

Ch. Calabro called the meeting to order at 7:00 p.m.

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. Any Board Member who has a monetary interest including any conflict or ex parte communication shall disclose now.

Roll Found: Calabro, Hoop, Zeleznak, Mainzer and Budd. Also present were Alternates Boleman and Schaefer, Building Inspector Wilson, Zoning Commission Member Bruce Schneider, Terry and Cindy Wheeler and Jason Herb (Custom Decks).

Recording Secretary Chism 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 the application for a Variance (AP0228) submitted by Terry and Cindy Wheeler, 230 Highland Mist Circle, Hinckley, Ohio (Permanent Parcel #01603B36026) requesting for a variance to construct a deck, at the stated address, in a location that does not meet the minimum rear yard setback of fifty (50) feet required by the Hinckley Zoning Regulations. The Applicants have submitted an application packet to this Board of Zoning Appeals and has also submitted certain documents and various drawings and correspondence in support of their application.

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.

Recording Secretary Chism polled the Board as to whether they received the packet of information and inspected the property at 230 Highland Mist Circle, Hinckley, Ohio (Permanent Parcel #01603B36026).

Response: Budd – Yes and yes inspected on 8/18/18, Mainzer – Yes and yes inspected on 8/22; Zeleznak – Yes and yes inspected on 8/18/18, Hoop – Yes and yes inspected on 8/18/18, Calabro – yes and yes inspected on 8/18/18.

Ch. Calabro asked Recording Secretary Chism if any letters, phone calls or emails were received. Ms. Chism said yes and read onto the record an email from Isaac D. Smith, AICP, Conservation Program Manager from Cleveland Metroparks.

- “Good afternoon Suzanne. Thank you for providing me information regarding the application for variance located at 230 Highland Mist Circle. Attached is a letter drafted in response to the notice that Cleveland Metroparks received. We are not opposed to the proposed addition of a deck to replace the paver constructed patio at the rear of the home. As always, we ask that consideration be made towards the best management practices for stormwater releases as it relates to construction of new impervious surfaces. Please don't hesitate to contact me with

any questions. Sincerely, Isaac. D. Smith, AICP, Conservation Program Manager, Cleveland Metroparks.”

Ch. Calabro stated that non-written communications made by known or unknown persons not under oath at this hearing are not accepted by this Board. Each member of this Board of Zoning Appeals has been provided a copy of this application and a copy of the other documents in support of the application.

Ch. Calabro stated that written communications from persons not present this evening may include communications that are not made by affidavit. Because these communications are made by a person not under oath, they are not accepted by this Board. She also noted that written communications may 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.

Ch. Calabro stated that this Board has the power to grant an Applicant’s request for variance. Those people who wish to speak may do so from the podium and must state their name, address and interest before addressing the board. All testimony must be given from the podium. All people that wish to give testimony will be sworn in individually to stand, raise their right hand and repeat words to be sworn in.

Mr. Terry Wheeler of 230 Highland Mist Circle of Hinckley, Ohio and Mr. Jason Herb (Custom Decks) of 1184 State Rd, Hinckley, Ohio were sworn in accordingly.

Ch. Calabro asked Mr. Wheeler to give a summary of his application. Mr. Wheeler said that he and his wife were getting older and they wanted to be able to walk out their back door onto a deck without having to use steps. He said that the steps are deteriorating and they want them removed for safety purposes for friends and family. He said that Mr. Herb can give the technical information.

Ch. Calabro asked if he was asking for the setback for the rear of the property. Mr. Herb stated that the 50 foot setback line goes right out to the back of the property with the 2 foot bump out. So with a 14 foot deck that they are proposing it would be 13 ½ feet beyond the 50 foot rear setback line but still within the property boundaries. He said that there are really no neighbors to the rear to discuss with them since it is the Metroparks. He said the proposed deck will be made out of composite decking and will be brown in color with black aluminum railing with vertical stainless steel cables that will give you a see-through look so they can see out into the woods in the back. Mr. Herb said it was a big expense since the patio is only 12 years old.

Ch. Calabro asked if they were going to be taking up all of the pavers. Mr. Wheeler said no. Mr. Herb said they will be pulling out some of the pavers in the spots where the footer posts need to go in for the deck. Mr. Wheeler said if anyone wants the pavers they can accommodate.

Ch. Calabro asked if the deck will go up to where the pavers are or if the deck will go past the edge of the pavers. Mr. Herb said the deck will go past the edge of the pavers by a few inches. Mr. Wheeler said that the contour of the patio was not rectangle; the new deck will be a rectangle which doesn’t exactly match up with the pavers.

Mr. Zeleznak asked, for clarification purposes, that the deck will be 36.5 feet from the property line as opposed to the requested 50 feet. Mr. Herb said that was correct.

Ch. Calabro asked Mr. Wheeler if he was aware of the Hinckley Zoning Regulations when he bought the property. Mr. Wheeler said he was aware of zoning restrictions when they built the house 12 years ago. He said that they chose the lot because it was the only one that the house could be built across the property giving them a full view of the park system. However, the position of the house also created a problem with the position of the septic system and with setback and side yard zoning requirements. Mr. Wheeler said there were no other variances needed for the house when they built it. Mr. Herb added that they didn't understand the Hinckley Zoning Regulations required a permit for building a deck since there was no regulation for building the original patio and the deck was being built directly over the existing patio. Mr. Wheeler concurred.

Being there were no further questions, Mr. Wheeler and Mr. Herb were 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 – Yes, Mainzer – Yes, Zeleznak – Yes, Hoop – Yes, Calabro – Yes

Factor #2 Is the variance substantial?

Vote: Mainzer – No, Zeleznak – No, Hoop – No, Calabro – No, Budd- No

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: Zeleznak – No, Hoop – No, Calabro – No, Budd – No, Mainzer - No

Factor #4 Will the variance adversely affect the delivery of governmental services such as fire or ambulance?

Vote: Hoop – No, Calabro – No, Budd – No, Mainzer – No, Zeleznak - No

Factor #5 Did the property owner purchase the property with knowledge of the zoning restrictions?

Vote: Calabro – Yes as testified, Budd – Yes, Mainzer – Yes, Zeleznak – Yes – he knew about the building of the house but I don't think about the building of the deck, Hoop – Yes – as testified

Factor #6 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: Mainzer – Yes, Zeleznak – Yes, Hoop – Yes, Calabro – Yes, Budd - 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. And the Chairman will state when the minutes will be journalized.

Mr. Hoop stated that this is a resolution for a variance (AP0228) for Terry and Cindy Wheeler of 230 Highland Mist Circle, Hinckley, Ohio (Permanent Parcel #01603B36026). A resolution is made for a variance to construct a deck over an existing patio constructed of pavers 13.5 feet into the 50 foot rear yard setback - Chapter 6: Sub-Section 6R1.4.F – Area, Yard and Height Regulations of the Hinckley Township Zoning Regulations. Mr. Zeleznak seconded the motion.

Prior to voting, Ch. Calabro explained the vote to the Applicant. As stated, a Yes simple majority with a quorum present is in favor of the Applicant. A No simple majority, or a tie vote denies the Applicant's request.

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

Motion Passed – 5-0

Ch. Calabro stated that the motion has been granted and that the applicants have one year to begin construction or to act with the appropriate request. And anyone who has adversely been affected by this decision has 30 days from the date of this hearing to file suit.

The public hearing was recessed while Ch. Calabro, Mr. Hoop and Terry and Cindy Wheeler signed the Variance Decision Form and a copy was given to the Wheelers.

The Public Hearing went back on record and Ch. Calabro made a motion to adjourn the Meeting. Ms. Mainzer moved and Mr. Budd seconded.

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

Hearing was adjourned at 7:24 p.m.

Carolyn Chism, Recording Secretary

Minutes Approved: _____, 2018

Josephine Calabro, Chairperson

Jeff Hoop, Vice Chairperson

Dave Zeleznak, Member

Julie Mainzer, Member

Bill Budd, Member