

## **Board of Zoning Appeals**

Our Savior Lutheran Church- Conditional Use Permit

Groh Variance

July 11, 2007

1

Ch. Manley called the hearing to order at 7:00 pm.

Roll found: Fox, Huff, Hoop, Zeleznak, Tamulewicz and Manley present. Mr. Kamps of the Zoning Commission and Trustee Garapick were also present and 7 guests in the audience.

Ch. Manley announced that an application for a variance was submitted by William Zukie of Our Savior Lutheran Church requesting a conditional use permit on behalf of Our Savior Lutheran Church, 1605 Center Rd., Hinckley Township, Ohio, requesting to establish a school within the church building.

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

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

Ch. Manley polled the **Board as to whether they inspected** the property at 1605 Center Rd.

**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. 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 the only correspondence received is a letter from the Zoning Commission that will be read into the record.

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

## **Board of Zoning Appeals**

Our Savior Lutheran Church- Conditional Use Permit

Groh Variance

July 11, 2007

2

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.

Clerk Garrett read the legal notice.

Mr. William Zukie was sworn in accordingly.

Mr. Zukie: I am a member of the church. Our pastor will be on the school board and will be working with the school.

Ch. Manley: This is an independent business that is just using your facility?

Mr. Zukie: Right. This is a community outreach through this program. It is a non-profit organization.

Mr. Tamulewicz: What will the enrollment be?

Linda Vaughn, sworn in accordingly: We have the capacity for 112 students. At this time we are not full. I am the director and a teacher for the school.

Clerk Garrett distributed a brochure advertising the school and the pricing for tuition. (Exhibit A-1)

Mr. Zukie stated that with 112 children, the school is under the fire safety capacity for the church and school rooms. They are waiting for the Fire Chief to conduct an inspection and make the necessary recommendations. Mr., Zukie is aware that a fire alarm system is needed with audible alarm and strobe lighting. As a public building these items were not required in the past but now as a school, fire safety equipment is needed.

Mrs. Vaughn: We are currently at the Our Savior, before this we were in Brunswick at Brunswick United Church of Christ at 4356 Center Road.

Mr. Zukie: She hasn't started yet.

Mr. Zeleznak: Why are you moving from the Brunswick location?

Mrs. Vaughn: the landlord at the other facility chose not to renew our lease. They wanted to use the space for their own purposes. It was a smaller church.

Mr. Tamulewicz: How many children do you have during your Sunday school?

Mr. Zukie: About 80 children, sometimes up to 100.

## **Board of Zoning Appeals**

Our Savior Lutheran Church- Conditional Use Permit

Groh Variance

July 11, 2007

3

Mrs. Vaughn: At any one given time, we could have about 28 children. There are alternating days and times for the classes. A total of about 112 could be enrolled but not be in the building at one time.

Mr. Jim Kamps, chairman of the Zoning Commission read a letter from the zoning commission, as required in the zoning code for all conditional use requests. (See attached letter dated)

The Zoning Commission by a vote of 4 to 1 recommended approval of the requested conditional permit. The commission further recommended any special attention be given to the safety related elements such as fire codes, building codes.

Mr. Zukie: The County has specific guidelines. We will find out the details when the fire chief does an inspection. Mrs. Vaughn cannot open up until all the details are covered. The building will need an occupancy permit.

Mr. Tamulewicz made a motion to grant a conditional use permit top Our Savior Lutheran Church, 1605 Center Road, for the purpose of operating a preschool. All Medina County guidelines for fire alarms, building codes and other ordinances must be in compliance. There is no time limit for this permit.

Mr. Fox second.

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

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 September 12, 2007.

Mr. Tamulewicz made a motion to request that the Trustees refund the \$300 filing fee to Our Savior Lutheran Church.

Mrs. Fox second.

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

## **Board of Zoning Appeals**

Our Savior Lutheran Church- Conditional Use Permit

Groh Variance

July 11, 2007

4

## **Groh Variance**

Ch. Manley called the hearing to order at 8:10 pm.

Roll found: Fox, Huff, Hoop, Zeleznak, Tamulewicz and Manley present. Mr. Kamps of the Zoning Commission and Trustee Garapick were also present and 7 guests in the audience.

Mrs. Fox recused herself from the voting.

Ch. Manley announced that an application for a variance was submitted by was submitted by Becky Kohout of Parkview Homes, 11564 N. Station Rd., Columbia Station, Ohio on behalf of Jim and Janet Groh , 2424 Country Brooke Dr., Hinckley, Township, Ohio requesting to permission to construct an accessory building at the above Hinckley address which exceeds the 1800 sq. ft. allowance for detached accessory buildings. p.p. # 16-03C-07-007

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

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

Ch. Manley polled the **Board as to whether they inspected** the property at 2424 Country Brooke drive.

**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. 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 that no corespondence were 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

## **Board of Zoning Appeals**

Our Savior Lutheran Church- Conditional Use Permit

Groh Variance

July 11, 2007

5

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 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.

Becky Kahout was sworn in accordingly. I would like to clarify that this is a side job for me. I do work for Parkview Homes but this job is not through them.

Ch. Manley: For the record, this property is all one piece, not two.

Ms. Kahout: On the map, I am trying to show that for the density, this building will not look bad, there is plenty of greenspace left on the lot.

Mr. Tamulewicz: You are asking for a variance of roughly 28%. This will be for recreational use?

Ms. Kahout: Yes, no heat, a ceiling fan, LED lights in the soffits. We are changing this to make it aesthetically pleasing. I am asking for an additional 97 feet, for a total of 2333 sq. feet.

Mr. Tamulewicz: I see the only practical difficulty as the change in the zoning regulations.

Ch. Manley: Apparently according to Ms. Kohout, the state of Ohio has new rules for wind velocity, etc. for height stress and strain.

Ms. Kohout: It is actually an R602.3. **What is it Jim?**

Mr. Tamulewicz reviewed the Duncan Factors regarding this case:

**And for the TRUTH -- I was crying Jim when you told me that you had met with Yvette -- crying, not laughing.... You are the one that has laughed repeatedly at me. I BEEN crying since 5:00 when the Cleveland CLinic informed me that I cannot meet with a psychologist until October 9<sup>th</sup>.**

## **Board of Zoning Appeals**

Our Savior Lutheran Church- Conditional Use Permit

Groh Variance

July 11, 2007

6

### **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 29% increase. The last variance granted was a 25% increase. It is for each member to decide. This amount is getting up there.*

### **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?

*No.*

### **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?

*Yes, Mr. Groh has been in front of us before.*

### **Factor #6**

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

*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?

*It is allowing the Groh’s additional use and enjoyment of their property. Yes.*

Mr. Tamulewicz made a motion to grant a variance of to Jim and Janet Groh of 2424 Country Brooke Dr. to reconstruct a gazebo as submitted drawings (See exhibit A1 and A-2).

**Board of Zoning Appeals**

Our Savior Lutheran Church- Conditional Use Permit

Groh Variance

July 11, 2007

7

Mr. Zeleznak second.

No further discussion.

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

Ch. Manley stated that this board has the power to grant an applicant's request for a variance. Only after the applicant has proven by a preponderance of reliable substantive and probative evidence all the items stated in the basic conditions for variance 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 September 12, 2007.

**Work Session:**

The minutes of the June 26, 2007 hearing were reviewed.

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

Mrs. Fox second.

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

Mr. Hoop made a motion to accept the Summary of Fact for the June 26, 2007 hearings.  
Mr. Tamulewicz second.

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

Mr. Tamulewicz made a motion to adjourn the work session at 8:52 pm.

Mr. Zeleznak second.

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

Patty Garrett, Zoning Clerk

Minutes Approved: \_\_\_\_\_, 2007

---

---

**Board of Zoning Appeals**

Our Savior Lutheran Church- Conditional Use Permit

Groh Variance

July 11, 2007

8

David Manley, Chairman

Tom Tamulewicz, Vice Chairman

---

Jeff Hoop, Member

---

David Zeleznak, Member

---

Dottie Fox, Member

---

*absent*  
Melissa Huff, Alternate Member