

Board of Zoning Appeals
Willham – Conditional Use Permit
O’Neill – Variance
Work Session
December 13, 2006
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Chairman Manley called the hearing to order at 7:00 pm.

Roll found: Manley, Tamulewicz, Dick, Hoop, Zeleznak, Huff and Fox present. Mr. Jim Kamps and Trustee Schulte, Mr. & Mrs. Steve Willham and Mr. & Mrs. O’Neil.

Willham Conditional Use Request

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 Mr. Willham.

Mrs. Dick recused herself from a voting position due to her retirement from this board next month.

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

Ch. Manley polled the members inquiring if they have inspected said property.

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

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 Clerk Garrett whether the zoning office received any written or verbal communication pertaining to this hearing. Ms. Garrett received no additional correspondence.

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

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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.

Clerk Garrett read the legal notice as it appeared in the Medina Gazette.

Mr. Steve Willham, 7618 Andover Lane, North Royalton, Ohio, was sworn in accordingly: I have no additional information to present at this time. We plan to break ground in the early part of the new year and the vet clinic will be constructed 6-7 months after that.

Ch. Manley asked Mr. Willham if he is familiar with the rules and regulations of the conditional use permit.

Mr. Willham replied yes, he is aware that rules may be set in order to comply with the permit.

Mr. Zeleznak asked Mr. Willham to summarize his plans for the building, and the business of the vet clinic.

Mr. Willham: The veterinarian would like to continue his equine practice and would like to have his home base in Hinckley. He travels quite a bit to many different race tracks. He is heavily into the research side of the veterinary business. He would like to have a veterinary clinic for the horses at our facility and horses in the surrounding community.

Mr. Zeleznak: What type of research does he do?

Mr. Willham: He works mostly in the research of foods and ulcers. He has a patent and works closely with the company “Succeed.” He works closely with food producers and his patents are in the area of supplements for horses. This is where he would be storing his equipment and supplies for a home-base.

Mr. Zeleznak: What type of equipment?

Mr. Willham: The only thing he really needs is an x-ray machine for the ulcers, nothing radioactive.

Mr., Zeleznak: What about animals coming in from off the property? Would these be overnight visits, weekly or monthly type visits?

Mr. Willham: In the overnight cases, it would be for the veterinary care of the animal not so much for the research aspect. He would not be boarding for research. For normal care he will have two stalls for any case that needs to be observed or hospitalized.

Ch. Manley: To clarify, this hearing is being held not about the horse farm or the clinic itself. It is the fact that the clinic will be open to outside horses other than just family members, and customers will be allowed to bring their animals in.

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Ch. Manley: I would like to point out that the building setback should be a minimum of 100’ from any residential area and minimum parking setback will be at least 50’. Do you have any problem with that?

Mr. Willham: No.

Ch. Manley: There will be no outside runs permitted; the boarding of animals will be restricted to overnight lodging only if necessary for animals receiving medical attention. Odor and noise should be controlled to ensure that the animals do not create a nuisance for anyone. No animals will be buried or incinerated on the premises.

Mr. Willham: I have no problem with that.

Mrs. Fox: When the animals are there overnight, will someone be there?

Mr. Willham: Yes.

Mr. Tamulewicz: Where will that person stay?

Mr. Willham: In the other facility. There will be a residential facility in the barn.

Mr. Jim Kamps read a letter of recommendation from the Zoning Commission. In the letter, the Zoning Commission recommended approval of issuing a 2-year conditional zoning permit for a veterinary clinic per plans submitted by Mr., Willham for animals boarded at the facility and not for outside clients. At the time the letter was written, the zoning commission was under the assumption that there would be no outside clients.

Ch. Manley announced that if approved, the veterinary clinic would permit clients from the general public.

Mr. Zeleznak asked Mr. Kamps why the recommendation stated “no outside clients”.

Mr. Kamps replied that the one member of the zoning commission that voted against the issuance of the permit is not in favor of retail businesses in residential areas.

Mr. Willham: I bought seven parcels and as of this time, they are all in the name of Hinckley Equestrian Center. When we get ready to build our home, we will put that lot in our name. This facility will only take 3 parcels on the Ridge Road side.

Mr. Tamulewicz: Where will Dr. Pelligrini reside?

Mr. Willham: At another location. My home will be located on the property. I will not be developing the rest of the land.

Mr. Hoop: How many horses to you plan to house?

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Mr. Willham: We can handle 40 horses.

Discussion of living quarters in the barn complex.

Ch. Manley: The issue is not whether anyone lives in the barn; it is whether he can have a veterinary clinic that is open to the public. According to the zoning resolution, it is not permitted in that area.

Ch. Manley made a motion to grant a Conditional Use permit to Hinckley Equestrian Center for the operation of a veterinary clinic to be located on the 3 western parcels of the property owned by Mr. Steve Willham at the corners of Ridge and Ledge Roads for a 3-year period beginning with the approval of this resolution subject to the following conditions:

1. The veterinary clinic setback will be at least 100 feet from any residential area
2. The minimum parking setback will be at least 50 feet from any residential area.
3. No outside runs or kennels of any kind are permitted
4. The boarding of horses for the veterinary clinic will be restricted to short-term overnight lodging only as necessary only to animals receiving medical treatment.
5. All odor and noise shall be adequately controlled to insure that the animals do not create a nuisance.
6. No animals shall be buried or incinerated on the premises.
7. All other state, county and township regulations must be followed.

No further discussion.

Mr. Zeleznak second.

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

Ch. Manley stated that any person adversely affected by this decision of the Board of Zoning Appeals might appeal to the Court of Common Pleas of Medina County because such decision was unreasonable or unlawful. They have 30 (thirty) days from the date the minutes of the appeal are journalized. The minutes of this hearing will be journalized on January 10, 2007.

Mr. Zeleznak made a motion to adjourn this hearing at 7:45 pm.
Mrs. Dick second.

The Board took a five minute recess before commencing the O’Neil Hearing.

Paul O’Neill – Variance Hearing

Chairman Manley called the hearing to order at 7:50 pm.

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Roll found: Manley, Tamulewicz, Dick, Hoop, Zeleznak, Huff and Fox present. Mr. Jim Kamps and Trustee Schulte, and Mr. & Mrs. O’Neil were also present.

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 Mr. O’Neil.

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

Ch. Manley polled the members inquiring if they have inspected said property.

**Response: Fox – yes Huff – yes Zeleznak – yes Hoop – no
Tamulewicz – yes Manley – yes**

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 Clerk Garrett whether the zoning office received any written or verbal communication pertaining to this hearing. Ms. Garrett received no additional correspondence.

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Clerk Garrett read the legal notice as it appeared in the Medina Gazette.

Mr. Paul O’Neill, 2398 Weymouth Road, was sworn in accordingly: I desired to build this garage in the same style as the main house – with a roof pitch of 16/12 for aesthetic reasons, to look like a French chateau.

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Discussion of where the zoning resolution states that the roof height measurements are to be measured from. The midline of the roof height is to be measured from the midline.

Mr. Tamulewicz stated that if this type of roof is to be measured from the midline, the variance needed is 4’3”.

Mr. Tamulewicz called upon Mr. Jim Kamps to inquire as to the purpose of the 22’ height maximum allowed for accessory building roofs.

Mr. Jim Kamps: That regulation was implemented before I was on the zoning board and I have no idea the purpose of it being 22’. I have to assume that it is aesthetic reasons so that the garages did not look larger than the main house. A long time ago, aesthetic values were put into the zoning code even though our code does not address aesthetics as such. Attached garages can be up to 1500 square feet in area and accessory buildings may be up to 1800 square feet. On roof lines, the measurement is to the midline, not the peak. Midline is defined as halfway between the eave and the center ridge line of the roof. Depending on the style of roof, that is where we get the 22 foot measurement.

Mr. Tamulewicz: The measurement is 26.3 feet to the median line.

Larry Gibel, 2255 Stony Hill Road, was sworn in accordingly: I am the only neighbor within 1000 feet of Mr. O’Neil’s proposed house. I have some concerns with a neighbor building an almost 40’ tall building. I may have some concerns but would like to hear what this board has to say on the matter first. My number one concern is that a building of this height will cast a shadow over my sunroom. It seems a rather steep roof.

Mr. Zeleznak: This building would still be functional to store the RV if the roof was lowered? If the roof was flat, could you still get your vehicle inside?

Mr. O’Neill: The door for the RV must be at least 14’ high. There would still need to be some truss space.

Mr. Zeleznak: This is a very steep roof; it does match the house architecturally. If you brought it down four feet, could you still get this same sort of effect?

Mr. O’Neill: The pitch of the roof is 16/12. The purpose of this pitch is because it will be topped with slate. A slate roof should be applied to a higher pitch so they are not blown off. The roof pitch could be altered but this would change the whole house plan for it to match. It would have to be mansered or made of different construction.

The Board discussed many alternatives, such different roofing materials, changing the pitch, and different types of roofs to try to find an alternate solution.

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Mr. Tamulewicz said that since the proposed roof is measured to the midline, a variance of 4’3” is needed. The legal ad stated a 15.3” variance request, therefore the board is able to grant a smaller variance than advertised, not a larger one.

The calculation of the variance being considered was explained to Mr. Gibel.

Ch. Manley reviewed the Duncan Factors:

Will the property yield a reasonable return or
can there be a beneficial use of the property without the variance?
Yes.

Can the property be sold for a reasonable amount without the variance?
Yes.

Can the property be used without the variance?
Yes.

Is the variance substantial?
No.

Will the essential character of the neighborhood be substantially altered or will
adjoining properties suffer a substantial detriment if the variance is granted?

Open for discussion. Mr. Gibel is concerned about the shade that would come into his sunroom. Mr. Tamulewicz pointed out that Mr. O’Neil could plant trees that would provide shade as well and block out the sunshine.

Will the variance adversely affect the delivery of governmental services?
No.

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

Does the variance preserve the “spirit and intent” of the zoning requirement and will
“substantial justice” be done by granting the variance?

We are not sure what the spirit or intent of the zoning regulation is. If it is for aesthetics, then it is a subjective situation. Mr. Tamulewicz suggested that it might be so residences are not constructed over garages.

Mrs. Fox inquired as to what would be in the upper portion of the building.

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Mr. O’Neil explained that the open area under the roof would be open space to hold the truss structure, electrical wiring and ventilation.

Mr. O’Neil demonstrated a three-dimensional program using a projector to show the different configurations and roof pitches that board proposed.

After lengthy discussion regarding the different types of roofs and the various pitches, Mr. Tamulewicz proceeded to make a motion.

Mr. Tamulewicz made a motion to grant a variance of 4’6” for the height of an accessory building to be located at 2265 Stony Hill Road per plans submitted by Mr. P. O’Neil.

Mrs. Fox second.

Vote: Fox – yes Zeleznak – abstain Hoop – yes Tamulewicz – yes Manley – yes

Ch. Manley stated that any person adversely affected by this decision of the Board of Zoning Appeals might appeal to the Court of Common Pleas of Medina County because such decision was unreasonable or unlawful. They have 30 (thirty) days from the date the minutes of the appeal are journalized. The minutes of this hearing will be journalized on January 10, 2007.

Mr. Tamulewicz made a motion to adjourn this hearing at 8:42 pm.
Mr. Hoop second.

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

Work Session

The minutes of the November 22, 2006 hearing were reviewed.
Mr. Tamulewicz made a motion to accept the minutes as corrected. Mr. Hoop second.

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

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The Summary of Fact for the Jadach hearing was reviewed.
Ch. Manley made a motion to accept the Summary as submitted.
Mr. Hoop second.

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

The Board was reminded that there will be a site inspection for the Gacom property on Saturday, January 6, 2007 at 10:00 am. The annual organizational meeting will be held following the continuation of the Gacom hearing on January 10, 2007. **Hearing begins at 7:00 pm.**

Patty Garrett, Zoning Clerk

Minutes Approved: _____, 2007

David Manley, Chairman

Tom Tamulewicz, Vice Chairman

Jeff Hoop, Member

David Zeleznak, Member

Dottie Fox, Member

Melissa Huff, Alternate Member