

Board of Zoning Appeals

Madej - Variance Hearing

Hinckley Board of Trustees – Conditional Use

June 27, 2007

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

Roll found: Fox, Hoop, Zeleznak, Tamulewicz and Manley present. Mrs. Huff had an excused absence. Mr. Pope of the Zoning Commission and assistant zoning inspector Bill Schafer also in attendance.

Ch. Manley announced that an application for a variance was submitted by George Madej, 2648 Boston Road, Hinckley Township, requesting a variance to construct an accessory building that creates an excess of the 1800 square foot allowance for accessory buildings at the above address. p.p. # 017-03A-02-005

Manley polled the board as to whether they reviewed the packets containing the information regarding the application.

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

Ch. Manley polled the Board as to whether they inspected the property at 2640 Boston Road.

**Response: Fox – 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. All hearings are open to the public and any person may request a schedule or agenda be mailed to them by providing a self addressed stamped envelope in advance.

Ch. Manley inquired if the zoning office had received any written or verbal communication pertaining to this hearing. Ms. Garrett reported that no comments had been received.

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 transcription purposes only and the written minutes and all attachments will serve as the official record of the meeting. 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

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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.

Clerk Garrett read the legal notice.

Mr. Madej was sworn in accordingly: I was reading this brief that was submitted by the Prosecutor, and in the Duncan Factor it states that you are not denying my garage, just that it gets moved and made smaller. I came in and applied for this variance. My plans state that I will move it 15 feet and make it the size of a 2-car garage.

Ch. Manley: In your letter submitted with the application, it states that you did not talk to Mr. Schaeffer until July 22.

Mr. Madej: The first person I talked to was Ken Livingstone, he cited me, and I came in the next day and started talking to him. I did not initially talk to Mr. Schaffer.

Mr. Tamulewicz: Is the existing garage 72' x 24' or 72' x 23.5'?

Mr. Madej: It is 1680 sq. ft. That is what you guys measured it last time.

Mr. Tamulewicz: We measured 1728 sq. ft.

Ch. Manley: Are you are proposing to tear down the newer garage and rebuild 15' further east, but the setback will be the same as it is now?

Mr. Madej: Yes. It is 25' x 35' now, and then it will be 22' x 24'

Mrs. Fox: Are you going to use the same materials?

Mr. Madej: Yes, we will try to use all the materials, but we will not be able to save the roof. It is an all steel building and since I get a lot of water runoff, he will cut the garage door level and level everything out. There will be no electricity in there, it is just for storage.

Mr. Bill Schaffer, Assistant Township Zoning Inspector, was sworn in accordingly: I read the letter that Mr. Madej submitted with this application. I am submitting my statement in response to the libelous statements that Mr. Madej alleges. (See letter attached)

Mr. Schaffer strongly stated that at no time did he accuse Mr. Madej of running a business at his property on Boston Road. No complaints were reported to the zoning department regarding a business at that location

Ch. Manley: The garage must come down.

Mr. Schaffer: That is true.

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Ch. Manley: His request is to rebuild a replacement garage that is 22' x 24'.

Mr. Schaffer: That is correct. His total accessory buildings would come to about 2700 sq. ft. I took these figures from the court records. I have not gone out and measured the building.

Ch. Manley: We measured the building and it is 72' x 24', or 1728 sq. ft. We never calculate the 2nd floor.

Trustee Ray Schulte, sworn in accordingly: I was on the BZA when Mr. Madej began his variance requests several years ago. I can remember the discussions and that it was a very close vote. It is my understanding that there may have been misunderstandings and misinterpretation of what was taking place. Mr. Madej approached me looking for assistance with the process of obtaining a variance considering the things that he was dealing with. This case has gone on for about 3 years now. The unfortunate part is that Mr. Schaffer and Mr. Livingstone have had some misinterpretations or miscommunication between each other, and at times it can cause confusion on all sides such as with the trellis (breezeway). I have talked to Mr. Madej and I appeal to the board to consider his situation and hope that this board arrives with the right decision.

Ch. Manley: Yesterday is yesterday. The building is coming down.

Mr. Madej disputed the timeframe of the previous variance hearings and application process. (2004)

Ch. Manley reminded Mr. Madej that the past is the past.

Mr. Tamulewicz: Mr. Madej, you have to prove practical difficulty for an area variance and this is a request for an area variance.

Mr. Madej: I collect cars. This was so that I can keep all of my cars in one area. I do not work on other people's cars. This car lift I would like to install is called a "Backyard Buddy". This is the only thing I want to put in the garage. I do not work on other people's cars. I detail old cars, I do not repair them. I frequent car shows; Stan Hywet, cruise-ins. I have someone that does the mechanical work on my cars – Service Specialists is one company I use. This garage will be built to the Medina County standards.

Mr. Tamulewicz: The facts as I see them tonight: – 72' x 24' is the existing garage that is 1728 sq. ft. He wants to reconstruct a 22' x 24' garage. He is going to destroy the current accessory building and plans to salvage as much building materials as possible. His new garage will be 22' x 24'. That is 528 sq. ft. That is a total of 2256 sq. ft for accessory buildings, which 456 sq. ft. over the 1800 sq. ft that is allowed in the zoning regulations. This is a 25% increase.

Mr. Tamulewicz reviewed the Duncan Factors regarding this case:

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Factor #1

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

Yes.

Factor #2

Is the variance substantial?

This is approximately 25% increase versus the current standing structure which is a 45% increase. I personally I would not consider this a substantial variance.

Factor #3

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

I think if the variance is granted and that building comes down, anything else would be an improvement.

Factor #4

Will the variance adversely affect the delivery of governmental services?

No.

Factor #5

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

Mr. Madej has testified “No” whereas Mr. Schaffer has testified that he did have knowledge of the zoning restrictions.

Factor #6

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

No, unless we do not allow a building at all.

Factor #7

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

We have allowed oversized accessory buildings for car collectors previously just to keep the cars under one roof. Therefore the answer is “Yes”.

Mr. Tamulewicz made a motion to allow for the destruction of the existing 875' accessory building and to allow reconstruction of a 528 sq. ft. accessory building. This new building

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will be situated to the east of the existing 1728 sq. ft accessory building and to be at least 15' from that building. All state, county and township regulations must be followed. A permit must be obtained.

Mr. Hoop second.

Ch. Manley stated that this board has the power to grant an applicant's request for a variance from any specific application of building height, bulk regulation, yard width, depth regulation or other zoning regulations. Only after the applicant has proven by a preponderance of reliable substantive and probative evidence all the items stated in the basic conditions for variances in Hinckley Township Section 13.3A.3a. 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 that this decision was unreasonable or unlawful. They have 30 days from the date that the minutes of the hearing are journalized. In this case the minutes will be journalized on July 11, 2007.

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

Ch. Manley adjourned the hearing at 7:57 pm.

Hinckley Township Trustees – Conditional Use Request

Ch. Manley called the hearing to order at 8:01 pm.

Roll found: Fox, Hoop, Zeleznak, Tamulewicz and Manley present. Mrs. Huff had an excused absence. Mr. Pope of the Zoning Commission and assistant zoning inspector Bill Schaffer were also present.

Ch. Manley announced an application for the renewal of a conditional use permit was submitted by Trustee Ron Garapick on behalf of the Trustees of Hinckley Township to renew the existing conditional use permit for property located at 1616 Ridge Road, and to also include the Township Service Facilities and these parcels: p.p. 16-03C-100-26, p.p. 016-03C-610-04, and p.p. 016-03C-100-05.

Manley polled the board as to whether they reviewed the packets containing the information regarding the application.

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

Ch. Manley polled the Board as to whether they inspected the property at 1616 Ridge Road.

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

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Clerk Garrett read the legal notice.

Mr. Ron Garapick, Trustees, was sworn in accordingly: The Township acquired 2 parcels in front of the property at 1616 Ridge Road. The new building will be built where indicated on the map provided. The front house may be torn down. There will be no residences. We would like to include the front 2 parcels as governmental use.

Ch. Manley: The trustees decided to take over the control of the Youth Fields from RAH. At that time it was decided that the Trustees, as landowners, would deal with the BZA for the conditionals for that land. There was animosity between RAH and the BZA.

Mr. Tamulewicz: This is a change of use from residential to government property.

Ch. Manley: At the moment this new building will straddle 2 permanent parcels. The new building is on the drawing. Eventually these parcels will be combined into one, making that a moot point.

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Mr. Chuck Pope, vice-chairman of the Zoning Commission was sworn in accordingly. He read a letter from the Zoning Commission indicating its recommendation of the approval of the requests with special attention be given to the fact that the Township purchased 2 parcels in front of the existing Service Center and the Youth Fields and that the Township intends to utilize the new parcels for government purposes such as a new Service Center building and possibly other uses in the future. (See attached letter dated June 11, 2007)

Mr. Tamulewicz made a motion to permit the change of use for the property at 1616 Ridge Road and p.p. #16-03c-100-26 and 16-03c-6100-04 from residential use to public use as per Section 6R1.3F and also to renew the Conditional Use Permit for the Youth Field, 1616 Ridge Road with no expiration date.

Mr. Zeleznak second.

Ch. Manley stated that this board has the power to grant an applicant's request for a Conditional Use Permit. Only after the applicant has proven by a preponderance of reliable substantive and probative evidence all the items stated in the basic conditions for conditional use permit in Hinckley Township Section 13.3A.3a. 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 that this decision was unreasonable or unlawful. They have 30 days from the date that the minutes of the hearing are journalized. In this case the minutes will be journalized on July 11, 2007.

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

Hearing was adjourned at 8:20 pm.

Work Session

Roll found: Fox, Hoop, Zeleznak, Tamulewicz and Manley present. Mrs. Huff had an excused absence.

The minutes of the June 13, 2007 hearing were reviewed.

Mr. Tamulewicz made a motion to accept the minutes as amended.

Mr. Zeleznak second.

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

Mrs. Fox made a motion to accept the Statement of Fact for the Preferred Development Hearing held June 13, 2007.

Mr. Hoop second.

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

Mr. Tamulewicz made a motion to adjourn the work session at 8:28 pm

Mr. Zeleznak second.

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

Patty Garrett, Zoning Clerk

Minutes Approved: _____, 2007

David Manley, Chairman

Tom Tamulewicz, Vice Chairman

Jeff Hoop, Member

David Zeleznak, Member

Dottie Fox, Member

_____ *absent* _____
Melissa Huff, Alternate Member