

YORK TOWNSHIP BOARD OF APPEALS

October 13, 2022

The York Township Board of Zoning Appeals held their monthly meeting in the York Town Hall/Fire complex on October 13, 2022.

Christine Barnes called the meeting to order at 6:30 pm.

The Pledge of allegiance was said.

Board Members Present:

Christine Barnes, Ronald Fabich, Chris Kosman, Roger Mittler, and Alternate Jessica Gerspacher were present. Richard Hill was unable to attend.

Christine Barnes asked Alternate Jessica Gerspacher to come forward to be on the Board in the absence of Richard Hill.

Guests:

Stephan Ibos-Zoning Inspector, Robert Hinkle, Paulette Goll, David Hull-Board Member of the York Township Zoning Commission

Minutes:

The Board Members reviewed the proposed minutes from the March 10, 2022 meeting. Roger Mittler made a motion to approve the proposed minutes. Jessica Gerspacher seconded the motion. Roll Vote: Christine Barnes-aye; Ronald Fabich-aye; Chris Kosman-aye; Roger Mittler-aye; Jessica Gerspacher-aye. Minutes approved.

Public Hearing – Robert Ross Hinkle - Variance

Christine Barnes opened the Public Hearing for Robert Ross Hinkle.

Mary Lenarth read the legal ad as published in the September 27, 2022 edition of the Medina County Gazette:

The York Township Board of Zoning Appeals will hold a public hearing , October 13, 2022, 6:30 pm at the York Township Hall/Fire Complex, 6609 Norwalk Road to consider a variance request from Robert Ross Hinkle, 4599 Abbeyville Road, Medina, Ohio (Parcel # 045-05D-19-003) for a variance from Article III, Section 304.02.A Permitted Uses; of the York Township Zoning Resolution. The request is for a variance to build a new home in an Industrial District. Robert Hinkle would like to remain living on the property and build the new house; then demolish the existing house.

Christine Barnes swore in Robert Ross Hinkle and Steve Ibos-Zoning Inspector.

Christine Barnes asked Robert Ross Hinkle to explain his intentions.

Robert Ross Hinkle explained he wants to obtain a variance allowing him to build a house on his property which is zoned Industrial, at the completion of the new house the old house will be demolished; the old house was built in 1845 and is not worth trying to save. Robert Ross Hinkle went on to explain he moved into the current home in 1989; thirteen (13) years before the property was zoned Industrial; if variance is granted all setbacks and building requirements will be adhered to.

Roger Mittler asked Steve Ibos why this variance request is before the York Township Board of Zoning Appeals. Roger Mittler explained he feels this is something that should go before the York Township Zoning Commission to be rezoned as R1, Residential.

Steve Ibos explained this is not a permitted use for an Industrial area and was directed to go down this path to try for approval for Robert Ross Hinkle to continue to use as the property as it is being used today.

Roger Mittler explained this is at least twice the residents have gone before the Board of Zoning Appeals with a situation like this and feels this should be put to the Zoning Commission and have this rezoned R1 Residential.

Board Members and Steve Ibos discuss rezoning issues in York Township. Steve Ibos explained the York Township Zoning Commission is working on writing a new Comprehensive Plan and thought this might be an area to go back to and revisit.

Steve Ibos explained that Robert Ross Hinkle just wants to know if he can move forward with his plans on this property.

Roger Mittler asked Robert Ross Hinkle when he plans to start building. Robert Ross Hinkle explains he wanted to get the approval first before he makes any other plans.

Roger Mittler explained he is not opposed to the request of Robert Ross Hinkle, he just feels that he is asking for a variance when he should not have to. Roger Mittler stated he does not feel that Robert Ross Hinkle should be charged for this meeting.

Steve Ibos stated if this goes through the Zoning Commission this should not even be by Robert Ross Hinkle's request, we should just be doing it, right?

Roger Mittler explained he is not upset with Steve Ibos, just he feels the zoning should be cleaned up.

Steve Ibos stated this is probably the right way to go about this is to get this rezoned.

Steve Ibos is not trying to sway the Board Members in anyway; but for the sake of Robert Ross Hinkle and being able to move forward with his plans for this property, could the variance be approved if the Board Members sees fit.

Roger Mittler stated sure it could be approved if the Board Members said so; but the Board Member do not have any guarantee that the York Township Zoning Commission is going to go back and look at these problem areas and straighten things out.

Steve Ibos stated he does not want Robert Ross Hinkle to be delayed with his plans.

Roger Mittler stated that is why he is trying to make it clear that he is not against what Steve Ibos is requesting, this is the third time we have had a variance like this.

Christine Barnes asked what the time frame would be to rezone the property and move forward with building a new house for Robert Ross Hinkle. Steve Ibos stated much longer. David Hull stated York Township would not want to do spot zoning. David Hull also stated if you would try to rezone the property it would take at least three (3) to five (5) months.

Board Members, Steve Ibos and David Hull discuss zoning problems in York Township.

Roger Mittler explained why the Board Member are required to go through the Duncan factors.

Duncan Factor #1:

- . *Will the property yield a reasonable return.*
- . *Can there be a beneficial use of the property without the variance.*

Roger Mittler answered yes, they could get a reasonable return on the property, and they could continue to use it as a residential property without the variance.

Paulette Goll asked to be sworn in. Christine Barnes swore in Paulette Goll.

Paulette Goll explained Robert Ross Hinkle has Parkinson's disease and is progressively getting worse; the new house will have handicap features to make sure he can live in it. Paulette Goll stated if Robert Ross Hinkle is not able to obtain the variance then the choices they have are very grim for them. Paulette Goll stated they need this new house; Robert Ross Hinkle wants to stay where he is, the longer they wait the more the interest rates will be going up and with their age it will be very difficult. Paulette Goll asked with theses factors for the Board Members to please consider their request.

Duncan Factor #1 continued-- Ronald Fabich answered yes. Jessica Gerspacher answered yes. Chris Kosman answered yes. Christine Barnes and the Board Members discussed in detail this Duncan Factor.

Christine Barnes does not feel this question is fair.

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

Roger Mittler answered no, because all they want to do is to replace an existing house with a new house; they are not changing the character of the property. Ronald Fabich agrees, they are keeping it Residential.

*Duncan Factor #3:
. Will the essential character of the neighborhood be substantially altered?
. Will adjoining properties suffer a substantial detriment if the variance is granted?*

Board Members agreed the neighborhood will not be altered.

*Duncan Factor #4:
. Will the variance adversely affect the delivery of governmental services?*

Chris Kosman answered he thinks they can respond better than most residential properties. Steve Ibos mentioned that Fire Chief Jason Creamer approved of the variance.

*Duncan Factor #5:
. Did the property owner purchase the property with the knowledge of the zoning restrictions?*

Robert Russ Hinkle stated when he purchased the property he was not aware of the zoning restrictions.

*Duncan Factor #6:
. Can the problem be solved by some matter other than the granting of a variance?*

Roger Mittler answered yes but it is going to take five (5) months for York Township to rezone it R1. Residential.

*Duncan Factor #7:
. Does the variance preserve the “spirit and intent” of the zoning requirement and Will “substantial justice” be done by granting the variance?*

Roger Mittler answered yes because the property owner did not cause any of this. Ronald Fabich agreed.

Christine Barnes asked if anyone was prepared to make a motion.

Roger Mittler made a motion to grant a variance request from Robert Ross Hinkle, 4599 Abbeyville Road, Medina, Ohio (Parcel # 045-05D-19-003) for a variance from Article III, Industrial District; Section 304.02.A Permitted Uses; of the York Township Zoning

Resolution. The request is for a variance to build a new home in an Industrial District. Robert Ross Hinkle has stated after the new house is built the existing house will be demolished the time frame for demolishing the existing house is one-hundred eighty (180) days after final inspection by the Medina County Building Department.

Chris Kosman seconded the motion.

Christine Barnes asked Robert Ross Hinkle if one-hundred eighty (180) days after he moves into his new home is a reasonable amount of time for him to demolish the existing house. Robert Ross Hinkle said he thought it would be enough time.

Roll call: Christine Barnes-aye; Ronald Fabich-aye; Chris Kosman-aye; Roger Mittler-aye, the reason he is voting aye is that Duncan Factor #2 will not alter the neighborhood, Duncan Factor #3 the variance will not affect fire and ambulance services; and Jessica Gerspacher-aye. Motion approved.

Roger Mittler stated he wants it to go on record and may be Steve Ibos can bring it up to the York Township Trustees that Roger Mittler feels that Robert Ross Hinkle should get his four-hundred (\$400) dollars back for this Pubic Hearing. Roger Mittler thinks they should not have been required; just like the last property owner on Fenn Road, or charged by York Township for this type of variance.

Roger Mittler also stated you cannot go on what a Realtor tells you regarding zoning; they will tell you, that you are good; the property owner has to research this on their own.

Correspondence:

There was no Correspondence.

Zoning – Steve Ibos

Steve Ibos stated he would like to mention that he has approval to go ahead with the Comprehensive Plan by Trustees. He submitted a grant to the Medina County Planning Commission, which was received. Steve Ibos also mentioned George Smerigan will be helping the York Township Zoning Commission; this will probably be starting towards the end of this year and go into next year. Steve Ibos mentioned to the Board Members if there is something that is false or not working within the Comprehensive Plan that it should be noted and considered as they are working on the Comprehensive Plan.

Roger Mittler stated he feels that every place of industrial property should be looked at; it does not make sense that it is still zoned industrial. Board Members, Steve Ibos and David Hull discussed industrial zoning.

Roger Mittler would like to mention to the Board Members that years ago he went to a class regarding the Duncan Factors they mentioned and that by using the Duncan Factors if it ever went to court the judge would use their comments of why we did or did not grant a variance. Roger Mittler also stated he was told when you make your vote whether you say yes or no, you should site some factors as to why you are making your decision,

then it is public record that if it ever went to court the judge would have that right in front of them and understand why the decision was made or why you chose to make the decision one way or another. Roger Mittler thought it was probably the Medina County Prosecutor that came in and gave the class. Roger Mittler explained it really protects the Board Members and York Township.

Christine Barnes asked Steve Ibos if he had anything else.

Steve Ibos mentioned Wolff Brothers Supply did come in with their final plans; they did change the road that goes around the new addition therefore, Wolff Brothers Supply will be going before the York Township Zoning Commission again. Steve Ibos also mentioned Wolff Brothers Supply is looking to break ground soon. David Hull explained the water runoff and drainage problems.

Steve Ibos mentioned Ted Wolff of Wolff Brothers Supply was talking about the possibility of installing a generator for the facility. Steve Ibos stated it might need to go before the York Township Board of Zoning Appeals.

The TC Energy station on Stigler Road was discussed.

Old Business:

There was no Old Business.

New Business:

There was no New Business.

Adjourn:

Christine Barnes adjourned the meeting at 7:50 pm.

Christine Barnes, Chairperson

Mary Lenarth, Secretary