size of the requested variance and other options that would be available to decrease the size of the variance.

Ch. Calabro and Mr. Zeleznak both stated they understand what Mr. Sabella would like to do but they have to follow the zoning code and the requested variance is substantial – Ch. Calabro stated that even a 20 foot variance is substantial and there must be a hardship.

Mr. Schaefer stated previously that Mr. Sabella said there is a solution for the proposed building other than the proposed location which would be in the back yard and Mr. Sabella stated he is going to take that back because the location of the drip mound for the septic system would require a driveway to be placed along the property line and the new building would have to go in front of the mound. Mr. Zeleznak stated it is not uncommon in Hinckley to have a building in

the back of the house. Further discussion followed regarding other possible areas to build the proposed building.

Mr. Sabella stated he appreciates the Board's input and Mr. Zeleznak stated he believes the building would still look very nice if Mr. Sabella would consider a 20 foot variance leaving 10 feet from the property line. Mr. Zeleznak stated the requested variance placing the proposed building only 3 ½ feet from the property line is too substantial.

Mr. Sabella stated they can go back to the architect and see how it looks. Discussion followed regarding the property owners options on whether to change their requested variance and ask for a vote by the Board or ask for a continuance so they can discuss the change with their architect.

Mr. Sabella stated they would like to modify their request to a 20 foot variance.

Zoning Inspector Wilson agreed that the requested 26 ½ foot variance is very substantial and a 20 foot variance is a good compromise.

Mr. Hoop asked Mr. Sabella if he was aware of the 30 foot setback requirement and Mr. Sabella stated no.

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

Wrubel – Yes

Factor #2: Is the variance substantial?

Vote:

Calabro –Yes, based on the 10 feet

Hoop – Yes

Zeleznak–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 – Yes

Hoop – Yes

Zelesnak – Yes.

Schaefer – Yes

Wrubel – Yes

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

Zelesnak – No

Schaefer- No

Wrubel– No

Factor #6

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

Vote:

Calabro – No

Hoop – Yes

Zelesnak – Yes

Schaefer – No

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

Zelesnak – Yes

Schaefer – Yes

Wrubel – No

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 AP0270 submitted by Leon Sampat, architect, on behalf of property owners George Sabella and Patricia Hirkala of 2668 Stony Hill Road, Hinckley, Ohio Permanent Parcel # 01603C33056 requesting to construct an accessory building at said property in a location that does not meet the side yard setback of thirty feet. The proposed setback will be 10 feet, a variance of 20 feet is requested. Zoning reference: Chapter 6 Subsections 6R1.4.E and 6R1.6.A.1.

The motion was seconded by Mr. Zelesnak.

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.

Vote: Ch. Calabro –yes; Hoop – yes, Zelesnak– yes, Schaefer – yes, Wrubel – no

Ch. Calabro stated that the variance was granted 4-1.

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 October 26, 2022 Board of Zoning Appeals Public Hearing for Sabella/Hirkala was adjourned at 7:58 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