

Board of Zoning Appeals

March 22, 2006

Metzler - Variance Request

Continued from February 22, 2006

Mr. John Fadel, Faana Ltd. - Variance Request

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Mr. Manley called the hearing to order at 7:30 pm.

Roll found: Manley, Tamulewicz, Hoop, Dick, Zeleznak, Fox, and Huff present. Trustee Schulte, Mr. Kamps, Chairman of the Zoning Commission, Mrs. Metzler and Scott Metzler also in attendance.

Mr. Manley introduced Mrs. Dottie Fox and Mrs. Melissa Huff as the newly appointed alternates to the BZA.

Mr. Tamulewicz made a motion to accept the minutes from the work session of February 8, 2006 as submitted.

Mr. Zeleznak second.

Vote: Dick-yes Zeleznak – yes Hoop – yes Tamulewicz – yes Manley – yes

Mr. Tamulewicz made a motion to accept the minutes from the first part of the Metzler hearing held February 22, 2006, as submitted.

Mr. Zeleznak second.

Vote: Dick-yes Zeleznak – yes Hoop – yes Tamulewicz – yes Manley – yes

Metzler Variance Hearing continued from February 22, 2006.

Ch. Manley reconvened the continued Metzler hearing at 7:40 pm. He stated that the Hinckley Township Board of Zoning Appeals acts within the regulation of Section 519 of The Ohio Revised Code and exercises its powers as provided under Section 7 & 13 of The Hinckley Township Zoning Regulations.

Ch. Manley explained that the hearing commenced on February 22, 2006 and due to some questions regarding the setback measurements had been continued.

Ch. Manley polled the Clerk asking whether the zoning office received any new written or verbal communication pertaining to this hearing. Clerk Garrett replied that she has not received any additional correspondence.

Ch. Manley reported that the board has inspected the Metzler property (2309 Weymouth Rd.) for a second time. The primary residence is 71' from the centerline of the road and the proposed garage is 58' from the centerline. Hunter's Creek Road is a relatively new street. The house with the attached carport was built prior to the road being built. Mr. Metzler purchased the property on October 9, 2002 according to the tax map. The carport is clearly shown on the auditor's records. The carport was removed in 2004. The carport was 20' deep by 10' wide. In addition, Ch. Manley referenced the Prosecutor's Office legal opinion letter.

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Mrs. Margaret Metzler, 2309 Weymouth Rd. was sworn in accordingly, and submitted a picture (Metzler Exhibit A-1) of the carport that was dated 2002.

Ch. Manley: Are the dimensions of the new garage going to be the same size as the carport?

Mrs. Metzler: It is a little deeper, and 13' wide.

Mr. Zeleznak: Will be larger than the original carport?

Mr. G. Scott Metzler, 2309 Weymouth Rd. sworn in accordingly: Yes, it is slightly larger than the carport was.

Ch. Manley: Is the purpose of the building to store an antique car and why do you need 35'?

Mrs. Metzler: Well, the back part we want for storage.

Mr. Scott Metzler: We had an old shed in the backyard for storage and we want to tear it down. We want to be able to put the stuff from the shed in into the garage.

Mr. Tamulewicz: Is the shed torn down already?

Mr. Metzler: No, not yet.

Mrs. Metzler: The shed was an eyesore. I asked the neighbors about building the garage and they said that it was fine with them.

Mr. Zeleznak: Did you ever consider putting the building out back? You have a lot of room back there.

Mr. Metzler: I have thought about that. I did not want to invest in building a driveway to get to it.

Mrs. Metzler: I think getting rid of the carport and building the garage will enhance the house.

Ch. Manley: This is 30% larger than the original carport.

Mr. Tamulewicz: They are going parallel to the house so it is 3' wider. You will have to balance that with the Section 8.12 because this proposal is more suitable. They are entitled to improve it but not to increase the height or the area.

Mrs. Dick: Is the row of pine trees going to remain?

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Mr. Metzler: Yes.

Mr. Zeleznak: The roads are normally 60', now the right-of-way is from the edge not the centerline.

Mr. Kamps: Years ago the lots went to the centerline, in recent 10 years or so, the court has determined that everything goes to the right- of- way . I believe the original lots such as the one this house is on, is probably a substandard lot. Those were smaller lots of one – 1.5 acres. The lots were designed before 2-acre zoning. They probably only required a 15' setback from side yard lines. Then Hunter's Creek Rd. came along. With it being less than an acre, it is a substandard lot and the house still complied. When 2 acre zoning came into effect, it really did not affect the side yard setback. When this was built, everything was legal. When the road was put in, these things were changed.

Mr. Zeleznak: The house is actually 41' from the right-of-way, 71' from the centerline

Mr. Tamulewicz: The road is 22' wide.

Mr. Zeleznak: Subtract 30' from 71' is 41'. Therefore, the addition would be 28' from the right-of-way.

Mr. Tamulewicz made a motion to review the zoning inspector's decision to deny the zoning certificate under section 13.3A.1, and allow for the construction of the garage as presented in the submitted plans. Under sections 8.8 Non-Conforming Uses, Alterations and Improvements and 8.12 Non-Conforming to Non-Conforming Uses, to approve the construction as submitted in the plans due to the proposed use being more suitable to the zoning district in which it is located than the non-conforming use which is being replaced.

Mrs. Dick second.

Ch. Manley stated that any person adversely affected by this decision of the Board of Zoning Appeals may appeal to the Court of Common Pleas of Medina County on the grounds that such decision was unreasonable or unlawful. They have 30 (thirty) days from the date the minutes of the appeal are journalized.

Clerk Garrett stated the minutes would be journalized on April 12, 2006.

Vote: Dick-yes Zeleznak – yes Hoop – yes Tamulewicz – yes Manley – yes

Hearing was closed at 7:55 pm.

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Faana Ltd. – Mr. John Fadel – Variance Request

Ch. Manley opened the hearing at 8:00 pm.

Roll found: Manley, Tamulewicz, Hoop, Dick, Zeleznak, Fox, and Huff present. Trustee Schulte, Mr. Kamps, chair of the Zoning Commission, Mr. John Fadel Mr. Tony Cerny also present.

Mr. Tony Cerny, architect, sworn in accordingly: Great Lakes Way is an interior road in an industrial park. A lot that is developed on an interior road would need only a 50' setback. Because the land involved is so big that it touched W. 130th St., the landowner is essentially penalized and it requires him to have a 150' setback from W.130th St. as well as Great Lakes Way. If they had not taken enough frontage to go all the way to W.130th St., they would be able to do the 50' setback. I suspect that when this section of the code was written, dealing with non-interior roadways no one had anticipated that there may be a parcel that occupies the whole space. I do not think you are treating this person fairly because they are taking such a large parcel. That is really our justification for trying to get the setbacks to fit this plan. If you look at the actual lot itself, because of the potential basin at the front of the property that provides retention for the roadway and will be used for the other lots in the area, it is not possible to set the building near the front of the property. This is really consistent with the way the code is written. We just have an area where what is written does not match what the probable intent was when that code was written.

Mr. Tamulewicz: What is the hardship? You did fir the building in there.

Mr. Cerny: I do not think this section of the code should apply here. I am losing some potential developable area of the lot.

Mr. John Fadel, sworn in accordingly: Those are preliminary documents of the building. We found that there is some land in the back and a hill that goes to Great Lakes Construction and we may have to move the building forward to get the building exactly placed. Either way the building would require the 50' setback. That is what is consistent with your intent with the intent of the industrial park setbacks. We are just trying to stay consistent with the industrial park setback.

Mr. Tamulewicz: Is it your intent to build over the wetland?

Mr. Fadel: We are trying to not go anywhere near the wetland.

Mr. Tamulewicz: The zoning is pretty clear on that, you need to have to have the setback off the interior road and off the primary road if it is a corner lot.

Mr. Tamulewicz: How far are you going to move the building forward?

Mr. Fadel indicated on a map.

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Mr. Cerny: We are trying to get approval to treat this as if it was just a lot on an industrial park giving us the most flexibility, the same flexibility that someone else would have in order to plan the building in that area. We do not want to touch the wetlands. We think that this lot is technically on the corner, but its development is much more as if it was purely an interior lot.

Ch. Manley: You mentioned that this was not quite a completed deal. If we do not give a variance, then what?

Mr. Fadel: Then we do not build it. As of right now, we are the primary selected sight. However, they are negotiating with others. It is ours to lose.

Ch. Manley: You anticipate no more than 50 trucks?

Mr. Fadel: The plan is between 50 and 60 on Tuesdays and Fridays. The rest of the week would be significantly less traffic and there would not be much night traffic. They would need availability for some nights during the week.

Ch. Manley: So this would be open 24 hours a day?

Mr. Fadel: They are not saying it would be open 24 hours a day, they are saying that on some days it would be open 24 hours. There will be no hazardous materials hauled or stored, no refueling. We have received confirmation on both of those. The trucks have no intention of turning right on Rt. 303, all the traffic will be going out W. 130th to Rt. 303 and left.

Ch. Manley: We are concerned about having a variance on the land and this trucking terminal not getting approval from the zoning commission and then the trustees.

Mr. Fadel: I purposely did not split this lot from the beginning because I want to develop it as an industrial park area. Now, I find that this is possibly a mistake because of the zoning and the way the corner lots are treated. The intent is to build this terminal. If we do not build this particular building, I will probably be back here asking for another variance for the 50' setback for an industrial park. This is a unique situation because this lot extends so far down an interior road. That is why I feel the variance is appropriate. Brunswick did control what we did in building the road. We did try to preserve the wetlands.

Mr. Kamps: We will hear this in public hearing on April 6, 2006. I am not sure if the zoning commission will be able to make a decision on the zoning amendment that night. It somewhat depends on the public comment. There may be some questions that night such as W. 130th being able to support the additional truck traffic. We may have to wait to find out that type of information from the county engineers.

Ch. Manley: I would like to hold this over to our work session in April.

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Mr. Fadel: If I ask for a lot split and make it a separate corner, putting aside the approval for truck terminal, I, as the landowner, am asking for a 50' setback as a part of consistency with the code. How do I do it?

Ch. Manley: I would like to know what is going to be built there. This is all part of getting this variance, the whole package.

Mr. Fadel: If it was a separate parcel on the corner, I wouldn't be here and you wouldn't know what was going in there within reason. I really don't want to do a lot split. If we get the right setbacks, we do not have to worry about utility lines, parking lots. I am not going to violate anything from township's point of view.

Ch. Manley referred to a letter from the Medina County Prosecutor's Office regarding this case and questioning if it was the owner that was applying for the variance.

Ch. Manley set the continuation of this hearing to April 12, 2006 at 7:00 pm. The board will inspect the Fadel property again (Great Lakes Way) that night as well as the Haleko property on River Rd. (Conditional Use Request) **The Board will meet at the town hall at 6:15 pm on April 12, 2006.**

Mrs. Dick made a motion at 8:50 pm to continue the hearing to April 12, 2006; inspection at 6:15, hearing at 7:00 pm.

Mr. Tamulewicz second

Vote: Dick-yes Zeleznak – yes Hoop – yes Tamulewicz – yes Manley – yes

Signatures on following page

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Patty Garrett, Zoning Clerk

Minutes Approved: _____, 2006

David Manley, Chairman

Tamulewicz, Vice Chairman

Jeff Hoop, Member

David Zeleznak, Member

Shirley Dick, Member

Dottie Fox, Alternate Member

Melissa Huff, Alternate Member