

Board of Zoning Appeals

Blynn – Variance Request

December 10, 2008

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Blynn Variance Request

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

Roll found: Manley, Fox, Hoop, Zeleznak, Sullivan Huff and Mainzer present. Also attending were Mr. Pope, Mr. Kamps, and Trustee Schulte.

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 that a schedule or agenda be mailed to them by providing a self addressed stamped envelope in advance.

Ch. Manley noted that the Board of Appeals does not accept as testimony non-written communication made by known or unknown persons, not under oath at a properly noticed hearing. He explained that the meeting is being taped for the record. He also noted that relevant documents 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. Notice of the application was properly given in local newspapers, and the application has been available for public review and comment. He then asked the Hinckley Township Zoning Clerk whether she has received any documents that relate to this hearing.

Ms. Garrett stated that no written or verbal comments had been received.

Ch. Manley announced that an application for variance was submitted by William Blynn of 12900 Lake Avenue #314, Cleveland, Ohio to allow for the construction of a residence at 2015 Hinckley Hills Road, Hinckley Township, which is greater than the allowed maximum height of a building or structure. (p.p. 16-03D-20-036)

Clerk Garrett read the legal ad.

Ch. Manley polled the board as to whether they reviewed the application packets for the Blynn variance request.

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

Ch. Manley polled the Board as to whether they inspected the property at 2015 Hinckley Hills Road.

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

Mr. Wilson Pay Jr. was sworn in accordingly and testified that he is in a position to negotiate on behalf of Mr. Blynn and the decisions made will be binding.

Mr. Sullivan: If we were to deny this variance, would Mr. Blynn build the house without a steeple?

Mr. Pay: No. He does not wish to build an ordinary structure that blends in with the rest of the houses in the neighborhood. He wants something that stands out and is different and unique so that when he passes on, it will be his trademark. It is not in a development or a subdivision. It is a standard lot. It will not be consistent with the neighborhood because it is not in a neighborhood or a development. There are no uniform residential structures. The steeple serves no practical function. It is just for cosmetic purposes. There is no access into the steeple and there will be no lighting in or on the steeple. It is a big cupola that happens to be a steeple.

Ch. Manley introduced a letter from Bill Horton, Fire Chief, stating that the maximum height of structures as no more than 35 feet according to the Hinckley Zoning Resolution is due to a matter of safety for both the occupants and firefighters in case of an emergency and should be adhered to. (see letter dated December 9, 2008)

Mr. Pay stated that the safety issue would be similar to a church having a steeple. There would be no sprinkler system.

Mr. Pope, zoning inspector, stated that as per the zoning regulations, building height is to be calculated as the mean height between eaves and peaks for this type of structure.

Ch. Manley reviewed the Duncan Factors:

Factor #1

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

The board indicated yes.

Can the property be used without the variance?

Ch. Manley stated that there is beneficial use at the present time so there has to be beneficial use even if the variance is not granted. The other members indicated their agreement.

Factor #2

Is the variance substantial?

Ch. Manley stated “no”. The other members indicated their agreement.

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?

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Ch. Manley stated “no”.

Mr. Sullivan stated “yes” There are no other houses around it like it. The look of it and the size will have impact on the neighborhood.

Factor #4

Will the variance adversely affect the delivery of governmental services?

Ch. Manley stated that it would not. The other members indicated their agreement.

Factor #5

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

Ch. Manley stated that the applicant used to live in Hinckley. By being a resident of the township, it was his responsibility to be aware of the building regulations. The other members indicated their agreement.

Factor #6

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

Yes.

Factor #7

Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Mr. Sullivan stated that the “spirit and intent” would be preserved by granting the variance and substantial justice would be done whether the variance was granted or denied. The other members indicated their agreement.

Mrs. Fox made a motion to approve the requested variance to construct, in accordance with the drawing submitted to the Board as Exhibit 1A, a single family home at 2015 Ridge Rd. having a mean average height two feet greater than the otherwise maximum permitted height of 35 feet. This variance is subject to the following conditions: (1) at no time shall the cupola/steeple be illuminated either by lighting installed within it or by external lighting or lights of any nature whatsoever; and (2) at no time shall there be access to or openings in the cupola/steeple. A breach of either of these conditions shall render the variance null and void.

There was no further discussion.

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

Variance was granted by a vote of 5 to 0.

V. Ch. Fox stated that 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 such decision was unreasonable or unlawful. They have 30 days from the date the minutes of the Board are journalized.

The minutes will be journalized on January 14, 2009.

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Hearing was adjourned at 7:30 pm.

Patty Garrett, Zoning Clerk

Minutes Approved _____, 2009

David Manley, Chairman

Dottie Fox, Vice Chairman

Jeff Hoop, Member

Dave Zeleznak, Member

Melissa Huff, Member

Kevin Sullivan, Alternate Member