

Board of Zoning Appeals
Pilot Signs – Variance request
January 22, 2014
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Ch. Manley called the meeting to order at 7:35 p.m.

Roll Found: Manley, Hoop, Zeleznak, Mainzer and Majeed present. Also present was Trustee Schulte, Trustee Catherwood, Zoning Inspector Schaefer, Zoning Commission Chairman Nehrenz, Mr. Ed Gonzales and Mr. Mike Hozalski.

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.

Ch. Manley stated the hearing is for a variance submitted by Pilot Signs – Ed Gonzales, contractor, on behalf of Fresenius Medical Care, occupant located at 2583 Center Road, Hinckley Township, Ohio (Permanent Parcel #01703A37023) and property owner HCP I LTD – David Terry of 2557 Center Road, Hinckley, Ohio (Permanent Parcel #01703A37011) requesting a variance to install two (2) directional signs at locations that do not meet the requirements as defined as Sign-Directional “...at or near the public right of way, directional or guiding vehicles from the street onto private property” of the Hinckley Zoning Regulations.

Recording Secretary Gienger read the legal ad.

Ch. Manley noted that he called the inspection to order at 10:00am on January 18, 2014. He noted in attendance were Ch. Manley, Mr. Hoop and Ms. Mainzer for the public inspection.

Recording Secretary Gienger polled the Board as to whether they received the packet of information and inspected the property at 2583 Center Road, Hinckley Township, Ohio (Permanent Parcel #01703A37023).

Response: Manley – yes and yes, Zeleznak – yes and yes inspected on 1/19/14 at 9:00am, Hoop – yes and yes, Mainzer – yes and yes, Majeed – yes and yes inspected on 1/18/14 in the afternoon.

Mr. Gienger noted that there were no phone calls and no letters received regarding this variance request.

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Mr. Ed Gonzales was sworn in accordingly.

Ch. Manley asked Mr. Gonzales if he had any additional information beyond what was submitted and how this process was started. Mr. Gonzales stated he did not have any additional information to submit. He stated his client contacted him to have signs installed to direct their patrons to their facility. So he looked into the regulations regarding signs and after discussion with Zoning Inspector Schaefer, it was noted they would need to submit for a variance.

Being no further questions, Mr. Gonzales was seated.

Zoning Inspector (ZI) Schaefer was sworn in accordingly.

Ch. Manley asked ZI Schaefer to explain his position. ZI Schaefer noted that the Hinckley Regulations allow for directional signs but by definition only “at or near the right of way”. So he noted the 1st sign near the drive entrance off Route 303 was acceptable but the other two back further in the industrial park were not due to this definition. He noted he reviewed this with Trustee Catherwood and discussed it with the Zoning Commission and it was agreed that he was interpreting this correctly.

Ch. Manley noted that no permit is required for a directional sign per section 10.3.D. ZI Schaefer noted that is correct, but then by definition is has to be at or near the right of way, which the two signs in question are not.

Ch. Manley asked if this is a variance request from the definition or to override ZI Schaefer’s decision. ZI Schaefer noted that in order to read the regulations, the definitions need to be used and even though a permit isn’t required at the right of way sign, the signs in the back of the industrial park are not near the right of way and therefore need a variance from the regulations.

Being no further questions, ZI Schaefer was seated.

Zoning Commission (ZC) Chairman Nehrenz was sworn in accordingly.

Ch. Manley asked ZC Ch. Nehrenz if he was on the commission throughout the re-writing of the regulations. ZC Ch. Nehrenz stated he was and noted that the sign section probably took 50% or more of the time to rewrite the regulations. He noted it was the most difficult section to get written. He noted that he could not speak for the Zoning Board but he doesn’t feel it was the intent to require a variance for this situation. He noted that they worked diligently to get this

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section correct but there may be things they will need to review as they come up, like this situation. He noted there are not a lot of situations like this in Hinckley so they will need to review it in future meetings.

Being no further questions, ZC Ch. Nehrenz was seated.

ZI Schaefer retook the stand.

Ch. Manley asked what happens if additional signs are requested. ZI Schaefer noted that where the signs are being requested are on a private drive and if the owner doesn't allow permission for future signs, there will be no more variance requests submitted. He noted that the Zoning Commission did a great job writing the new regulations but the sign section was the most difficult and doesn't think this was intended for this to be required as such.

Ms. Mainzer asked ZI Schaefer what is the definition of near the right of way. ZI Schaefer noted that there is nothing in the regulation for business districts in this regard but in the residential section for directional signs it notes near is 10' from the right of way. So he interpreted that into the business section as 10' showed the Boards intention for this regulation in his opinion.

Being no further questions, ZI Schaefer was seated.

Trustee Catherwood, was sworn in accordingly.

Trustee Catherwood noted she agreed with ZI Schaefer's assessment of the regulations and that ultimately they are asking for a variance from the strict interpretation of the definition of directional signs.

Ch. Manley asked Trustee Catherwood who wrote the definition. Trustee Catherwood noted that the Zoning Commission did and that they may review it to relax the definition.

Ch. Manley asked Trustee Catherwood if this was a variance then from the definition of directional signs. Trustee Catherwood noted that in her opinion that is correct.

Being no questions, Trustee Catherwood was seated.

Mr. Mike Hozalski, was sworn in accordingly.

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Mr. Zeleznak asked Mr. Hozalski what is the need for the directional signs and wouldn't the ambulances or patrons know how to get to their facility. Mr. Hozalski noted that he does not deal with the ambulance drivers but knows he hears that a lot of times they cannot find their way back to their facility. He said there are a lot of people that come to the facility from out of town so they have difficulty finding their way back to their facility.

Mr. Zeleznak asked Mr. Hozalski what their hours of operation were. Mr. Hozalski noted they are open from 5am to 5pm daily.

Being no further questions, Mr. Hozalski 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:

Majeed – No

Mainzer – Yes

Zeleznak – Yes

Hoop – Yes

Manley – Yes

Factor #2

Is the variance substantial?

Vote:

Majeed – No

Mainzer – Yes, changing definition

Zeleznak – Yes, changing definition

Hoop – No

Manley – Yes, changing definition

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:

Majeed – 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:

Majeed – 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:

Majeed – Probably Yes
Mainzer – Don't know
ZeleznaK – No it is a new regulation
Hoop – No
Manley – Don't know when purchased and it is a new regulation

Factor #6

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

Vote:

Majeed – No
Mainzer – No
ZeleznaK – No
Hoop – 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:

Majeed – Yes

Mainzer – Yes

Zeleznak – No to spirit and intent and Yes to substantial justice

Hoop – Yes

Manley – Yes

Ch. Manley stated that this is a motion for a variance (AP#0176) submitted by Pilot Signs – Ed Gonzales, contractor, on behalf of Fresenius Medical Care, occupant located at 2583 Center Road, Hinckley Township, Ohio (Permanent Parcel #01703A37023) and property owner HCP I LTD – David Terry of 2557 Center Road, Hinckley, Ohio (Permanent Parcel #01703A37011) requesting a variance from the strict definition of Directional Signs in the Hinckley Zoning Regulations and to allow two directional signs to be installed as submitted that are not “at or near the right of way” of the business establishment.

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 February. A copy of the signed documents will be given to the applicant at the end of this hearing.

Vote: Manley – yes, Zeleznak – yes, Hoop – yes, Mainzer – yes, Majeed – yes

Passed by a vote of 5 to 0

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

Vote: Manley – yes, Zeleznak – yes, Hoop – yes, Mainzer – yes, Majeed – yes

Meeting was adjourned at 8:17 p.m.

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Todd Gienger, Recording Secretary

Minutes Approved: _____, 2014

David Manley, Chairman

(Absent)
Josephine Calabro, Member, (Vice Ch.)

Jeff Hoop, Member

Dave Zeleznak, Member

Julie Mainzer, Member

(Absent)
William Budd, Alternate Member

Matthew Majeed, Alternate Member