

**Board of Zoning Appeals**

**Dubiel – Variance request**

**April 27, 2011**

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Ch. Manley called the meeting to order at 9:16 p.m.

Roll Found: Manley, Hoop, Zeleznak, Mainzer, Sullivan and Calabro present. Also present: Trustee Catherwood, Zoning Commission Ch. Kamps, Zoning Commission Vice Ch. Siarkowski and the applicant Mr. Tom Dubiel.

Ch. Manley noted that Mr. Sullivan has recused himself from tonight's hearing.

Ch. Manley stated that the Hinckley Township Board of Zoning Appeals acts within the regulation of Section 519 of The Ohio Revised Code and exercises its power as provided under Section 7 & 13 of The Hinckley Township Zoning Regulations, that all hearings are open to the public, that all persons wishing to testify must do so from the podium, be sworn in, and must identify themselves giving their address. Evidence and testimony must be pertinent to the hearing at hand and that it is within his discretion to limit personal comments. He stated he will not permit personal attacks and opinions. Disruptive persons will lose their right to remain at the hearing.

Recording Secretary Gienger read the legal ad.

Recording Secretary Gienger polled the Board as to whether they received the packet of information and inspected the property at 2411 Ridge Road, Hinckley Township (Parcel #01603D31012).

**Response: Manley – yes and yes, inspected on 4/23, Hoop – yes and yes, inspected the property on 4/23, Zeleznak – yes and yes, inspected the property on 4/26, Mainzer – yes and yes, inspected the property on 4/23, Calabro – yes and yes, inspected the property on 4/26.**

Recording Secretary Gienger stated that no written correspondence was received and no residents visited the Township regarding this variance request.

Ch. Manley stated that the hearing tonight is for an application submitted by Mr. Tom Dubiel for a variance from enforcement of certain zoning regulations.

Mr. Tom Dubiel, owner of the property located at 2411 Ridge Road, Hinckley Ohio was sworn in accordingly.

Ch. Manley asked Mr. Dubiel if there was any additional information that he would like to submit at this time. Mr. Dubiel stated there was no further information. He stated he just wanted to build a building that is functional.

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Ms. Calabro asked Mr. Dubiel why he wanted to build the building. Mr. Dubiel stated he wanted to build the building to store equipment, tractors, camping equipment, roto-tillars, etc.

Ms. Calabro asked if it was to store all personal equipment. Mr. Dubiel stated it was just for his personal equipment.

Mr. Zeleznak asked Mr. Dubiel if there were any other locations he looked at on his property to build the building. Mr. Dubiel stated that all other locations are lower than his house and the site he is considering and the lower areas are where all the water from the property drains.

Mr. Zeleznak noted that on the drawing Mr. Dubiel submitted, the septic tank impedes in one direction and there are drainage issues in the other directions. Mr. Dubiel stated that is correct. He stated that there is an old oil well road that runs through his property and that is where all of the drainage runs through his property. If he were to build in these locations, he would need to alter the drainage of the entire property.

Ch. Manley noted for the record that when inspecting the site on 4/23, all the areas Mr. Dubiel is noting were very wet.

There being no further testimony offered, Ch. Manley 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

Mainzer – Yes

Zeleznak – Yes the property will yield a reasonable return with our without the variance

Hoop – Yes

Manley – Yes

Factor #2

Is the variance substantial?

Vote:

Calabro – No

Mainzer – No

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ZeleznaK – No, considering it is a rear lot development and based on how the house sits compared to the other lots

Hoop – No

Manley – 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:

Calabro – No

Mainzer – No

ZeleznaK – No

Hoop – No

Manley – No

Factor #4

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

Vote:

Calabro – No

Mainzer – No

ZeleznaK – No

Hoop – No

Manley – No

Factor #5

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

Vote:

Calabro – Yes she believes he said yes

Mainzer – Don't know

ZeleznaK – Don't know, it was not brought out in testimony

Hoop – Don't know

Manley – Don't know

Factor #6

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

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Vote:

Calabro – Yes

Mainzer – Yes, possibly but this appears to be the best solution

ZeleznaK – Yes at great expense

Hoop – Yes at great expense

Manley – 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:

Calabro – Yes

Mainzer - Yes

ZeleznaK – Yes

Hoop – Yes

Manley – Yes

Ch. Manley asked for a motion for approval of the variance.

Mr. Hoop stated that this is a motion for Mr. Tom Dubiel of 2411 Ridge Road, Sub Lot 85, Hinckley Township, Ohio Permanent Parcel # #01603D31012, for a variance of 52’ to building in front of the primary residence, affecting Building Code 6R1.2.B.2 per the drawings as attached.

Ms. Mainzer seconded the motion.

**Vote: Manley – Yes, Hoop – Yes, ZeleznaK – Yes, Mainzer – Yes, Sullivan - Yes.**

**Passed by a vote of 5 to 0**

Ch. Manley stated that any person adversely affected by a decision of the Board of Zoning Appeals has 30 days to get a copy of the minutes and file suit. A copy of the signed documents will be given to the applicant today.

Ch. Manley made a motion to adjourn the work session. Ms. Mainzer moved and Mr. ZeleznaK seconded.

Meeting was adjourned at 9:30 p.m.

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Todd Gienger, Recording Secretary

Minutes Approved: \_\_\_\_\_, 2011

\_\_\_\_\_  
David Manley, Chairman

\_\_\_\_\_  
(Excused)  
Dottie Fox, Vice Chairman

\_\_\_\_\_  
Jeff Hoop, Member

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Dave Zeleznak, Member

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Julie Mainzer, Member

\_\_\_\_\_  
(Recused)  
Kevin Sullivan, Alternate Member

\_\_\_\_\_  
Josephine Calabro, Alternate Member