

## Board of Zoning Appeals

July 26, 2006

Hearings:

- Our Lady of Grace Church - Renewal of Conditional Use Permit.
- David Vizer - Variance Request

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Ch. Manley called the hearing to order at 7:32 pm.

Roll found: Fox, Huff, Zeleznak, Hoop, Dick, Tamulewicz, and Manley present. Mr. Kamps, chair of the Zoning Commission, was also present as well as Trustee Schulte.

Mrs. Melissa Huff will be recording the evening's minutes in Clerk Garrett's absence.

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.

Ch. Manley asked Mrs. Huff whether the zoning office received any written or verbal communication pertaining to this hearing. Mrs. Huff stated that the BZA received a letter from the Zoning Commission, which will be addressed during the hearing by Mr. Kamps.

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 submitted by Our Lady of Grace Church asking for a renewal of their Conditional Zoning Permit. .

**Response: Huff - yes Fox – yes Dick-yes Hoop – yes Tamulewicz – yes  
Manley – yes**

Ch. Manley polled the Board as to whether they inspected said property.

**Response: Huff - yes Fox – yes Dick-yes Hoop – yes Tamulewicz – yes  
Manley – 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 being 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.

Ch. Manley also 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

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was informed that they must state their name, address, and be sworn in. All testimony will be given from the podium.

Mrs. Huff read the legal notice as it appeared in the Medina Gazette.

Mr. Zeleznak recused himself from the decision concerning the Grace Church hearing stating a conflict of interest.

Mr. Jack Charek was sworn in.

Mrs. Fox inquired about the sidewalk.

Mr. Tamulewicz: Are you going to install an overhead door when you knock out part of the back wall or just leave it open?

Mr. Charek: Probably just leave it open at this time. We will finish the stonework straight up and down so it looks finished. It will be an access to the rear area.

Mrs. Marie Brobst, 1024 Ridge Rd. was sworn in: What is the intended use of this 12' x 40' addition?

Mr. Charek: The addition is for the Boy Scout Troop, we hold a charter with them. It is for the storage for their equipment. It will also be used for storage for the church as well if it is needed.

Mrs. Marie Brobst: Then why is it crossed off on the application?

Ch. Manley: That addition had no bearing on whether the conditional would be granted or not. They have an existing conditional use permit.

Mr. Tamulewicz explained that it is the Church's property and they are asking for renewal of the conditional and review of the garage plans.

Mr. Kamps read letter from the Zoning Commission stating recommendation for approval of the renewal of Our Lady of Grace's Conditional Use Permit. (See attached letter) The Zoning Commission further recommends that:

1. The requested addition be within the current regulations for accessory buildings
2. No other changes or requests other than the updating to include the new garage dimensions in the existing conditional use permit for the property

Ms. Brobst: Is there anyone else that has an interest in the church that they need to recuse themselves?

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Ch. Manley: Several of us are members of the Church but not members of maintenance or building committee at the church.

Mr. Zeleznak: I recused myself because I am on the building and maintenance committee at Our Lady of Grace.

V. Ch. Tamulewicz made a motion to approve the submitted building plans for an addition to the existing garage under the existing Conditional Zoning Permit for the facility known as Our Lady of Grace Church located at 1088 Ridge Rd., Hinckley, Ohio.

Mrs. Dick second.

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

Ch. Manley stated that any person adversely affected by the Board's decision might appeal to the Medina County Court of Common Pleas. Appellants have thirty (30) days from journalization of the minutes to file with the Court. Construction must start within ninety days of the date the minutes are journalized.

Ch. Manley noted that the minutes would be journalized on September 13, 2006.

Ch. Manley concluded the hearing at 7:50 pm.

### **David Vizer, 1176 Oakwood Lane – Variance Request**

Ch. Manley called the hearing to order at 8:00 pm.

Roll found: Fox, Huff, Zeleznak, Hoop, Dick, Tamulewicz, and Manley present. Mr. Kamps, chair of the Zoning Commission, was also present.

Mr. David Vizer was in present.

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.

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Ch. Manley asked Mrs. Huff whether the zoning office received any written or verbal communication pertaining to this hearing. Mrs. Huff replied that there no additional communications were received.

Ch. Manley polled the members of the Board of Zoning Appeals to respond, "Yes" if they have received and reviewed the contents of the application submitted by David Vizer for a variance request.

**Response: Huff - yes Fox – yes Zeleznak – yes Dick-yes Hoop – yes Tamulewicz – yes Manley – yes**

Ch. Manley polled the Board as to whether they inspected said property.

**Response: Huff - yes Fox – yes Zeleznak – yes Dick-yes Hoop – yes Tamulewicz – yes Manley – 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 being 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.

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.

Mrs. Huff read the legal notice as it appeared in the Medina Gazette.

Ch. Manley asked Mr. Livingstone to explain the uniqueness of the property in question and to report any pertinent information regarding the same.

Mr. Livingstone, zoning inspector: I am interested to see if he wants to put a deck on the house. That will put it closer than 73 feet –

Ch. Manley: Remember when you say the "side". Remember, it is a corner lot.

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Mr. Livingstone: The lot is not even 50' wide. The house is too close to the right-of-way.

Ch. Manley: Is it possible that was built prior to the modifications?

V. Ch. Tamulewicz: He said 1980.

Ch. Manley: He said (Mr. Vizer) 1984.

There is discrepancy as to when the house and deck were constructed

Mr. Livingstone: I already have a violation on that pond out front.

Ch. Manley: He told me that he obtained a permit for it.

Mr. Livingstone: He does not have a permit. My two issues is that one, I would like it surveyed on the front side to be sure the measurements are correct. Also –

Mr. Zeleznak: What is your concern about a business being conducted at this location?

Mr. Livingstone: I am concerned that he is adding on to the house so that he can have his employees there and get rid of the place where he currently has a business, but he did deny this to Mr. Schaffer. The big issue was that the employees might park there. I also spoke with him twice today and I told him that he needed it surveyed.

Ch. Manley suggested to the board that the hearing be continued to September 13, 2006. He will be notified that the property needs to be surveyed accordingly.

Mr. Zeleznak agreed or second as needed.

V. Ch. Tamulewicz: The fact is that we do not know the distance the setback is from the street right-of-way.

Trustee Schulte stated that he felt that the applicant should be present.

At this time, Mr. D. Vizer entered the hearing.

Ch. Manley noted that Mr. Zeleznak was able to vote on this decision in this hearing

Mrs. Huff read the legal notice.

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Mr. David Vizer was sworn in accordingly: I would like to thank the board for coming out tonight.

V. Ch. Tamulewicz: Do you have any springs or seepage coming out?

Mr. Vizer: No.

Mr. Zeleznak: The problem I have with granting any variance is that we do not know where the property line is. I do not know how we could give a variance because we really do not know the amount that is needed. We really need to have it surveyed and marked for the board.

V. Tamulewicz: The street right-of-way is 43.75 feet. The paved road was 20 feet but we do not know where the road is. You are requesting a front setback variance from the right-of-way. You will need to determine where the right-of-way is located. The drawing you have submitted does not show it.

Mr. Vizer: Would you suggest that I get a survey and we come back?

V. Ch. Tamulewicz: We almost recessed the meeting – we were concerned that something happened to you. We are going to need a survey around that road showing the right-of-way. Have them put some pins in there. We will take the setback from the closest point from your pin where the garage is going into the house to the closest pin on the street right-of-way.

Mr. Zeleznak: We need stakes.

Mr. Livingstone: The house scales out to 73.9 ‘

Mr. Manley: I think we should advertise and get the whole thing.

V. Ch. Tamulewicz: If you did not pay cash for the house, how did the bank miss this? Your bank may have a survey on this.

Mr. Vizer: I had the survey on it; I gave it to a builder to get an estimate on this addition. I never go the papers back from him. I never heard from him again.

V. Ch. Tamulewicz: You are going to have to get a survey. There is no variance on record for this house being so close to the road. Usually the bank catches it. You said the house was built in 1984. Do you know when the lot was titled?

Mr. Vizer: No.

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V. Ch. Tamulewicz: My guess is that it was titled when it was 75'. Prior to 1975, it was 75' was the setback requirement. It may just have to comply with the 75'.

Discussion of distances, setbacks and other items on the maps.

Ch. Manley announced that the hearing would be continued to September 13, 2006. The board will meet at 6:30pm to travel to the Vizer property and the hearing will commence at 7:00pm at the town hall.

Ch. Manley recessed the hearing at 8:18 pm.

Patty Garrett, Zoning Clerk

Minutes Approved: \_\_\_\_\_, 2006

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David Manley, Chairman

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Tom Tamulewicz, Vice Chairman

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Jeff Hoop, Member

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Dave Zeleznak, Member

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Shirley Dick, Member

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Dottie Fox, Alternate Member

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Melissa Huff, Alternate Member

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