

Board of Zoning Appeals

Eternal Custom Homes – Variance request

December 10, 2014

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Ch. Manley called the meeting to order at 7:03 p.m.

Roll Found: Manley, Calabro, Hoop, Zeleznak and Budd present. Also present was Trustee Catherwood, Trustee Schulte, Zoning Inspector Schaefer, Mr. Chris Tsonton, Mr. James Gillespie, Ms. Kathy Erclauz, Mr. Sean Kolcun, Mr. Sean Pagrabs, Mr. Chuck Skerya, Mr. Russell Pay and Mr. Ron Popek.

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 power as provided under Section 7 & 13 of The Hinckley Township Zoning Regulations, that all hearings are open to the public, that all persons wishing to testify must do so from the podium, be sworn in, and must identify themselves giving their address. Evidence and testimony must be pertinent to the hearing at hand and that it is within his discretion to limit personal comments. He stated he will not permit personal attacks and opinions. Disruptive persons will lose their right to remain at the hearing.

Ch. Manley stated the hearing is for a variance submitted by Eternal Custom Homes, contractor, on behalf of property owner Alex Zaytsev of 1711 Skyline Drive, Hinckley Township, Ohio (Permanent Parcel #01603D09025) requesting a variance to construct an addition at the stated address, in a location that does not meet the minimum setback of seventy-five (75) feet from the street right of way required by the Hinckley Zoning Regulations.

Ch. Manley noted that Alternate Budd will be a regular member for the hearing, replacing Ms. Mainzer who is absent due to an illness.

Recording Secretary Gienger read the legal ad.

Recording Secretary Gienger polled the Board as to whether they received the packet of information and inspected the property at 1711 Skyline Drive, Hinckley Township, Ohio (Permanent Parcel #01603D09025).

Response: Manley – yes and yes inspected on 12/6/14, Calabro – yes and yes inspected on 12/6/14, Zeleznak – yes and yes inspected on 12/6/14, Hoop – yes and no did not inspect the property, Budd – yes and yes inspected on 12/6/14.

Mr. Hoop was recused from the hearing since he did not inspect the property.

Mr. Gienger noted that there were no phone calls no letters received regarding this variance request.

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Mr. Russell Pay was sworn in accordingly.

Ch. Manley asked Mr. Pay if he had any additional information beyond what was submitted. Mr. Pay noted he did not have any additional information to submit. He noted that photos were requested but he did not obtain the photos. Ms. Calabro noted that the Board obtained photos of the home and showed them to Mr. Pay for his review.

Mr. Zeleznak asked Mr. Pay if the homeowner owned the home 2-3 years ago. Mr. Pay noted he did not know how long he has owned the home and that he started working on this project about 1 year ago.

Being no further questions, Mr. Pay was seated.

Zoning Inspector Schaefer was sworn in accordingly.

Ch. Manley asked ZI Schaefer how long ago was the house purchased and how long ago was the portion of the house demolished. ZI Schaefer noted it was approximately 3 years ago for both. He noted that the original contractor called him and asked if he needed a permit for demolition. ZI Schaefer noted that he did not need a permit but inquired as to what he was removing. He said the contractor told him he was tearing down the house. ZI Schaefer informed the contractor that he (ZI Schaefer) should be contacted prior to him doing any demolition.

Ch. Manley noted that the issue is moot if the house has been torn down over 2 years ago. ZI Schaefer noted that is correct and also the grandfather clause is only for the non-conforming issue.

Being no further questions, ZI Schaefer was seated.

Ms. Erclauz of 1708 Skyline Drive, was sworn in accordingly

Ms. Erclauz asked the Board if they are planning to rebuild at the current location. Ch. Manley stated that is his understanding.

Mr. Zeleznak asked Ms. Erclauz if she knows when the house was demolished. Ms. Erclauz noted she believes it was demolished during the summer of 2013.

Being no further questions, Ms. Erclauz was seated.

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Mr. Kolcun of 1708 Skyline Drive, was sworn in accordingly

Mr. Zeleznak asked Mrs. Kolcun if he knows when the house was demolished. Mr. Kolcun noted he believes it was demolished during the summer of 2013 also.

Being no further questions, Mr. Kolcun was seated.

ZI Schaefer retook the stand.

ZI Schaefer noted he would have to check the phone logs to be certain of the time frames but he believed it has been longer than the summer of 2013 based on that there has been several contractors throughout the process who started working on this project.

Mr. Zeleznak noted that from the photos from Google Earth and using CAD, it appears the new house falls into the footprint of the old house, within a foot. ZI Schaefer reviewed the photographs and concurred but also noted that he has to be exact in his measures to assure things are exact.

Being no further questions, ZI Schaefer was seated.

Mr. Pay retook the stand.

Mr. Zeleznak asked Mr. Pay if the drawing that was submitted was the house being built. Mr. Pay noted it is the house he intends to build. He noted it is a 13 course basement, stucco and stone exterior and will match the existing structure as close as possible.

Mr. Budd asked Mr. Pay that if he had to move the building a foot so it fit within the original footprint, if that would be an issue. Mr. Pay noted it would not be an issue.

Being no further questions, Mr. Pay was seated.

ZI Schaefer retook the stand.

ZI Schaefer noted that he could not get the phone records at this time but noted that if you have a non-conforming use and tear the building down, it doesn't get rid of the non-conforming use. Ch. Manley noted that he is going to treat this as a variance request.

Being no further questions, ZI Schaefer was seated.

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There being no further testimony offered, Ch. Manley asked for a motion and then a review of the Duncan Factors.

Ms. Calabro stated that this is a motion for a 40' variance (AP#0187) for an addition as submitted by Eternal Custom Homes, contractor, on behalf of property owner Alex Zaytsev of 1711 Skyline Drive, Hinckley Township, Ohio (Permanent Parcel #01603D09025) that does not meet the 75' setback from the street right of way as required by the Hinckley Zoning Regulations.

Mr. Budd seconded the motion.

Factor #1

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

Vote:

Zelevnak – No

Budd – No

Calabro – No

Manley – Yes

Factor #2

Is the variance substantial?

Vote:

Zelevnak – Yes by footage

Budd – Yes

Calabro – Yes

Manley – Yes

Factor #3

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

Vote:

Zelevnak – No, it will help the neighborhood

Budd – No, it will help the neighborhood

Calabro – No, it will help the neighborhood

Manley – No, it will help the neighborhood

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Factor #4

Will the variance adversely affect the delivery of governmental services such as fire or ambulance?

Vote:

ZeleznaK – No

Budd – No

Calabro – No

Manley – No

Factor #5

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

Vote:

ZeleznaK – Don't Know

Budd – Don't Know

Calabro – Don't Know

Manley – Don't Know

Factor #6

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

Vote:

ZeleznaK – No

Budd – No

Calabro – No

Manley – 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?

Vote:

ZeleznaK – Yes

Budd – Yes

Calabro – Yes

Manley – Yes

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Ch. Manley 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 ground the decision was unreasonable or unlawful and will have 30 days from the date of this meeting and the minutes of this appeal will be journalized after January 14, 2015. A copy of the signed documents will be given to the applicant at the end of this hearing.

Vote: Manley – yes, Calabro – yes, Budd – yes, Zeleznak – yes

Passed by a vote of 4 to 0

Meeting was suspended at 7:35 p.m.

Todd Gienger, Recording Secretary

Minutes Approved: _____, 2015

David Manley, Chairman

Josephine Calabro, Member, (Vice Ch.)

Jeff Hoop, Member

Dave Zeleznak, Member

(Absent)
Julie Mainzer, Member

William Budd, Alternate Member

(Absent)
Matthew Majeed, Alternate Member