

Ch. Calabro called the December 18, 2019 Board of Zoning Appeals Public Hearing to order at 7:29 p.m.

Roll found: Calabro, Hoop, Zeleznak, Mainzer, Budd. In the audience was Alternate Schaefer, Trustee Schulte, and Zoning Inspector Wilson.

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.

Ch. Calabro stated that any Board member that has any monetary interest or has a conflict including ex parte communication should disclose at this time.

Recording Secretary Stupka read the legal ad and confirmed that the legal notice was mailed to the applicant and adjacent property owners.

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 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.

Ch. Calabro stated that this is a hearing for a variance request submitted by applicant, Heidi O'Neill, Landscape Architect, on behalf of Joseph & Claudia Reyes, property owner of 1213 River Woods Drive, Hinckley, Ohio (PPN 01603B38009) requesting to construct an inground pool, 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.

Ch. Calabro 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.

Ch. Calabro 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. Upon request by Ch. Calabro, Recording Secretary polled the Board as to whether they received

the packet of information and inspected the property at 1213 River Woods Drive, Hinckley, Ohio 44233.

**Response: Calabro – yes and yes inspected on 12/14/19, Hoop – yes and yes inspected on 12/14/19, Zeleznak – yes and yes inspected on 12/14/19, Mainzer – yes and yes inspected on 12/18/19, Budd – yes and yes inspected on 12/14/19.**

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

Ch. Calabro asked Recording Secretary Stupka if any letters, phone calls or emails were received. Recording Secretary Stupka stated there was a letter submitted by the property owner's neighbor, Joe Lechko. The letter was read into the record, a copy of which is on file in the Hinckley Township Zoning Office.

Ch. Calabro 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.

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

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

**Heidi O'Neill, Landscape Architect, 7568 Fairmount, Russell, OH 44072.**

Ch. Calabro swore in Heidi O'Neill.

Ms. O'Neill stated she is a landscape architect representing the property owners, Mr. and Mrs. Reyes. Ms. O'Neill stated the grade in the yard causes the greatest difficulty for the project, the proposed location is the only flat spot in the yard. Ms. O'Neill stated there is a 10' difference from the street to the first floor elevation, from the neighbor to the north there is approximately a 20' elevation difference and from the back of the house to where the pool is proposed there is approximately a 27' difference in elevation. There are trees on the south and east side of the property that the property owner would like to keep. There is a septic system that runs down the hill to the east that is also a factor. Ms. O'Neill stated they received a letter from the neighbor to the south, who is in favor of the project. Joseph Lechko, the neighbor to the north has allowed a construction drive for the building of the pool. Most of the maintenance of the pool will be from the pool deck.

Ch. Calabro asked if that has been explained to Mr. Lechko.

Mr. Zeleznak asked what the increments are that the pool can be built in.

Ms. O'Neill explained that it is a custom built pool. The Reyes want the long pool for therapeutic reasons, for a sports injury. It is approximately 20' x 50'.

Mr. Budd asked if Ms. O'Neill could explain the consequences of changing the pool measurement to 25' x 45'.

Ms. O'Neill stated they wanted the maximum length for laps. Mr. Budd asked if you could do more laps to get the same health benefit. Mr. Budd stated that one of the questions they have to answer is can it be solved any other way than by variance, so if possible can changing dimensions minimize variance.

**Joseph Reyes, 1213 River Woods Drive, Hinckley, OH.**

Ch. Calabro swore in Joseph Reyes.

Mr. Reyes explained the theory of the number of strokes for the highest benefit of aerobic activity and Mr. Reyes stated a 50' pool would give the best benefit.

Mr. Budd asked if what Mr. Reyes is saying is there would be less benefit from a shorter pool and Mr. Reyes stated he is not a doctor so he can't answer that question, but he is hoping for the longer pool.

Mr. Budd asked if they took that out of the equation, could a different size pool with same volume be built with a greater distance between the pool and the property line. Mr. Reyes stated that ultimately they would like to put in a pool for the therapeutic value for his wife. In addition to the therapeutic value, family recreation is also important and the possible increase in property value.

Mr. Zeleznak stated he was concerned about how close it is to the edge, and an additional 5 feet would give additional room to move around the pool.

Discussion followed regarding the length of the pool and the calculation of the swimming strokes and how it affects the size of the pool.

Ms. O'Neill stated that 50' is the minimum of a typical lap pool. Mr. Reyes stated the calculations were based on his wife's measurements.

Ms. Mainzer asked if the location could be shifted at all so the distance from the property line can be more than 4'.

**Claudia Reyes, 1213 River Woods Drive, Hinckley, OH.**

Ch. Calabro swore in Claudia Reyes.

Mrs. Reyes stated that they changed the size of the pool to 47' so the distance from the property line would actually be 5'.

Mr. Reyes stated that the location of their septic system does not allow for placement of the pool anywhere else.

Mrs. Reyes explained the benefits of swimming in a longer pool.

Ch. Calabro asked if they could discuss the maintenance issue of the pool.

Ms. O'Neill stated the cover would be at the south end of the pool and all maintenance could be done from the pool deck.

Ch. Calabro asked if any issue would come up regarding maintenance from the corner where it would be 4' from the property line.

Ms. O'Neill stated that there wouldn't be any maintenance issues in that corner.

Mr. Reyes explained that he had a conversation with his neighbor, Mr. Joe Lechko, regarding Mr. Lechko's concerns about what would happen if Mr. Lechko sold his property. Mr. Reyes explained that they have shared property arrangements with Mr. Lechko and there's never been an issue.

Ch. Calabro asked if Mr. Reyes has to use Mr. Lechko's property to gain access to their property and Mr. Reyes stated that yes they do. Discussion followed regarding concerns about someone new moving into the property next door. Mr. Zeleznak stated there is a concern about what will happen when the neighbor sells his property to someone. Mr. Zeleznak asked Mr. Reyes if they have to use the neighbor's property when they have their septic system pumped and Mr. Reyes stated no they do not.

Mr. Zeleznak asked if a fence could be built by the corner in question and Ms. O'Neill stated that there will be a railing on the north side of the pool deck.

Mr. Budd asked if possibly the neighbor sent the letter because he was concerned about his own yard maintenance. Mr. Reyes stated that the pool wouldn't affect the neighbor's maintenance.

Mr. Budd then asked if they are changing the dimensions of the pool and Ms. O'Neill stated the pool is now 20' x 47'. They are shortening from the septic side. Mr. Budd stated that he thought it was important for them to have a 50' pool to do the laps and Mr. Reyes stated that they are okay with 47'.

Mr. Budd stated that they are a little uncomfortable with the 4' foot set back from the property line and the Board is trying to look for ways to allow the pool.

**Bill Schaefer, 1733 Stony Hill, Hinckley, OH**

Ch. Calabro swore in Mr. Bill Schaefer.

Mr. Schaeffer discussed his thoughts on the benefits of a 50' pool for the cardio benefits.

Ch. Calabro and the other board members had no further questions. Ch. Calabro asked the audience and there were no questions or comments.

Ch. Calabro asked ZI Wilson if he had any thoughts on the maintenance issues and ZI Wilson stated he didn't think there would be any maintenance issues.

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:

Calabro – Yes

Hoop – Yes

Zeleznak – Yes

Mainzer – Yes

Budd – Yes

**Factor #2:** Is the variance substantial?

Vote:

Calabro – Yes

Hoop – Yes

Zelesnak – Yes

Mainzer – Yes

Budd – 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:

Calabro – No

Hoop – No

Zelesnak – No

Mainzer – No

Budd – No

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

Vote:

Calabro – No

Hoop – No

Zelesnak – No

Mainzer – No

Budd – No

**Factor #5**

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

Vote:

Calabro – No as stated.

Hoop – No

Zelesnak – No

Mainzer – No

Budd – No

**Factor #6**

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

Vote:

Calabro – No

Hoop – No

ZeleznaK – No

Mainzer – No

Budd – 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:

Calabro – Yes

Hoop – Yes

ZeleznaK – Yes

Mainzer – 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 the decision was unreasonable or unlawful and will have 30 days from the date of this meeting to appeal.

Ch. Calabro asked for a motion. Mr. Hoop made a motion to approve a variance (AP0239) submitted by applicant Heidi O’Neill, on behalf of Joseph and Claudia Reyes, property owner of 1213 River Woods Drive, Hinckley, Ohio (Permanent Parcel 01603B38009) to construct an inground swimming pool at the stated address, that does not meet the required 30 foot setback. The inground swimming pool will be located 4 feet from the north property line, the variance will be 26 feet. Zoning Reference 6R1.4.E.

The motion was seconded by Mr. ZeleznaK.

Ch. Calabro 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.

Vote: Ch. Calabro – yes; Hoop – yes, ZeleznaK– yes, Mainzer – yes, Budd – yes

Ch. Calabro stated that the variance passed 5-0

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

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

The December 18, 2019 Board of Zoning Appeals Public Hearing adjourned at 8:09 p.m.

Minutes by: Judi Stupka, Recording Secretary

Minutes Approved: \_\_\_\_\_, 2020

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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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Bill Budd, Member