

**Richfield Township Board of Zoning Appeals  
September 20, 2021**

The meeting was opened at 6:32 p.m. on September 20, 2021, with the following members in attendance:

Jeffrey Smola  
Geoffrey Graham  
Robert Kapitan

Also in attendance:

Patricia Ryan, Zoning Inspector  
Marvin Evans, Summit County Assistant Prosecuting Attorney  
Attorney Mark Stockman, representing Randy and Lena Hooke  
Randy Hooke, applicant  
Justin James of Advanced Installation for Best Buy  
Residents as noted on sign in sheet

In response to the applicant's request, a motion was made by Mr. Graham and seconded by Mr. Smola to continue case 651-21 to October 18, 2021 at 6:30pm. All members voted unanimously to approve.

Mr. Smola opened case 654-21 and attorney Mark Stockman and Randy Hooke were administered the oath. They presented the case stating this was not for development to sell but to divide the property acquired in 2020 into 5 lots for himself and 3 children. Mr. Hooke stated he is currently residing in the existing house and would sell this once he constructed a home for himself and his wife on one of the rear flag lots. Mr. Hooke stated he planned building one house every 4-5 years on each lot. Attorney Stockman acknowledged Mr. Hooke originally proposed this development in late 2020 but due to the property frontage being in Richfield Village they could not mesh the 2 zoning codes to achieve the desired outcome. The applicant acquired a de-annexation from the Village and so now the entire parcel is within Richfield Township jurisdiction. Attorney Stockman noted a larger variance had been granted at 35.76' on property located at 2806 Southern Rd. fairly recently for 4 lots. At the time of the original variance request Mr. Hooke proposed 31.25' lot frontage. They achieved this by splitting the frontage for the existing house on new parcel A from 60' to 37' and adding the remaining 23' to 14' on the north side of the existing lot on Southern for a total of 37'. Attorney Stockman noted he did not see stated in the RTZR where frontage had to be continuous. The 4 new lots on the north are all proposed with a width of 37'.

There was discussion regarding the driveway for the existing house. Mr. Graham explained the driveway was on the 60' that is now being divided into 23' and 14' sections and the other proposed 4 flag lots will each have 37' of frontage from the 125' area to the north.

Mr. Graham stated the variance circumstances were totally different in acreage, 42 vs 29, number of new lots, 4 vs. 5 and the fact that I-271 reduced the frontage on the original parcel leaving the 42 acres with a narrow frontage. Attorney Stockman stated the Hooke property has the same conditions.

Discussion ensued comparing what could be constructed if a road were installed and how that would impact the neighborhood. They compared the development on Sunset and Tulip Tree. Ms. Ryan noted the Sunset development was in the Village and the 4 Tulip tree flag lots all had 50' of frontage or more.

Attorney Stockman reviewed the 7 standards. He stated these 4 new homes would bring property tax revenue to the Township while not requiring any plowing services that a new road would. The variance request was not substantial, just a question of frontage and safety. They are asking for 2.5% less than the property at 2806 Southern. The RFD has reviewed the shared drive and approved the plan with 3 "bump outs" and 16' width. The essential character of the neighborhood will be maintained.

Mr. Smola asked if the RFD addressed the construction of the drive. Mr. Hooke stated there would be 6' stone and the drive would remain gravel for now. Mr. Smola asked Ms. Ryan to contact the RFD and inquire if they review or require certain surfaces for shared drives.

Ms. Ryan asked why the proposed drive dips into and across the rear parcels. Mr. Hooke responded he wanted a curving drive and he was utilizing an old gas access lane.

Attorney Stockman returned to addressing the 7 factors stating they meet the R-1 purpose statement and there is no detriment. No government services would be impacted.

Mr. Kapitan remarked there is no restriction for Parcel B owner from constructing their own driveway on the 14' strip or tying into the existing drive for Parcel A on Parcel B property and not using the shared drive as shown. Mr. Hooke said that it was an easement so if Parcel A owner agreed, parcel B could use the existing drive and he is the one who holds the easements. There was lengthy discussion on this issue, the difficulty with having a driveway on another parcel with restrictions to limit the property owner access, and the 23' width. Attorney Stockman said they could create easement language to restrict this from happening. Ms. Ryan suggested to put the restrictions on the deeds and plat. Mr. Smola asked Attorney Evans if they could add conditions to the variance. Attorney Evans said he did not think conditions can be placed on a variance.

Attorney Stockman continued with the 7 standards stating Mr. Hooke knew of the zoning restrictions when he purchased the property but he was also aware of the variance granted for 2806 Southern. The last request was for 31' of frontage for 4 parcels and 60' for Parcel A. The purpose of splitting the 60' was to maximize the frontage to 37' for each lot. Attorney Stockman said there was no other means of solving this issue to achieve 5 lots except to do nothing. He said the project meets the spirit and intent of the code because it fits in with the area and there is a previously approved variance for less frontage.

Mr. Graham stated they need to focus on the factors for this case and not the other property.

There was discussion on why Mr. Hooke needed 5 lots when he stated he wanted to create a lot for himself and each of his 3 children. Mr. Hooke stated he was going to sell the existing house and they would all build in the rear.

Mr. Graham noted the section of the RTZR that allows flag lots and they do not require a variance if they meet the required frontage of 50'. Discussion ensued about lot width and lot frontage.

Mr. Graham questioned if the property would yield a reasonable return or have any beneficial use without the variance. He wanted to make it clear the purpose of the code is not to provide for the most profit, but rather can the property be reasonably used.

Mr. Kapitan said he still questions what role the Board has related to deed restrictions and if they can require or even consider them. He further stated the problem is the applicant can't create lots without restrictions and the Board can't approve a lot split based on the applicant's possible future actions. The other issue is with the 14' and 23' frontage split and does this meet the intent of the code. Mr. Smola agreed and stated personally he would be more comfortable with leaving the 60' of frontage and asking for the 31' for the remaining 4 lots in the 125' frontage. This removes one lot from the variance request as well as the 14' and 23' frontage split on the 60' frontage.

Mr. Smola explained to the applicant that due to there only being 3 members present they would all need to vote to approve the variance for it to be granted. Mr. Hooke said he was asking for the 37' because he was concerned if he came back with he original 31' it would be denied.

Mr. Smola opened the public comment portion. Ms. Patricia Klopp of 4718 Sunset Drive inquired about the rear of her property being in the township and that this was a problem when she wanted to install a fence. She feels this needs to be cleared up. Ms. Ryan looked up the parcel and after the meeting informed her that her property was in the Village.

There were no other public comments. Mr. Smola closed the public hearing and the Board discussed the case and provided comments on the 7 standards. 1) There is no set number that determines if it is reasonable. Mr. Kapitan stated this plan may be the best they can do wanting 5 lots but there is no need for 5 lots. 2) the Board felt 255 variance is substantial and this is more. 3) There is no alteration to the neighborhood character. 4) The applicant stated he did know about the restrictions prior to purchasing the land. 5) given his request for 5 lots it is still debatable which plan is best. The spirit and intent would be to have continuous frontage. Mr. Kapitan said the spirit and intent is not met with the split frontage. The Board felt standard #6 and #7 go together.

Mr. Smola explained they are voting on the plan before them. Mr. Kapitan still had questions regarding the restrictions and would like Attorney Evans to review this. Attorney Evan stated he was not sure if the Board can approve based on what is on a plat. Mr. Smola said at least it would be evidence presented to the Board. Mr. Smola was also concerned with if precedence is set on granting the split frontage.

Mr. Smola read the resolution. Roll call: Mr. Graham, yes, Mr. Kapitan, no, Mr. Smola, yes. The application was denied with a 2-1-0 vote.

Mr. Smola opened case 655-21.

Mr. Dustin James presented the application and stated that Best Buy was willing to reduce the variance request for the wall sign to 100 sq. ft.

There was discussion regarding the location of the wall sign and it was reflected in the elevations to be on the west façade which is 540' in length. The regulations allow for one wall sign at 10% of the façade area up to a maximum of 50 sq. ft.

Mr. James said the sign has a perforated face which proved for a softer light.

Discussion of the 2-sided monument sign ensued and after reviewing the drawings and site layout it was determined the monument sign did not need the size or front yard variances but did need one for the height. Mr. James stated they would meet the 5' maximum height if they could maintain the 60 sq. ft. area due to the distance from the right of way line. The Board determined this was permitted and no variance was needed. There was discussion on which direction the monument sign was facing. Mr. James did not know the orientation. Mr. Smola stated the orientation is important with respect to the residents and light transfer. Mr. James questioned if the neighbors would really be affected by a 5' tall sign behind a 10'+ wall.

Regarding the wall sign several Board members voiced their opinions that the 50 sq. ft. wall sign would look ridiculous on the large building but that the code was written at a time when a building of this size was not anticipated. Mr. Smola said the original request for 133 sq. ft. was small so he suggested they leave the variance request as proposed.

Mr. Smola opened the hearing for public comments.

Mr. Faulhaber of 5145 Hecker Drive stated he was concerned about both signs. He referenced the application information and the reason for the wall sign as being so drivers could see the building and felt given the size of the building you could see it as clear as day. He spoke to the location of his neighbor's house and that it is 400+ to the rear property line and another 265' to the building. Concerned about light wash from both signs. The spirit and intent is to protect the residents.

Mr. Volcaire of 5144 Hecker Drive said they get serious light from the building It will be very bright when the leaves are off the trees. The current lights are against the National Electric Code and Industrial Engineering Code. Wall sign is on south end of building. Mr. Smola asked Ms. Ryan if she had been asked to go to the property. Ms. Ryan said she had not but there was little she could do, she did not have the expertise or equipment to measure light.

Mrs. Volcaire also of 5145 Hecker Drive asked about the location of the monument sign and if it was past the buffer wall. It was determined it was in the parking lot and behind the wall.

The Board discussed the standards. Mr. Smola read the resolution. Roll call vote: Mr. Graham, yes, Mr. Kapitan, yes, Mr Smola, no. With a 2-1-0 vote the application fails.

Having no other business before them Mr. Smola made a motion to adjourn at 9:10pm. Mr. Kapitan seconded. All members voted unanimously to approve.

Chairperson  Secretary Patricia Ryan Date 1-17-22