

Board of Zoning Appeals

June 28, 2006

- Preferred Development – Variance Request
- Cuyahoga Coon Hunters Assoc. – Conditional Permit Renewal

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

Roll: Manley, Tamulewicz, Dick, Hoop, Zeleznak, and Fox present. Mrs. Huff had and excused absence. Mr. Kamps, chair of the Zoning Commission was also in attendance as well as Mr. Ray Schulte, Trustee.

Members Manley, Tamulewicz, Dick, Hoop Zeleznak, and Fox have inspected both properties this evening.

All present members affirmed that they received all pertinent documentation for both hearings.

Ch. Manley 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.

Clerk Garrett read the two legal notices.

Cuyahoga Coon Hunters Association

Ch. Manley polled the Clerk asking whether the zoning office received any written or verbal communication pertaining to this hearing. Clerk Garrett replied that she received a letter from Police Chief Yates and one from the Zoning Commission.

Mr. Kamps of the Zoning Commission read both letters. (See attached letters)

Ch. Manley polled each member of the Board of Zoning Appeals to respond yes if they have received and reviewed the contents of the application.

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

Ch. Manley noted for the record that the Board of Appeals as testimony does not accept non-written communication made by known or unknown persons, not under oath at a properly noticed hearing. He explained to those present that the meeting is taped for the record. In addition he noted for the record that the documents that relate to this application might include written communications from persons who are not present this evening.

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Ch. Manley announced that written communications from persons not present this evening include communications that are not made by affidavit. Because persons not under oath make these communications, this Board does not accept them. He also noted that written communications might include some writing by affidavit, by persons that are not present this evening and, therefore cannot be subjected to cross-examination. These affidavits, therefore will not be given much weight, if any, in the decision of the Board on this matter. In addition, the audience was informed that they must state their name, address, and be sworn in. All testimony will be given from the podium.

Earl Williams, Cuyahoga Coon Hunters Members, was sworn in accordingly.

Mr. Williams stated that the property is leased from the owners on a yearly basis. At first it was 3 years at a time and now it is yearly. They have 23 members, there were approximately 30 five years ago. The hours of operation will be the same as last renewal and hold 5 field trials a year and would like to hold a club shoot which would make it 6. The 6th would not require a permit because it is held during hunting season. There have been no trespassers caught on the property. There is a sign designating the rules and it will be repainted when the permit is renewed.

Mr. Williams stated that there is current insurance and that a copy is provided yearly to the Township Secretary.

Mrs. Dick inquired if new members were welcomed.

Mr. Williams stated that the club has openings for membership. The field trials are open to the public. The average number of participants is 40 dogs, about 30 to 50 people.

Mr. James Heyduk, Brunswick Hills resident, sworn in accordingly: The Coon Hunters are across the street from me. I am not affiliated with them in any way. I have been here a long time and so have they. I like to hear them shoot. They are a welcome in the neighborhood. They pose no problems and are very respectful.

Ch. Manley stated that any person adversely affected by this decision of the 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.

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

Mr. Tamulewicz made a motion for the granting of a renewal of a Conditional Zoning Permit to the Cuyahoga Coon Hunters to continue trap shooting and field trials at said location for a period of 5 years subject to the following conditions:

1. Maintain the areas harmonious with the present character of the area.
2. Members and guests should present no hazard or threat to present or future neighbors as a result of their activities along and about the property.
3. The property continues to be properly serviced by public utilities.
4. No extensive new facilities will be added at public cost.
5. Competitive trap shooting will be held on the 2nd and 4th Sunday of each month between the hours of 1:00 pm and 6:00 pm. The schedule is to be posted on the property with a copy filed with the zoning dept. of Hinckley Township.
6. Competitive field trials to be held generally on the 1st Sunday of each month Sept. through March for a maximum of 6 per year between the hours of 8:30 am until one-half hour before sunset. The schedule is to be posted on the property with a copy to be filed with the Hinckley Zoning Dept.
7. Members only permitted on the property other than the Sundays listed in this set of conditions for field trials and public trap shootings.
8. No discharge of handguns, rifles or black powder guns
9. The above agreed upon hours of operation and dates must be posted on the property with a copy on file with the Hinckley Township Zoning Dept. and a copy provided to all association members.
10. A minimum of one-million dollar liability insurance policy in the naming Hinckley Township as an additional insured and issued by an insurance company licensed in the state of Ohio to conduct such type of business
11. All of the above conditions must be met prior to the renewal of this certificate

Mr. Zeleznak second.

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

Ch. Manley adjourned the hearing at 7:43 pm.

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Preferred Development Inc. - Variance Request

Ch. Manley commenced the hearing at 7:49 pm.

Mr. Zeleznak recused himself from the proceedings based on a personal relationship with the subject matter. Mrs. Fox became a voting member in his absence.

Mark Iacona, 3111 State was sworn in accordingly. The map I submitted shows that the subject property is 19.2 acres and it fronts on Ledge Rd. The owners have always had 172 feet of frontage. I would like to divide it into two parcels, the front one being two acres and the rear being 17.2 acres. There is nothing that can be done to increase the frontage to 175 feet. I tried to purchase 3 extra feet from both neighbors and they simply do not have enough to sell off. Their frontage is 145 feet wide and the other side does not have 175 feet either. I feel I have no other choices here but to request a variance. It does not create a harmful situation in the area. I looked at the other properties in the area. For the most part, the frontages are 125 feet wide. To the north, a couple of properties are 122 and 121 feet wide, and there are a few that are 150 feet. This property would be two acres. The house was constructed in 1968.

Mr. Kamps: That was before the zoning changed.

The board indicated that they had a copy of Mr. Iacona's letter submitted with his application describing the hardship in this case.

Mr. Tamulewicz: Nothing new will be built on this lot. The house currently exists. An area variance doesn't apply to the square footage. There is no other land available to increase the frontage. The frontage is not being reduced. The frontage will remain the same as well as the building line. In reviewing 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?

Mr. Tamulewicz: Yes, The house already exists on the property. However, the backland is not usable without it.

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Factor #2 - Is the variance substantial.

Mr. Tamulewicz: In my opinion, no.

Factor #3 - Will the essential character of the neighborhood be substantially altered or adjoining properties suffer a “substantial detriment” if the variance is granted?

Mr. Tamulewicz: No. Mr. Iacona pointed out many smaller sized lots in the area.

Factor # 4 – Will the variance adversely affect the delivery of governmental services?

Mr. Tamulewicz: No.

Factor #5 – Did the property owner purchase the property with knowledge of the zoning restrictions?

Mr. Tamulewicz: Yes, he did but the zoning was correctly followed in 1968. The regulations changed in 1975.

Factor #6 - Can the problem be solved by some manner other than granting of a variance?

Mr. Tamulewicz: 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?

Mr. Tamulewicz: Yes

Ch. Manley asked for comments from the audience and being that there was none, he asked for a motion

Mr. Tamulewicz: I make a motion for the granting of a 3 -foot variance to allow for the dividing of the property located at 1775 Ledge Rd. into 2 lots. One lot will consists of a 2 acre parcel with 172 feet of road frontage and a 17.2 acre lot which is backland.

Mrs. Dick second.

Vote: Fox – yes Hoop – yes Dick – yes Tamulewicz – yes Manley – yes

The variance is granted by a vote of 5 to 0.

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Ch. Manley Stated that any person adversely affected by this decision of the Board of Zoning Appeals may appeal the Court of Common Pleas of Medina County on the grounds that such decision is unreasonable or unlawful. They have 30 days from the date the minutes are journalized. This will be Wednesday July 12, 2006.

The board took a short recess and then commenced for a short work session.

The minutes of the May 10, 2006 meeting were reviewed.

Mr. Zeleznak made a motion to accept the minutes as corrected.

Mrs. Dick second.

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

Mr. Kamps commented that attorney Slagter reported that the Hinckley Zoning Regulations are in need of serious work.

The meetings in August are cancelled due to vacations.

The next hearing will be on July 26, 2006 at 7:30. The board will meet for inspections that evening a 6:45 pm

A work session will be held July 12, 2006 at 7:00 pm

Mr. Tamulewicz made a motion to adjourn at 8:12 pm.

Mr. Hoop second.

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

Signatures on following page

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David Manley, Chairman

Tom Tamulewicz, Vice Chairman

Jeff Hoop, Member

Dave Zeleznak, Member

Shirley Dick, Member

Dottie Fox, Alternate Member

absent
Melissa Huff, Alternate Member

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