

Board of Zoning Appeals

Golli – Variance request

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Ch. Calabro called the meeting back to order at 9:20 p.m.

Roll Found: Calabro, Hoop, Zeleznak, Mainzer and Budd present. Also present was Alternate Member Boleman, Trustee Schulte and Trustee Catherwood. Also present in the audience were Zoning Inspector Schaefer, Mr. and Mrs. Dave and Ruthann Manley, Mr. David Stefanec, Ms. Mary Ann Chandler, Mr. Bruce Schneider, Mr. Harry Wesebaum, Mr. and Mrs. Neil and Andrea Golli, Mr. Tom Golli, Mr. Brett Morlock, Ms. Amy Palladino, Ms. Gerry Ziemba, Mr. Loya, Mr. James West.

Ch. Calabro noted that this meeting is being taped for transcription purposes only and the written minutes and attachments, if any, will serve as the official record of this meeting.

Recording Secretary Gienger read the legal ad.

Ch. Calabro stated that the Hinckley Township Board of Zoning Appeals acts within the authority of Section 519 of The Ohio Revised Code and exercises its power as provided under Section 7 & 13 of The Hinckley Township Zoning Regulations. All public hearings are open to the public. All persons wishing to testify must do so from the podium, must identify themselves and give their address and must be sworn in. Evidence and testimony must be pertinent to the hearing. It is the Chairperson's discretion to limit personal comments, personal attacks, opinions, editorializing, and/or repetitious statements or testimony or evidenced previously given. Disruptive persons will lose their right to remain at the hearing. Personal attacks will not be tolerated.

Ch. Calabro stated the hearing is for a variance submitted by Neil Golli, property owner of 2040 Hinckley Hills Road, Hinckley, Ohio (Permanent Parcel #01603D20056) requesting for a variance to allow, at the stated address, the front yard width to be less than the minimum lot width of 175 feet required from the street right-of-way to the building line required by the Hinckley Zoning Regulations.

Recording Secretary Gienger polled the Board as to whether they received the packet of information and inspected the property at 2040 Hinckley Hills Road, Hinckley, Ohio (Permanent Parcel #01603D20056).

Response: Calabro – yes and yes inspected on 3/19/16, Hoop – yes and yes inspected on 3/19/16, Zeleznak – yes and yes inspected on 3/19/16, Mainzer – yes and yes inspected on 3/20/16 and again on 3/23/16, Budd – yes and yes inspected on 3/19/16.

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Ch. Calabro stated that notice of the application was properly given in local newspapers, and the application has been available for public review and comment. She asked Recording Secretary Gienger if any letters, phone calls or emails were received. Mr. Gienger noted there was only one phone call received.

Ms. Mary Ann Chandler, counsel for Mr. Golli, was sworn in accordingly.

Ms. Chandler noted she wrote a letter regarding this issue to the board and noted that Mr. Golli purchased this lot as a buildable lot and then found out later there were issues. She noted the property is just shy of 7 acres to meet the rear lot requirements but also noted it is well over the 2 acre minimum. It is unfortunate that the front of the lot is too shallow. She noted that in 2005 the sub plat was signed off as buildable by the trustees and hopes that the board takes all of these factors into consideration and that the Ohio Supreme Court notes it is the spirit and intent of the regulations that should be considered when reviewing this case.

Being no questions, Ms. Chandler was seated.

Mr. Neil Golli was sworn in accordingly.

Mr. Golli noted that he purchased the property with the understanding that it was a buildable lot and bought it with that in mind. He noted that he has looked at other properties but found this one to be the one they wanted. He noted he has installed 1000 tons of stone for the driveway.

Ch. Calabro noted that it was her understanding that the drive was a big issue for the fire department. Mr. Golli noted that is why they installed the drive as such. He noted his original plan was to build an agricultural barn to start and he had the lot surveyed to make sure it was put in the correct place. He noted that they made sure they put the drive in properly so the fire trucks could get back to the back of the building.

Ch Calabro noted that the work on the drive was done prior to submitting a permit to build, correct? Mr. Golli noted he had plans and permits to build the septic and driveway, just not to build the house.

Mr. Budd asked when Mr. Golli became aware of the restrictions on the front yard width. Mr. Golli stated it was 6 days prior to the start of digging and the house had already been staked out. He then contacted ZI Schaefer to try and figure out how this happened. He worked with ZI Schaefer who assisted him on steps moving forward and to help understand what happened.

Being no further questions, Mr. Golli was seated.

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ZI Schaefer took the stand. He was under oath from the previous hearing of the night.

ZI Schaefer noted at first just an agricultural permit had been pulled. He noted there are no zoning regulations regarding agriculture but they have them pull the permits just so the township is aware of who does have an agricultural property. He noted when Mr. Golli submitted for the house permit, that is when he noticed the issue and then called Mr. Golli regarding the issue. He noted he did some research that the lot was signed off by the trustees in 2004 but not by the zoning inspector. He noted he talked to the prosecutor and that when the trustees signed off, they authorized the variance but didn't have the authority to do so, so now that variance becomes invalid. He doesn't think the trustees were aware of the zoning code and weren't trying to circumvent the code and it was not their intent to do so.

Being no questions, ZI Schaefer was seated.

Trustee Catherwood took the stand. She was under oath from the previous hearing of the night.

Trustee Catherwood noted that trustees do typically wait for the sign off by the zoning inspector but they look for a flag lot and on the plat was a box on the Golli property that showed it to be 8.14 acres so they would have noted the lot complies because they know anything above 7 acres is a flag lot but was actually total acreage for 2 parcels which was unclear on the plat.

Being no questions, Trustee Catherwood was seated.

Ms. Chandler retook the stand.

Ms. Chandler noted that she appreciates ZI Schaefer's testimony but states his statement that this signed off lot is invalid is incorrect. She states that by Ohio law it is not invalid, she notes that there is a law in the planning commission book under the subdivision regulations of the county it lists who can authorize minor subdivision and it lists that either the trustees or the zoning inspector can sign off, it is written into the Medina county subdivisions, article 5. She noted it may be done now that the zoning inspector signs off of the subdivision lots but it may not have been done that way at that time and to be careful insinuating that it is invalid. The lot exists and the replat exists. The issue is whether the board will grant the variance based on this error and whether substantial justice will be done in granting this variance.

Being no questions, Ms. Chandler was seated.

Mr. James West of 2047 Hinckley Hills Road, was sworn in accordingly.

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Mr. West stated he lives across the street from the property and he sees Mr. Golli out all the time working on the property cleaning and making the place nice. He feels that he would be a great addition to the neighborhood.

Being no questions, Mr. West was seated.

There being no further testimony offered, Ch. Calabro asked for a review of the Duncan Factors.

Factor #1

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

Vote:

Budd – No, it would be a serious reduction in value

Mainzer – No

Zelesnak – No

Hoop – No

Calabro – No

Factor #2

Is the variance substantial?

Vote:

Budd – No

Mainzer – Yes

Zelesnak – No considering circumstances

Hoop – No

Calabro – No

Factor #3

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

Vote:

Budd – No

Mainzer – No

ZeleznaK – No

Hoop – No

Calabro – No

Factor #4

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

Vote:

Budd – No

Mainzer – No

ZeleznaK – No

Hoop – No

Calabro – No

Factor #5

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

Vote:

Budd – No

Mainzer – No

ZeleznaK – No

Hoop – No

Calabro – No per testimony

Factor #6

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

Vote:

Budd – No

Mainzer – No

Zeleznak – No

Hoop – No

Calabro – 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:

Budd – Yes

Mainzer – Yes

Zeleznak – Yes

Hoop – Yes

Calabro – Yes

Ch. Calabro 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 that such decision was unreasonable or unlawful and will have 30 days from the date of this meeting to appeal. A copy of the signed documents will be given to the applicant at the end of this hearing.

Mr. Hoop stated that this is a motion for a variance (AP#0202) for property owner Neil Golli, property owner of 2040 Hinckley Hills Road, Hinckley, Ohio (Permanent Parcel #01603D20056) requesting a variance to allow, at the stated address, a front yard width to be less than the minimum lot width of the 175' required from the street right-of-way to the building line as required by the Hinckley Zoning Regulations Section 4.1.F

Mr. Zeleznak seconded the motion.

Vote: Calabro – Yes, Hoop – Yes, Zeleznak – Yes, Mainzer – Yes, Budd - Yes

Passed by a vote of 5 to 0

Ch. Calabro made a motion to adjourn the Meeting. Ms. Mainzer moved and Mr. Zeleznak seconded

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Vote: Calabro – yes, Hoop – yes, Zeleznak – yes, Mainzer – yes, Budd – yes

Hearing was adjourned at 9:52 p.m.

Todd Gienger, Recording Secretary

Minutes Approved: _____, 2016

Josephine Calabro, Chairperson

Jeff Hoop, Vice Chairperson

Dave Zeleznak, Member

Julie Mainzer, Member

William Budd, Member