

**Board of Zoning Appeals**

**James – Variance request**

**November 28, 2012**

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Ch. Manley called the meeting to order at 7:33 p.m.

Roll Found: Manley, Fox, Hoop, Zeleznak, and Calabro present. Also present were Trustee Catherwood, Zoning Inspector Schaefer, Mr. Joe Buttitta and the applicant Mr. Jody James.

Ch. Manley stated the hearing is for a variance submitted by property owner Mr. Jody James of 2089 Bellus Road, Hinckley Township, Ohio.

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 polled the Board as to whether they received the packet of information and inspected the property at 2089 Bellus Road, Hinckley Township (Parcel #01603C09044).

**Response: Manley – yes and yes inspected on 11/24, Fox – yes and yes inspected on 11/26, Zeleznak – yes and yes inspected on 11/25, Hoop – yes and yes inspected on 11/24, Calabro – yes and yes inspected on 11/24.**

Recording Secretary Gienger read the legal ad.

Mr. Gienger noted that there were no written notices or phone calls regarding this variance request.

Mr. Jody James of 2089 Bellus Road, Hinckley, Ohio was sworn in accordingly.

Ch. Manley asked Mr. James to read his letter he submitted into the public record. Mr. James read his letter into the record.

Ch. Manley asked Mr. James if there was anything he would like to add other than the packet of information he submitted. Mr. James stated that he would like to submit a drawing showing the exact square footage of the building he would like to add. The drawing shows a total square footage of 1760SF, which includes 1088SF of addition to the existing 576SF building plus 96SF for the existing pool shed. He stated he is just requesting a variance off the side yard setback as

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the current building is 22' from the side line. He also noted that the addition would assist in giving privacy from the neighbors' yard when they are using the swimming pool. He also stated that everything he does is to try and improve the property and the township, that when he does something, he does it 100% and wants it to improve his property and all those properties around him.

Ch. Manley asked if the 1088SF addition included a second floor. Mr. James stated that it is a single story building that is open above, that it is higher than the existing structure, but it is just to have a nice high, open ceiling. He also stated that he would have liked to build further back but couldn't due to the septic system.

Ms. Fox asked Mr. James if he was aware of the regulations prior to purchasing the property. Mr. James stated that he was not aware of the regulations and that also he wasn't really planning on adding on to the building originally when he purchased the property.

Ms. Calabro asked Mr. James if the pool was existing when he bought the property. Mr. James stated that he added the pool after purchasing the property.

Being no further questions, Mr. James was seated.

Zoning Inspector Bill Schaefer was sworn in accordingly.

Ch. Manley asked ZI Schaefer if he saw any problems with this addition. ZI Schaefer stated that there were no issues that he was aware of. He noted that the original builder miss-marked the building/property line because the previous zoning inspector measured the property based on the stakes and noted it as 30' so he signed the permit and noted it as compliant.

Mr. Zeleznak asked ZI Schaefer if the stakes were wrong or if it was measured wrong. ZI Schaefer noted it was hard to know what happened. He noted there are two inspections typically, one is a stake inspection and one is after the holes are dug. Mr. Zeleznak noted that it stated that only one inspection was done. ZI Schaefer noted that the previous inspector did a hole inspection and not the stakes, but doesn't know for sure. He also noted that trying to talk to the previous inspector; it would be hard for him to remember details of an inspection that many years ago.

Ms. Fox asked ZI Schaefer if he would do both the stake and the hole inspection for this construction project. ZI Schaefer stated that he will be doing both inspections and signing off of those marks. He also noted that 2-4 times a year Ms. Peterlin reviews the records to see who hasn't called for inspections and then he visits those sites to see if anything has been done. He stated sometimes they haven't started construction and other times, it is complete. If they are

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complete, he measures the finished work to make sure it complies and the owners are liable for fines if their construction project doesn't comply.

Being no further questions, ZI Schaefer was seated.

Mr. Joe Buttitta, neighbor of Mr. Jody James was sworn in accordingly.

Mr. Buttitta stated that he lives across the street from Mr. James and that everything he does is beautifully done and improves the whole community. He feels that Mr. James should be allowed to build this building as he knows it will be done at a high level of work and will help improve his property and all the surrounding properties.

Being no questions, Mr. Buttitta was seated.

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

Zelesnak – Yes

Hoop – Yes

Fox – Yes

Manley – Yes

Factor #2

Is the variance substantial?

Vote:

Calabro – No

Zelesnak – No

Hoop – No

Fox – No

Manley – No, it is only 7'-8'

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?

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Vote:

Calabro – No

ZeleznaK – No

Hoop – No

Fox – No

Manley – No

Factor #4

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

Vote:

Calabro – No

ZeleznaK – No

Hoop – No

Fox – No

Manley – No

Factor #5

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

Vote:

Calabro – No per the testimony

ZeleznaK – No per the testimony

Hoop – No

Fox – No

Manley – No

Factor #6

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

Vote:

Calabro – No

ZeleznaK – No not for what needs to be done

Hoop – No

Fox – No

Manley – No

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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

Zeleznak – Yes

Hoop – Yes

Fox – Yes

Manley – Yes

Ch. Manley noted that he measured 23’3” but ZI Schaefer measured 22’ so in the motion he would like to give some extra footage to assure he is in compliance.

Ms. Fox stated that this is a motion for a variance (AP#0166) from Mr. Jody James of 2089 Bellus Road, Hinckley Township, Ohio (Permanent Parcel #01603C09044) from the Hinckley Zoning Regulations for a variance of 8’ for the existing building and the addition to the existing building from the 30’ side yard setback regulation.

Mr. Zeleznak seconded the motion.

Ch. Manley 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 and the minutes of this appeal will be journalized on the second Wednesday of December. A copy of the signed documents will be given to the applicant at the end of this hearing.

**Vote: Manley – Yes, Fox – Yes, Hoop – Yes, Zeleznak – Yes, Calabro - Yes.**

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

Ch. Manley asked for a motion to adjourn the meeting. Mr. Zeleznak moved and Ms. Calabro seconded the motion.

**Vote: Manley – Yes, Fox – Yes, Hoop – Yes, Zeleznak – Yes, Calabro - Yes.**

Meeting was adjourned at 8:00 p.m.

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Todd Gienger, Recording Secretary

Minutes Approved: \_\_\_\_\_, 2012

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David Manley, Chairman

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Dottie Fox, Member

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

\_\_\_\_\_  
Dave Zeleznak, Member

\_\_\_\_\_  
(Absent)  
Julie Mainzer, Member

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