

Chairman J. Calabro called the March 25, 2020 Board of Zoning Appeals Public Hearing to order at 7:00 p.m.

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 exparte communication should disclose at this time.

Roll found: Calabro, Hoop, Zeleznak, Mainzer, Wolny. Mr. Budd has an excused absence. In the audience: Alternate Schaefer and Trustee Schulte, the applicant and his builder and the applicant's neighbors.

Ch. Calabro stated that out of an abundance of caution, and under the current circumstances, the meeting is being conducted following the rules of social distancing and the meeting will be conducted meeting as briefly and to the point as possible, and it would be appreciated if audience members could keep comments to the point and pertinent to this meeting.

Ch. Calabro 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 request submitted by applicant Frank K. Chesek, property owner of 2366 Ridge Road, Hinckley, Ohio (PPN 01603C30026) 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.

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. Ch. Calabro polled the Board as to whether they received the packet of information and inspected the property at 2366 Ridge Road, Hinckley, Ohio 44233.

Response: Calabro – yes and yes inspected on 3/21/2020, Hoop – yes and yes inspected on 3/21/2020, Zeleznak – yes and yes inspected on 3/21/2020, Mainzer – yes and yes inspected on 3/21/2020, Schaefer – yes and yes inspected on 3/21/2020, Wolny – yes inspected on 3/21/2020.

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 stated that according to Zoning Secretary Suzanne Peterlin there were no letters, phone calls or emails received.

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.

Frank Chesek, 2366 Ridge Road, Hinckley, OH.

Mr. Frank Chesek, applicant, was sworn in accordingly.

Ch. Calabro asked Mr. Chesek to provide to the Board a brief summary of his request.

Mr. Chesek explained he purchased his house last year, and he and his wife did the necessary research to determine if the lot would be buildable. Mr. Chesek completed necessary requirements to make the lot buildable, including lot consolidation, based on his conversation with Zoning Inspector Wilson. Mr. Chesek stated the plan for his home includes a detached garage, which is what he needs the variance for. The variance is over 13 feet to allow for clearance from his house when backing his trailer in and out of the proposed garage. The existing barn on the property is closer to the property line than where he wants to build and he will take down the existing barn at the request of the Zoning Inspector. The placement of this garage further back will interfere with the swales designed for water movement. He is already 495 feet back and has to get the water to drain onto Ridge Road, so he has a minimal pitch allowance. Before they purchased the house he emailed the Zoning Inspector and asked about specifications and he received an email from Zoning

Inspector Wilson with specifications that stated a 15 foot side yard setback, so they based their plans on that information. Only recently did they find out the side set back is 30 feet.

Ch. Calabro asked if they could expand on the water issue and if he could explain the location of the proposed garage.

Mr. Chesek explained that the proposed garage is a front load, and if they don't have the variance it would push the location of the proposed garage too close to the house, so it would be difficult to get his trailer in and out of the proposed garage without possibly hitting the house.

Ch. Calabro asked Mr. Chesek to explain the picture he submitted regarding the water issue.

Mr. Chesek explained that when he purchased the property he wasn't aware of the water issues and he would like to get the water to drain to the street.

Ch. Calabro asked if there are any issues with the septic and Mr. Chesek stated no. Ch. Calabro asked if they could push it closer to the septic and Mr. Chesek stated he will talk to his builder.

Scott Strayer – 165 5th Street, Suite B, Barberton, OH

Mr. Strayer was sworn in accordingly.

Mr. Strayer stated he is the builder. He explained that there is 2.4 feet of fall from the house to Route 94 with a distance over 420 feet. Mr. Strayer referred to the topo to explain that the property is very flat, so the farther back (west) they go the more difficult for the drainage. If they have to build farther to the north, they will have to push the location of the proposed garage farther west which will push them into the swale. The water cannot be drained back because that is where the septic is, so the water has to go forward toward the street. To move north they have to go west, that is their challenge. The septic is center of the lot farther back from the proposed location.

Ch. Calabro asked if the hardship is the waterflow. Mr. Strayer stated that yes the waterflow is the hardship and if they have to locate the proposed garage further north to accommodate the 30 foot setback they will be behind the house and unable to fit the trailer into the garage because it will be too close to the house.

Mr. Strayer stated they based the plan on the 15 foot setback information they originally received.

Mr. Zeleznak, referring to the plans, asked if they made a sweeping curve what would be the issue.

Mr. Strayer stated that the further back they push the location, the farther the water will have to drain, 500 – 550 feet, which is a longer distance to run the water when land is very flat.

Ch. Calabro asked Mr. Chesek if he was aware of the zoning code requirements when he purchased the property and Mr. Chesek stated before he purchased the property he contacted Zoning Inspector Wilson. They received an email from Zoning Inspector Wilson detailing setback requirements of 15 feet from the side. Mr. Chesek stated he only recently found out about the 30 foot side yard setback requirement.

Ch. Calabro asked if he wanted to submit Zoning Inspector Wilson's email now and it was submitted into the record.

Ch. Calabro asked Mr. Chesek what he is using the proposed garage for.

Mr. Chesek stated he will be using it for storage. He will not be running a business out of the building.

Ch. Calabro asked if anyone from the audience would like to speak.

Gerald Hartford, 2388 Ridge Road, Hinckley, OH

Mr. Hartford was sworn in accordingly.

Mr. Hartford stated he lives next door and he is concerned that if the proposed garage is built next to his property line it will kill his trees on the north and south side. He has a good tree line down the south and the water from the lake is filling his side yard.

Ch. Calabro stated that is an issue for Medina County.

Mr. Hartford asked why Mr. Chesek has to encroach his side. Ch. Calabro stated it's not encroaching, and asked where the trees are. Mr. Hartford stated the trees are on the property line.

Ch. Calabro thanked Mr. Hartford.

Iris White – 2388 Ridge Road, Hinckley, OH

Ms. White was sworn in accordingly.

Ms. White is the neighbor and she stated that when Mr. Chesek bought the property he saw the neighbors' property and now he is complaining that the building and the yard are unsightly.

Ch. Calabro stated Mr. Chesek did not bring that up tonight because that is not a hardship and the decision will not be based on that.

Ms. White stated there is a mature tree line, mature grape vines and berry bushes and many ornamental tree saplings. She is concerned that once they dig in the ground the roots are connected and that could kill all of these trees and bushes.

Ch. Calabro stated it is Mr. Chesek's property to dig on.

Ms. White stated they respect property lines on both sides, they are tree lovers and they don't want to disrupt the beauty of the Township.

Ch. Calabro asked Mr. Chesek if he would like to address the neighbors' concern for the trees.

Mr. Chesek stated he wasn't aware of their concern for the trees until tonight and one of the main reasons they bought the property is because it is a wooded lot and they want to keep as many trees as possible. Mr. Chesek stated he was advised not to keep trees too close to the house because they could die and fall onto the house. Mr. Chesek stated he wants to save as many trees as possible and maintain the beauty of the property.

Mr. Strayer stated they walked the property with a tree contractor to determine how they could save as many trees as possible. If the proposed garage is further back that would require more trees to be removed and more dirt to be pushed. They are being the least invasive as possible.

Ms. White stated she felt the water problems on the property began when the previous owner purchased the property and plugged the pond. Discussion followed regarding the amount of water on the property.

Mr. Schaefer stated that the email sent from Zoning Inspector Wilson contained the correct information at that time because Zoning Inspector Wilson was giving information on a legal non-conforming lot. The information was given before the lots were consolidated.

Mr. Zeleznak asked if the swales are intended to move the water.

Mr. Strayer explained that as you are looking at the lot from the street the water flows from behind the pond, northwest to southeast out to the street. They will install a culvert from the pond, underneath the drive and they will put in french drains and swales to try to move the water out. They didn't put the garage on the north side because there is too much water in that location.

Ch. Calabro asked if there were any more questions or comments. There were none.

Ch. Calabro and the other Board members had no further questions.

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

Zelesnak – Yes

Mainzer – Yes

Wolny – Yes

Factor #2: Is the variance substantial?

Vote:

Calabro - No

Hoop – No

Zelesnak – No

Mainzer – No

Wolny - 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

Hoop – No

Zelesnak – No

Mainzer – No

Wolny – 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

Wolny – No

Factor #5

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

Vote:

Calabro – Yes

Hoop – Yes

Zelesnak – Yes

Mainzer – No

Wolny – No

Factor #6

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

Vote:

Calabro – Yes

Hoop – No

Zelesnak – Yes

Mainzer – No

Wolny – 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

Zelesnak – Yes

Mainzer – Yes

Wolny – Yes

Ch. Calabro asked for a motion. Mr. Hoop made a motion to approve a variance (AP0240) submitted by applicant Frank K. Chesek, property owner of 2366 Ridge Road, Hinckley, Ohio (Permanent Parcel 01603C30026) 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. Zoning Reference 6R1.4.E. proposing the variance to be 13 feet.

The motion was seconded by Mr. Zelesnak.

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 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, Wolny – 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. Zeleznak seconded. All in favor.

The March 25, 2020 Board of Zoning Appeals Public Hearing adjourned at 7:44 p.m.

Minutes by: Judi Stupka, Recording Secretary

Minutes Approved: _____, 2020

Josephine Calabro, Chairperson

Jeff Hoop, Vice-Chairperson

Dave Zeleznak, Member

Julie Mainzer, Member

Gary Wolny, Alternate