

Acting Ch. Hoop called the Public Hearing to order at 7:00 p.m.

Roll Found: Hoop, Zeleznak, Mainzer and Budd present. Alternate Schaefer moved into the vacant seat of Ch. Calabro.

Also present were Trustee Schulte and Zoning Inspector Wilson.

Acting Ch. Hoop 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. Acting Ch. Hoop stated that any Board member that has any monetary interest or has a conflict including exparte communication should disclose at this time.

Acting Ch. Hoop asked the Recording Secretary to read the Public Hearing Notice that was published in the Medina County Gazette on June 12, 2019, a copy of which is on file in the Zoning Office at Hinckley Town Hall. The Public Hearing Notice was read by the Recording Secretary.

Acting Ch. Hoop 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 Chapters 7 and 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. Any person may request a schedule or an agenda be mailed to them, providing a self-addressed and stamped envelope be included with request.

Acting Ch. Hoop stated that this is a hearing for a request submitted by applicant Allen Bocian, property owner of 475 Eastwood Road Hinckley, Ohio (Permanent parcel Number 01603B23028) requesting a variance to construct an accessory building at the stated address, in a location that does not meet the minimum side yard setback of 30 feet required by the Hinckley Zoning Regulations.

Acting Ch. Hoop noted that the applicant has submitted an application to this Board of Zoning Appeals and has also submitted certain documents in support of his application.

Acting Ch. Hoop stated that notice of the application was properly given in local newspapers, and the application and supporting documentation has been available for public review and comments. He asked Recording Secretary Stupka if any letters, phone calls or emails were received. Ms. Stupka responded that no additional information had been received for the hearing.

Acting Ch. Hoop noted that each member of the Board of Zoning Appeals has been provided a copy of the application and supporting documentation.

Upon request by Acting Ch. Hoop, Recording Secretary Stupka polled the Board as to whether they received the packet of information and inspected the property at 475 Eastwood Road Hinckley, Ohio (Permanent parcel Number 01603B23028).

Response: Hoop – yes and yes inspected on 6/24/2019, Zeleznak – yes and yes inspected on 6/22/2019, Budd – yes and yes inspected on 6/22/2019, Mainzer – yes and yes inspected on 6/25/2019 and Schaefer – yes and yes inspected on 6/22/2019

Acting Ch. Hoop noted for the record that non-written communication or written communication made by known or unknown persons not under oath and not properly given during the hearing are not accepted by the Board of Zoning Appeals as testimony.

Acting Ch. Hoop stated that the Board has the power to grant an applicant's request for variance.

Acting Ch. Hoop stated that all people that wish to give testimony will be sworn in individually and testimonies, if any, shall be given from the podium.

Acting Ch. Hoop asked the Applicant, Allen Bocian, to step to the podium and Mr. Bocian was sworn in accordingly.

Acting Ch. Hoop asked if the applicant had any additional evidence to offer regarding what the applicant believes justifies granting of a variance.

Mr. Bocian stated no.

Acting Ch. Hoop asked for an overall description.

Mr. Bocian stated he is putting up a building for equipment and the slope of his property is at issue, he would like to put the building in a location that doesn't negatively impact the logging he has done – he has estimates which would put his building 5' from property line and they made changes to move it to 15' from property line.

Acting Ch. Hoop had no questions.

Mr. Budd asked what changes were made to get from 5' – 15' feet.

Mr. Bocian stated he changed the function of the doors, as opposed to closer to the sideline and having it sideloaded, by pushing it out 15' he will change the location of the door which will require additional material and concrete.

Mr. Budd stated that the real problem is the grade of the property and does this mean there is more excavating necessary to move to 15'.

Mr. Bocian stated that yes there is more excavating required and for every foot he went out it would increase the cost.

Mr. Budd stated the other requirement for justification is minimizing the variance, if they asked the applicant to go further than the 15' is there additional cost.

Mr. Bocian stated yes, additional cost for more material.

Mr. Budd stated there wasn't a lot of information in the packet regarding the building.

Mr. Bocian stated it is a steel building – pole barn. Steel with a wooden frame.

Mr. Budd asked if it architecturally matched to the house.

Mr. Bocian stated yes, the house is white with gray shingles, the building will be white with a gray roof and some wainscoating, it will be visually appealing.

Mr. Budd stated that was all he had.

Mr. Schaefer asked a question regarding the topo and the location of the structure in relation to the topo. Mr. Schaefer stated that there would be a 2 foot drop regardless of moving the building to 15'. ~~DELETE~~

Mr. Bocian stated that the topo lines are not good on the auditor's site and Mr. Bocian explained how the property drops as it goes back.

Mr. Schaefer then discussed the size of the drop, and stated Mr. Bocian is asking for a 50% variance which is substantial and also Mr. Schaefer stated the tree line will disappear and by meeting the 30' Mr. Bocian will not be intruding into the forestry area. Mr. Schaefer stated that cost is not something that is considered by the Board.

Mr. Bocian stated that as the building is moved out further it blocks access to his logging road.

Mr. Schaefer stated there would be 30' feet on the east side of the building and discussion followed regarding what would be needed for the logging equipment.

Mr. Bocian was asked by Mr. Schaefer to show the location of his wellhead on an aerial view of the property. Discussion followed regarding the location.

Mr. Zeleznak then asked how the logging trucks would come in and Mr. Bocian stated they would come in his driveway and described how the driveway is located with regard to the sideline. Discussion followed regarding same.

Acting Ch. Hoop asked what is the total size of the property and Mr. Bocian stated just over 12 acres.

Mr. Zeleznak asked if Mr. Bocian already had logs taken out and how the property looked after that. Mr. Bocian stated the yard was torn up. Discussion followed regarding same and the slope of the property. Mr. Zeleznak asked the difference in cost if the building was 15' or 30' away because Mr. Bocian would have to flatten it out either way.

Mr. Bocian stated it would be over \$20,000 in additional cost in material and labor. Discussion followed regarding same.

Mr. Budd stated the problem he is struggling with is the building could be built 30' off property line but it would cost \$20,000 more and the board is struggling to find the real hardship.

Mr. Bocian stated he knows that cost isn't considered he is just looking at how much harder it will be with the excavating, the different problems he will have and the barn could shift over time.

Mr. Budd stated if Mr. Bocian could just give a little more to help the Board understand what the hardship is.

Mr. Bocian stated that he asked the company for the ideal position and they suggested different locations and they said he shouldn't go any farther than 15'.

Further discussion followed regarding the drop with a 15' setback or a 30' setback and that there will need to be excavation regardless of location.

Mr. Budd stated that one of the requirements is that the requested variance is the minimum variance that will allow a reasonable use of land or building and is 15' the furthest Mr. Bocian can go from the east.

Mr. Bocian stated that the company he is working with said that is the furthest he can go and maybe the reason they said that is cost but he is not sure.

Mr. Budd asked if it's a structural problem if they go further.

Mr. Schaefer stated a footer could be put in.

Mr. Budd asked if Mr. Bocian is in a position to answer if he is at the minimum variance.

Mr. Bocian said with the information given to him the answer would be yes.

Acting Ch. Hoop asked if Zoning Inspector Wilson had anything to add. Zoning Inspector Wilson said he received a call from a neighbor asking him to make sure they knew where the side lot line is.

Being no further questions, Mr. Bocian was seated.

There being no further testimony offered, Acting Ch. Hoop 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:

Hoop – Yes
ZeleznaK - Yes
Mainzer – Yes
Budd – Yes
Schaefer - Yes

Factor #2: Is the variance substantial?

Vote:

Hoop – Yes
ZeleznaK - Yes
Mainzer – Yes
Budd – Yes
Schaefer - 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:

Hoop – No
ZeleznaK – No
Mainzer – No

Budd – No
Schaefer - No

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

Vote:

Hoop – No
ZeleznaK – No
Mainzer – No
Budd – No
Schaefer - No

Factor #5

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

Vote:

Hoop –No
ZeleznaK – No
Mainzer – No
Budd – No
Schaefer - No

Factor #6

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

Vote:

Hoop – Yes
ZeleznaK – Yes
Mainzer – Yes
Budd – Yes
Schaefer - Yes

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:

Hoop – Yes
ZeleznaK – No
Mainzer – Yes
Budd – No
Schaefer - No

Acting Ch. Hoop explained the voting process to the applicant as follows: Yes, simple majority with a quorum present is in favor of the applicant and a No, simple majority, or a tie vote denies the applicant's request. If the vote is favorable to the applicant, the applicant has one year from the date of the hearing to begin construction or to act on the approved request.

Mr. Zeleznak made a motion to approve a variance (AP0234) submitted by applicant Allen Bocian, property owner of 475 Eastwood Road, Hinckley, Ohio (Permanent Parcel 01603B23028) requesting a variance to construct an accessory building at the stated address, in a location that does not meet the minimum side yard setback of thirty (30) feet required by the Hinckley Zoning Regulations with a variance of fifteen (15) feet.

The motion was seconded by Mr. Schaefer.

Vote: Acting Ch. Hoop – yes, Zeleznak –no, Mainzer – yes, Budd – no (purely cost factor didn't establish hardship), Schaefer – no

Acting Ch. Hoop stated the vote was 3 – 2 for no.

Acting Ch. Hoop 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 to appeal.

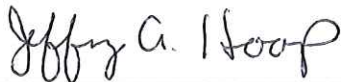
The Board of Zoning Appeals Decision form was signed and a copy given to the applicant.

Acting Ch. Hoop asked for a motion to adjourn the Public Hearing. Ms. Mainzer moved and Mr. Schaefer seconded. All in favor.

The June 26, 2019 Board of Zoning Appeals Public Hearing adjourned at 7:54 p.m.

Minutes by: Judi Stupka, Recording Secretary

Minutes Approved: 8/14/19, 2019



Jeff Hoop, Acting Chairperson




Dave Zeleznak, Member



Julie Mainzer, Member

William Budd, Member



Bill Schaefer, Member