

## **Board of Zoning Appeals**

### **Charles Naegle, Great Hunt Outfitters – Conditional Use Request**

**February 24, 2016**

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Ch. Calabro called the meeting to order at 7:05 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, Administrative and Zoning Office Manager Peterlin, Zoning Commission Chairman Kman, Court Reporter Christine Schirripa, RPR, CRI, 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, Mr. Charles Naegle, Mr. Burgess Holt, Mr. Dan Landis, Ms. Amy Palladino, Ms. Gerry Ziemba, Dr. Azam Qadri, Dr. Betty Qadri, 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 conditional use permit submitted by Charles Naegle, Owner of Great Hunt Outfitters occupant of 1375 Ridge Road, Hinckley, Ohio (Permanent Parcel #01603B43006) requesting a Conditional Use Permit for an indoor recreation to operate an indoor archery range at the stated address.

Recording Secretary Gienger polled the Board as to whether they received the packet of information and inspected the property at 1375 Ridge Road, Hinckley, Ohio (Permanent Parcel #01603B43006).

**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 that there were several letters received #1 Letter from Zoning Commission dated 3/18/16 with parking diagrams (received 3/18/16), #2 Copy of card sent to Mr. Naegle from Betty Qadri, DDS submitted by Mr. Naegle (received 3/18/16), #3 Letter from S&S Heating and Cooling & Sheet Metal (received 3/23/16), #4 Letter from Hinckley Fire Department (received 3/23/16), #5 Letter from Jeanette Stanowick, tenant at 1369 Ridge Road (received 3/23/16) and #6 Letter from Delmar Painting, Hinckley Center Inc. (received 3/23/16).

Ch. Calabro asked Mr. Naegle if he objects to this communication being included by the Board as evidence. Mr. Naegle said he did not object.

Mr. Charles Naegle was sworn in accordingly.

Mr. Naegle stated that he has been a resident of Hinckley since the 1980's and always wanted to build his own home and ended up building several in the township as a builder. He became friends with Mr. Rollins who had done taxidermy at this location for many years. He then bought the building and not the business and wants to make this a staple of Hinckley. He noted he has been friends with Mr. Rollins for 25 years and Mr. Rollins had been operating an archery range in this building for 32 years. His intent is to make the business better. He discussed the great hunt of 1818 and that is why he named it the Great Hunt Outfitters. He noted he approached Delmar Painting to see if he could improve the parking lot and Delmar approved. His goal was to make everything better for the community. He noted he added 14 parking spaces and was just trying to make as many spaces as possible. He noted he also added parking to S&S Heating and the tax service area as well. He noted that his number one concern within his range is safety and he will be using several safety precautions to prevent incident.

Mr. Zeleznak stated it was his understanding that Mr. Rollins had operated the facility for 32 years as a retail establishment selling archery and firearms and taxidermy. He asked Mr. Naegle if that was correct. Mr. Naegle stated that was correct.

Mr. Zeleznak asked Mr. Naegle if they ever held competitions in the archery range. Mr. Naegle stated they didn't hold any formal competitions.

Mr. Zeleznak asked Mr. Naegle if he will remain running this as a retail establishment. Mr. Naegle stated nothing is changing and he is operating everything the same as is. He is allowing Mr. Rollins to continue his taxidermy operation. He noted he is just trying to enhance the facility.

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Mr. Zeleznak asked if Mr. Naegle plans to have more shooting at the range. Mr. Naegle stated he hopes that word gets out and that it will let the business grow so the range is full.

Mr. Zeleznak asked if Mr. Rollins primary business was retail (taxidermy) vs. recreation. Mr. Naegle stated that is correct and he intends to have the retail remain the primary business.

Ch. Calabro asked Mr. Naegle what percentage of the business will be retail. Mr. Naegle stated 60% will be taxidermy, 10% fire arms sales, 10% archery sales and remaining 20% the archery range. Ch. Calabro clarified then that 80% of the business will be retail and 20% recreation (archery range). Mr. Naegle noted that is correct.

Mr. Zeleznak asked Mr. Naegle that in all his years of being a patron of the business, how many cars did he typically see in the parking lot. Mr. Naegle stated that on average there were 2-3 cars.

Mr. Zeleznak asked Mr. Naegle how many customers/cars does he anticipate. Mr. Naegle stated there are 5 archery lanes so he may have 9-11 customers at most at one time and possibly up to 6 cars.

Ch. Calabro asked Mr. Naegle where he was at the point of renovation when he found out he needed this conditional use approved. Mr. Naegle stated that when all the framing was already done.

Ch. Calabro asked if the parking lot was done prior to his knowledge of needing this approval. Mr. Naegle stated he did the parking lot on his own and he had been having discussions with the donut shop to move them into his facility and that is part of why he wanted to add parking. It was later decided that moving the donut shop was not feasible.

Ch. Calabro asked again at what point in the work did Mr. Naegle know he needed to get this approval. Mr. Naegle stated that things were started and ordered. He stated nothing was changing in function and he was just trying to enhance the parking and the building/business and that is when he caught the attention of the zoning inspector. He stated he was then told about this need but in his opinion he is not changing the function of the business and doesn't feel he needs to get this conditional use permit.

Ch. Calabro then clarified for the record and asked Mr. Naegle that it is his opinion that he doesn't have a change of use of the business and he shouldn't need this conditional use permit. Mr. Naegle stated that is correct.

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Mr. Budd stated it is his understanding there are no state regulations for an indoor range and asked Mr. Naegle if that was correct. Mr. Naegle stated that there are none that he is aware of. He noted he approached the NFAA (National Field Archery Association) to get insurance coverage for what he did. He noted he ended up getting a policy through Liberty Mutual who approved his coverage for the facility without issue. He noted he has a \$2M/\$3M Aggregate policy to cover the business.

Mr. Budd asked if the capacity of the range was 6. Mr. Naegle stated 6 is max but 5 is preferred.

Mr. Budd asked if there were designated lanes. Mr. Naegle stated the lanes are 22" wide ( per NFAA regulations) with 3 targets - 1 target per 2 archers.

Mr. Budd asked if this sizing was something he came up with on his own. Mr. Naegle stated that he visited other similar type ranges and set up his range similar to the other ranges.

Mr. Budd asked if the instructors had to be certified. Mr. Naegle stated that there is no law that states they have to be certified but his trainers do have a state certification and are hoping to assist in the certification of hunters in harvesting animals within a community properly.

Mr. Budd asked where the spectators will be located. Mr. Naegle stated spectators will be behind an arrow proof wall and can view through an arrow proof glass within that wall.

Mr. Budd asked if any spectators would be allowed on the range. Mr. Naegle stated there would not be any spectators allowed on the range.

Ch. Calabro asked Mr. Naegle that since there is no other range like this in the area with Canton the closest, does he expect people from all over to visit. Mr. Naegle stated he doesn't expect transient people, mostly locals and wants them to be proud of having a facility in this area like no others. He noted he can only grow so large since he has limited size. He noted he plans to have an app for the phone that shows when a lane is open so there is no "standing room only" issues.

Ch. Calabro noted that they need to consider the parking and parking lighting and if there is room for his use if they are going to grant this permit. Mr. Naegle noted he understood and said that he wanted to make sure the use of the parking lot was transferrable in case Mr. Painting sold the property. Ch. Calabro asked where it states that it is transferrable. Mr. Naegle noted it was in the letter from Delmar Painting that was drafted by an attorney and would make the use allowable and transferrable if there is a new owner.

Being no further questions at this time, Mr. Naegle was seated.

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Mr. Mel Kman, Zoning Commission Chairman, was sworn in accordingly.

Mr. Kman read the letter from the Zoning Commission into the record.

Ch. Calabro asked Mr. Kman if he had any additional information. Mr. Kman noted that they received the 2nd application that had the dimensions just prior to their meeting with Mr. Naegle on March 16 and didn't have time to do their due diligence prior to the meeting and noted that the scale is off based with regard to the dimensions indicated on the site plan given.

Ch. Calabro asked Mr. Kman if he is rescinding his recommendation for approval. Mr. Kman stated he is not but just wanted it to be noted.

Mr. Budd asked Mr. Kman if there is a chance that the Zoning Commission would rescind their recommendation if given more information since the BZA consider their recommendation in weighing whether to approve the request. Mr. Kman stated their primary goal is to determine if the request meets the regulations, which they feel it does. He stated he did recommend that they eliminate the stacked parking.

Being no further questions, Mr. Kman was seated.

Zoning Inspector Schaefer was sworn in accordingly.

ZI Schaefer noted that he measured the parking lot three times and made one error on one of the measurements, measured what he thought was 84' was actually 64' in the lot by the tax place. The error was due to mud on the tape measure.

Ch. Calabro asked then if all the other dimensions were accurate as shown on Exhibit 2A. ZI Schaefer noted they are mean measurements and not surveyed measurements but are fairly accurate.

Ch. Calabro asked if there were any handicap spaces. ZI Schaefer noted that is a state regulation.

Mr. Zeleznak asked if there was enough space to pull in and out of the lot and the drive through the lot. ZI Schaefer noted that there is enough space. He did note to Mr. Naegle that he should move space 18 back a little bit to allow for the road/drive to pass through. He also told him to remove the stacked parking.

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Ch. Calabro noted they are only concerned with the main parking lot and the other lot is between Mr. Naegle and Mr. Painting and their agreement.

Ch. Calabro noted that per the letter Mr. Schaefer submitted there are 11-13 spaces needed for Mr. Naegle's business. ZI Schaefer noted that the letter is inaccurate and he double counted some spaces and he only needs 10 spaces after discussion with the county prosecutor, Mr. Bill Thorne.

Ch. Calabro questioned the need of parking for the other businesses in that lot. ZI Schaefer noted that per Mr. Thorne, Mr. Naegle only needs to address his own parking needs. He stated there were 24 spaces prior to the reconfiguring and now he is showing 34, which fulfills the needs of Mr. Naegle.

Mr. Zeleznak noted that if there were 24 spaces prior, how many are there now. ZI Schaefer noted that there are now 34 showing which meets Mr. Naegles needs.

Mr. Zeleznak asked if they are now meeting the parking requirements. ZI Schaefer noted as best as he can tell, they are meeting the requirements.

ZI Schaefer reviewed his discussion with Mr. Thorne that he had on the previous day. He noted that parking in front of the building cannot be abandoned unless the township compensates the owner for the loss of the use if it is a legal non-conforming use. If it is non conforming, they can eliminate them. He noted Mr. Thorne doesn't believe the use has changed. He noted Mr. Thorne stated the zoning commission can write the codes but cannot enforce them and that the master policy plans are only guidelines to be used for future code development. He noted the BZA and the ZI enforce the adopted policies and zoning codes. He noted Mr. Naegle can only be held to the standard for his use only for parking and cannot force him to fix other issues with the lot (lighting issues, etc.). He noted that Mr. Thorne stated that if need be, the Board can call an executive session and call him to discuss the issue further if they wish.

Ch. Calabro asked when he told Mr. Naegle he needed the conditional. ZI Schaefer noted that he had heard that Mr. Naegle was training hunters for services for culling animals in neighborhoods so he then felt the business fell into professional services, but per Mr. Thorne he tends to think it is an indoor recreation area and not professional services. He notified Mr. Naegle on February 9th.

Mr. Budd asked if he should withdraw his request. ZI Schaefer stated he does not recommend withdrawing the request and he didn't get the impression that Mr. Thorne would be recommending that either. He noted that Mr. Thorne stated that the board should go to section 7

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and read the list of conditional use parameters and if they are met, Mr. Naegle would meet the conditional.

Being no further questions, ZI Schaefer was seated.

Trustee Catherwood was sworn in accordingly.

Trustee Catherwood noted that with all due respect to ZI Schaefer, who works very hard for the township and has done so for years, and Mr. Thorne, who she knows well, she will address the 3 parking spots in front first. She noted the 3 spaces in front of the building is similar to an issue that was presented in a previous hearing with S&S Heating and their request for use in the front of the building was denied due to safety and visibility concerns. She noted the township is also removing the parking at the park for safety reasons. She noted that case law shows that if a business allows parking in a right of way and an accident occurs, that business would be liable. She noted that per the books the dentist needs 7 spaces, the trainer 5 the salon 13 and machine shop 2. She noted that Mr. Naegle would need 5-6 for retail. She noted in looking at the measurements, what is shown cannot be mathematically accurate if you add up the parking spaces shown. She noted also that they researched if there was a permit allowing parking in the right of way with ODOT and she received a call that there is no agreement so therefore there is no parking allowed in the front of the building. She noted her main concern is the safety of patrons entering and exiting the parking lot, that she personally doesn't have an issue with the use of the business.

Ch. Calabro asked if the 34 spaces shown then, in her opinion were inaccurate. Trustee Catherwood noted that best case would be 29 spaces available.

Mr. Zeleznak asked Trustee Catherwood if she took measurements. Trustee Catherwood noted that she didn't have to measure that if you do the math of the parking spaces shown, the totals do not add up properly. She noted that there should have been a scaled drawing submitted to eliminate this issue and confusion.

Mr. Zeleznak asked if the parking lot is ever full. Trustee Catherwood noted that it sometimes is full but not at other times but code requires a certain number of spaces.

Mr. Zeleznak asked if she would recommend the board to deny the conditional use. Trustee Catherwood noted that she wished they could scrap it and start over and submit a scaled drawing and it would solve the issues presented tonight.

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Ch. Calabro asked then if it would be her recommendation to withdraw the current request and start over. Trustee Catherwood stated that would be the best thing if it could be done. She noted that ZI Schaefer should have required a scaled drawing as noted by their codes and then there wouldn't be such confusion.

Ch. Calabro asked Trustee Catherwood if she knew when Mr. Naegle became aware of the need for a conditional use permit. Trustee Catherwood stated they received a call about the changes being done and Mr. Naegle came to a Trustee worksession on Feb. 2nd and they recommended he meet with ZI Schaefer to discuss his needs.

Mr. Budd noted that the parking issue falls on the property owner. Trustee Catherwood noted that the issue is due to the agreement between Mr. Naegle and Mr. Painting.

Trustee Catherwood stated the issue by code states that there is 27 parking spaces needed currently and if Mr. Naegle needs 10 spaces for a total of 37 and if they can get 37, she has no issue.

Being no further questions, Trustee Catherwood was seated.

Zoning Inspector Schaefer retook the stand.

Ch. Calabro noted that per Trustee Catherwood, there is a need for 37 spaces. She asked ZI Schaefer if he believes those needs are being met per the drawing submitted. ZI Schaefer stated he does feel the spaces as shown are accurate based on his measurements in the field.

Being no further questions, ZI Schaefer was seated.

Mr. Naegle retook the stand.

Mr. Naegle stated he takes full responsibility of the drawing but the measurements taken are accurate.

Ch. Calabro noted that with all due respect, he did the work without approval. Mr. Naegle noted that is correct but he added 14 additional spaces on that lot compared to how many there were prior.

Being no further questions, Mr. Naegle was seated.

Mr. Dave Manley of 2485 Bethany Lane, was sworn in accordingly.

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Mr. Manley stated that he has lived in Hinckley since the 1970's and has shopped at the business for years. He noted he and his kids have all bought bows at this location and used bows at the archery range. He stated this has been part of the business for as long as it has existed. He also noted that he was at the zoning commission meeting and several of the items written into Mr. Kman's letter were not part of the motion that was approved in the Zoning Commission meeting so he doesn't understand how those items were put into the letter. He noted the only item that was in the motion was the issue of to address the parking. He noted the other items were discussed, but not put into the motion. He noted that he doesn't think this should have been presented here but the board could change this to a retail use and approve as such.

Being no questions, Mr. Manley was seated.

Dr. Azam Qadri of 1369 Ridge Road was sworn in accordingly.

Dr. Qadri noted that parking in the lot is terrible and whoever the first person is in the lot, establishes the parking for the day since there are no stripes designating parking spaces.

Ch. Calabro noted she appreciates the issues but it is with the landlord and cannot be addressed here.

Being no questions, Dr. Qadri was seated.

Lieutenant Dan Landis of the Hinckley Fire Department was sworn in accordingly.

Lt. Landis, noted he is here for Chief Potts. Lt. Landis read the letter from the Hinckley Fire Department into the record.

Being no questions, Lt. Landis was seated.

Mr. Budd made a motion to continue and extend the meeting to digest the information presented at this hearing and get some clarifications and then regroup. Mr. Zeleznak seconded the motion.

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

Motion to extend was approved. Ch. Calabro noted they can reconvene at the April 13th meeting. Mr. Naegle agreed to this.

Meeting was paused at 9:05 p.m to prepare for the second hearing of the night.

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Todd Gienger, Recording Secretary

Minutes Approved: \_\_\_\_\_, 2016

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Josephine Calabro, Chairperson

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Jeff Hoop, Vice Chairperson

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Dave Zeleznak, Member

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Julie Mainzer, Member

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William Budd, Member