

**Hiram Township Board of Zoning Appeals
Hopkins Variance Request
December 7, 2016**

Board Members: Chairman, Janet Pancost, Gary Bott, Wendell Schulda, Tom Franek and Bette Gualtieri.

Public Present: Zoning Inspector, Rich Gano, Todd Phillips, Jessica Hopkins, Terry Colescott, Beverly Colescott, Lou Lanese, Danny Etling, Tim Gibbons, Traci Gibbons, Kevin Horner, Sharon Steiner and Daniel Cartwright.

Janet Pancost called the meeting to order at 6:30 p.m.

Mrs. Pancost explained the procession of the evening's Hearing and appeal process.

Secretary, Kellie Durr confirmed that a legal notice was published on November 27, 2016 and adjoining property owners were notified by certified mail on November 19, 2016.

Mrs. Pancost explained the swearing in process. The Board members introduced themselves. A sign in sheet was passed around for the audience to sign in. Interested audience members were sworn in.

Mrs. Pancost asked who was here to represent the Hopkins family. Jessica Hopkins answered that she was. Mrs. Pancost asked why a variance was requested. Mrs. Hopkins replied she was notified by Zoning Inspector, Rich Gano that there was a complaint made that her mother-in-law moved into the barn. Mrs. Hopkins further stated that her family moved back from Tennessee to help with the family's affairs after finding out her father-in-law was ill. The original plan was to build a home on the family's property down from the original home. Unfortunately, her father-in-law passed away. Her mother-in-law did not want to live in the house by herself afterwards. The barn was already finished for the most part and had electric and its own septic system. Water to the barn is run from the well for the house. Mrs. Hopkins stated that there was a misrepresentation that they tied the barn into the septic without any permits. She explained that is not the case, all they did was finish the inside of the building.

Mrs. Pancost asked if Mrs. Hopkins could draw on the map the location of the barn and house. Mrs. Hopkins did the same and explained that the barn and the house have their own driveways. Mrs. Pancost asked if Mrs. Hopkins could estimate how many feet are between the buildings. Mrs. Hopkins replied somewhere between one hundred feet and one hundred and fifty feet. Mrs. Pancost asked when you decided to turn the barn to a living space, were you aware that zoning existing in Hiram Township? Mrs. Hopkins answered that she wasn't aware of everything that zoning encompassed. She has since obtained a real estate license. They didn't think it would be an issue because they didn't change anything with the building. They didn't realize the stipulations that it was a farm building and now a living residence. Mrs. Pancost added that only one living residence is allowed per parcel in Hiram Township.

Mrs. Pancost asked if Mrs. Hopkins' mother-in-law was disabled. Mrs. Hopkins answered no.

Mrs. Pancost asked if Mrs. Hopkins' mother-in-law drives. Mrs. Hopkins answered yes.

Mrs. Pancost asked how many bedrooms are in the main house and confirmed that Mrs. Hopkins is living in the house. Mrs. Hopkins replied that there are three bedrooms and four people live in the house; herself, her husband and their two daughters. Mrs. Hopkins further stated that part of the reason they did not pursue building another house is that they started farming again. Their cows are in the front pasture where the house was going to be built and the back pasture is used for hay. Her husband wanted to keep the property for their daughters so they could grow up the way he grew up.

Mrs. Pancost confirmed that on the property was the main house and the barn/living space and asked if there are there any other structures? Mrs. Hopkins answered yes; there is a barn for the animals. Mrs. Hopkins pointed out the barn location on the map. She added that their cows are Scottish Highland and do not require much shelter due to their thick coats. The barn primarily is used for hay and equipment storage. There is a place for the cows to come in to get out of the wind.

Mrs. Pancost shared the map with the Board members.

Mrs. Pancost asked why Mrs. Hopkins' mother-in-law didn't move into the main house with her family. Mrs. Hopkins stated that it was the original plan but that the bedrooms are small to share a room and there isn't very much privacy and "without knowing the zoning regulations and having the building they didn't need" the in-law residence made sense.

Mrs. Pancost asked if there was any public comment.

Sharon Steiner stated that she wasn't sure why she was notified of the Hearing. Mrs. Pancost explained that adjoining property owners are required to be notified. Mrs. Steiner asked what the issue was. Mrs. Pancost answered that in Hiram Township you are not permitted to have two living dwellings on one parcel. Beyond that, the fact that you are "basically constructing a dwelling, even though it was a preexisting structure, without any permits is another issue".

Terry Colescott stated that the main house is seventy-five years old and the bedrooms are upstairs.

Mrs. Steiner further stated that "this doesn't affect us; it is only a zoning issue on their property". Mrs. Pancost stated it depends on your perspective. Mrs. Steiner replied that it doesn't affect what she does as long as she doesn't do the same thing on her property. Mrs. Pancost replied that Hiram Township has a Comprehensive Plan that was put together by residents of the Township. The residents decided why do we live here, what do we like about this area, what do we want to preserve for the future, what is of importance to us. It is a vision for how we want our Township to develop. We are an agricultural community, which is something that people wanted to maintain. We have really great housing in our Township, people thought that was important and wanted to maintain that. People wanted to maintain a low density. The whole idea of having multiple homes on one lot is something that is not permitted in Zoning.

Mrs. Steiner asked how long Mrs. Hopkins' mother-in-law has been living in the barn. Mrs. Hopkins answered maybe a year and a half.

Tom Franek stated that the Comprehensive Plan is available on the Hiram Township website.

Zoning Inspector, Rich Gano stated that during the time he had been alerted to this issue, the matter had already been sent to the Building and Health Departments. The Health Department did go out and inspect the property and reported that it is not illegal per their stipulations to have shared water and that the septic system did not show any signs of failure. There were no signs of failure or code violations regarding the well and septic. Mrs. Gualtieri asked if there were any findings regarding the electric. Mr. Gano stated that he hadn't heard back regarding the electric. Mr. Franek confirmed with Rich Gano that the septic system was approved. Mr. Gano replied that it was and that it already existed.

Tim Gibbons suggested splitting the property's acreage and making the in-law dwelling its own parcel. Mrs. Pancost replied there are many ways that we can handle this matter and this could be one of them. Mrs. Pancost stated that we would not be here if this was a traditional in-law suite. Mr. Gibbons suggested giving the option of reverting the in-law dwelling back to a workshop when it no longer is in use. Mrs. Pancost replied that if a variance is granted, it goes with the property not the property owner.

Mr. Colescott asked if there is a history of a variance setting precedence. Mrs. Pancost answered no. Mr. Colescott stated that he has interviewed neighbors and that they do not have a problem with this issue and are not asking to change zoning. Mrs. Pancost reiterated that a request for variance does not set precedence.

Mrs. Hopkins provided a printed property record and shared it with the Board. Mrs. Hopkins explained the layout of her property. Mrs. Gualtieri asked if Mrs. Hopkins knew the setback amounts from the barn to the property lines. Mrs. Hopkins did not. There was a discussion on driveway sizes. Mr. Colescott stated that it is at least one hundred feet.

Mrs. Pancost asked if there were any comments or questions. There were none. Mrs. Pancost stated that they will be closing the floor to public comment.

Mrs. Gualtieri stated that she has several questions. She stated that her first question was permits but that has already been discussed. She expressed that her concern was the electric. She further stated that electricity can cause fires. Mr. Franek stated that it may have been built better than any house, but it still wasn't inspected. Mr. Bott stated that the building was built as a barn and workshop and that a home has to have two hundred amp service to run. There was a brief discussion regarding electrical requirements. Mrs. Gualtieri asked if Mrs. Hopkins would be opposed to having the electric inspected for safety reasons. Mrs. Hopkins answered no.

Mrs. Gualtieri asked what year the barn was built. Mrs. Hopkins answered the 1970s.

Mrs. Gualtieri asked when the renovations were made. Mrs. Hopkins answered two years ago.

Mrs. Gualtieri asked what Mrs. Hopkins' intentions were for the building after her mother-in-law no longer lived there. Mrs. Hopkins replied that she did not have any, perhaps her own mother would live there. She also discussed putting their dental lab there. Mrs. Gualtieri replied that it would not be zoned for that and that she would have to apply for a Use Variance.

Mrs. Gualtieri asked if Mrs. Hopkins considered splitting the lot. Mrs. Hopkins replied that they looked into the matter. She further stated that when the original house was built, Les Hopkins left one hundred and fifty feet of frontage with the intention of splitting the lot. One hundred and fifty feet of frontage was the requirement at the time. Mrs. Pancost stated that prior to the two hundred feet of frontage requirements, if all channels had been followed and the parcel was on the tax map, it would have

existed as its own stand alone lot. It would not have reverted. Mrs. Hopkins stated that she has a file from Les Hopkins documenting that he was going to come before the Board to split the parcel.

Mrs. Gualtieri asked if they considered an addition to the house prior to starting the renovations to the barn. Mrs. Hopkins replied that Mr. Hopkins renovated the barn to a workshop in 2004. Mrs. Gualtieri asked why they chose to upgrade the barn into a living space. Mrs. Hopkins replied that it was already there. They didn't plan to upset anyone or break any rules. The building was finished. There was a bathroom and plumbing. It seemed like an easier choice than erecting a new building or adding on.

Danny Etling asked what the building was originally. Mr. Bott asked if it was originally built as a pole barn. Mrs. Hopkins answered that it was a horse barn.

Mrs. Pancost asked if there were any other questions. Mr. Schulda asked how Mrs. Hopkins' mother-in-law's health was. Mrs. Hopkins replied that she is in good health, although she has a little bit of arthritis. Mr. Schulda asked if she was able to take care of herself. Mrs. Hopkins answered yes but that she isn't able to take care of the fifty acres and farm it.

Mr. Schulda confirmed that the Board can approve the variance, deny the variance or approve it with conditions. Mrs. Pancost confirmed the same. Mr. Schulda asked if it would be possible that one of the conditions would allow for Mrs. Hopkins' mother-in-law to continue living there until she is no longer able and no longer use the building as a residence after. Mrs. Hopkins answered yes. Mrs. Pancost stated that it would be ideal but enforceability is tough.

Mrs. Pancost stated "in thinking it over and the situation", she finds it troubling that a lot in Hiram Township has two dwellings. She added that it "flies in the face of Zoning and the Comprehensive Plan" and that it is a big challenge for the Board. One of their goals is to keep as close to compliance as we can. Mrs. Pancost stated that Mr. Schulda's suggestion was a good idea but that enforceability is an issue. The other option she is pondering is splitting the parcel. However, we do not have a good drawing of the outbuildings and parcel. Mr. Franek stated that if they do not have enough frontage, they would have to come back before the Board. Mrs. Pancost stated that they could handle this issue today, they would not have to come back before the Board.

Mr. Franek asked Mr. Gano how this all came about. Mr. Gano stated that he was alerted by the Health and Building Departments in October.

Mrs. Hopkins further stated regarding the enforceability issue, they have worked to resolve the issue and asked that the Board trust them. She added that they are "honest". Mrs. Pancost stated that it isn't an issue of trusting or not trusting but that things happen in life. Who is to say that their family may not find a better farm and sell the property? It is about "how do we design something that will stand the test of time and follow the property and not the people".

There was a brief discussion regarding splitting the parcel. Mrs. Pancost confirmed that the barn has its own driveway. Mr. Franek stated that the parcel would have to be two and a half acres. Mrs. Gualtieri stated that when thinking of the Comprehensive Plan the first thing is maintaining agricultural space and the rural nature of our Township. She added that it is a good point that they didn't build another house; it would change the whole character of the area. On one instance, it isn't what we want as a community. However, there are other things that we do not want.

Mr. Etling asked if the original house is separate from the fifty acres. Mrs. Pancost replied, no and that it is one parcel.

Mrs. Gualtieri stated that she liked the idea of splitting the lot but that there will be several issues to do this and that she is leaning towards putting limits on the building being used as residence. Mrs. Pancost asked who the property belongs to. Mrs. Hopkins' replied her mother-in-law. Mrs. Pancost confirmed that Mrs. Hopkins' mother-in-law is living in the barn structure. Mrs. Hopkins confirmed the same. Mr. Bott asked if they could make a condition that Mrs. Hopkins' mother-in-law is the only resident of the building. Mrs. Pancost replied yes but that enforceability is an issue and it would fall to the Zoning Inspector. However, there might not be another option. Mr. Franek stated that enforceability is often an issue.

Mrs. Gibbons asked if it would be possible to include in the conditions that someone else could report a violation. She added that this is a tough situation. The barn sounds like it was the most cost effective. If you separate and make a new parcel, what costs will they incur that they were trying to save in the first place? Is there a way to preserve their intent and the intent of the Township? Could there be a condition and a penalty if it is violated? Mr. Gibbons suggested that there be a clause that once the building is no longer used by Mrs. Hopkins' mother-in-law, the property reverts back to a barn. The property doesn't need to be split and the acreage remains the same. That the only person allowed there is Mrs. Hopkins and you would have a death certificate, property of sale, condo bill, etc. as proof. Mrs. Pancost replied that is also a good option. Mr. Franek stated that if the property was sold, new owners would be tempted to do the same since it is already set up.

Mrs. Gualtieri asked if it could be put in the deed. Mrs. Pancost replied no. There was a brief discussion regarding records. Mrs. Pancost asked Mr. Gano if there was anything in his zoning records that would flag an issue. Mr. Gano answered no. There was further discussion regarding deeds. Mrs. Pancost stated that she would entertain including a condition in the variance that it is only allowed as long as Mrs. Hopkins' mother-in-law is on the deed or Mrs. Jessica Hopkins and her husband.

Mr. Franek asked Mr. Gano if he had any insight. Mr. Gano answered that he did not. Regarding splitting the parcel, he would need more information regarding the other buildings on the property. Mr. Gano further stated "what if they changed the deed sooner rather than later, what happens"? Mr. Gano asked if the building has its own electric or does it run to the house? Mrs. Hopkins replied that it runs to the house and confirmed that there is only one electric bill.

Mrs. Steiner clarified that Mrs. Hopkins' mother-in-law could go to Florida for an extended time and still come back and live there. Mrs. Gualtieri confirmed the same.

Mrs. Pancost asked for confirmation that the electricity service runs from the house to the barn and that there is only one meter for the whole property. Mrs. Hopkins confirmed the same and added that there is an electrical box in the barn. Mr. Franek asked if there is only one electrical bill. Mrs. Hopkins confirmed the same and further stated that there is a gas well on the property and the gas for the barn is run off of that. Mrs. Hopkins further stated that the barn is dependent on the main house with the exception of the septic. Mrs. Gualtieri stated that they couldn't sell the barn without splitting up the current utilities.

Mr. Gano stated that the Building Inspector has been notified but hasn't acted yet. Mrs. Hopkins stated that the Health Department did come out and that everything was fine. Mr. Gano confirmed the same. Mrs. Pancost stated that if the Board entertains a variance for this property, we would obviously have to attach conditions to it. She further stated that the electric is a concern. Mr. Bott stated that two hundred amp service is what is needed and expressed his concern with the safety aspect of the electric as well. Mr. Colescott asked if that would be contingent on the Building Inspector. Mrs. Hopkins asked if Mr. Bott would like a picture of the electrical box. Mr. Bott stated that he isn't sure if it is legal to run electric from one house to another.

Mrs. Pancost asked how many square feet the barn is. Mrs. Hopkins answered that she isn't sure and reviewed the map with the Board members.

Mrs. Pancost asked how many bedrooms there were. Mrs. Hopkins answered two bedrooms.

Mrs. Pancost asked what kind of heating there was. Mrs. Hopkins answered gas.

Mrs. Pancost asked what kind of stove she had. Mrs. Hopkins answered electric.

Mrs. Pancost asked what kind of washer and dryer she had. Mrs. Hopkins answered electric.

Mrs. Pancost stated that the electrical concern is understandable and that one of the conditions will be that an electrical inspection needs to be done and that the electric needs to be up to code. Mrs. Gualtieri stated that she would also suggest a structural inspection as well. She further stated that an agricultural structure does not have the same codes as a home. There was a discussion regarding a reasonable amount of time to have the inspections performed. Mrs. Gualtieri stated that if the building does not pass inspection, Mrs. Hopkins' mother-in-law would need to stay in the main house until the building is up to code.

Mr. Etling stated that it would change the taxes by having two dwellings on the property. There was brief discussion on the CAUV.

Mrs. Pancost suggested that there be a condition that the in-law residence occupancy is limited to Jozette Hopkins. This would revert to an agricultural building upon the vacating of the property by Jozette Hopkins or the sale of the property. There was a brief discussion regarding the sale of the property and allowing Jozette Hopkins to remain there as long as Jessica Hopkins and her husband owned the property.

Mrs. Gualtieri asked if it was possible to give the building a different address in the event of an emergency. There was a discussion on possible emergency situations and the dispatch of services. Mrs. Gualtieri confirmed that the building has its own drive. Mrs. Hopkins confirmed the same. There was further discussion regarding possible emergency situations and responses. Mr. Bott stated that he would like the Township to designate driveway requirements for emergency vehicles. Mrs. Hopkins confirmed that it would be for the Township, not just her property. Mr. Bott confirmed the same.

The Board members reviewed the proposed conditional language.

Mr. Etling asked if the size of the old house makes any difference. Mrs. Pancost replied that it all makes a difference and that they are trying to figure out the best way to deal with this issue. We want to try to "cleave to our Zoning and Comprehensive Plan as closely as possible". Mr. Colescott stated that referring to the Comprehensive Plan, they haven't noticed what the Hopkins did.

Mr. Schulda asked who would perform the inspections. Further, who would order them. Mrs. Pancost answered the Portage County Building Department. Mr. Gano stated that the owners would order the inspection. Mr. Gano stated that he would be following up with the Portage County Building Inspector as well. Mrs. Pancost confirmed that it is the property owner's responsibility to request the inspections and that Mr. Gano would be responsible to make sure that they are done in a timely manner.

Mr. Schulda asked for clarification regarding vacating the residence condition. Mrs. Pancost read the proposed language:

Upon the vacating of the in-law residence by Jozette Hopkins, the structure reverts to an agricultural building.

Mr. Schulda suggested adding "forever in time". He added that something would need to include that it is not allowed when it is vacated. Mrs. Pancost suggested adding the language "in perpetuity".

Mrs. Pancost reviewed additional conditional language:

The deed must be in the name of Jozette Hopkins or Jessica and Scott Hopkins for Jozette Hopkins to be permitted to live in the in-law residence.

Mr. Schulda confirmed that the property is currently in Jozette Hopkins' name. Mrs. Pancost stated that we would like to limit this if the deed transfers out of these three names. Mrs. Hopkins shared that Jozette Hopkins has another son. Mrs. Pancost asked if Mrs. Hopkins was planning on staying on the property. Mrs. Hopkins answered yes. Mrs. Pancost asked if the brother would have his name on the deed. Mrs. Hopkins answered, not that she knows. Mrs. Pancost stated that if the deed transfers out of those three names, it reverts. There was a discussion regarding family and possible situations. Mrs. Hopkins asked if the language could include legal heirs. Mr. Franek suggested adding additional language that any other form of ownership would make the building no longer. Mrs. Steiner expressed concern about not including the brother.

The members reviewed the proposed conditional language.

Mrs. Gualtieri, Mr. Franek and Mrs. Pancost suggested the revision of the previous language to read:

For Jozette Hopkins to have permission to occupy the in-law residence, the deed must be in the name of Jozette Hopkins or Jessica and Scott Hopkins. Any other ownership of parcel number 20-050-00-00-13-000 will cause the in-law residence to revert back to an agricultural building.

Mrs. Gibbons asked what happens if Mrs. Hopkins calls for the inspections and through no fault of her own the inspections are not done in the time allowed. Mr. Gano stated that he will help to make this happen. Mrs. Pancost added that if you want something, you go after it. She added that if someone isn't as prompt as they should be you make phone calls, go through the chain of command and do your due diligence. Mrs. Pancost added that if the Hopkins family diligently pursued this and due to the inaction of the county Building Department, the inspections were not done in the time allowed, the Board would not look unfavorably at it. Mrs. Gualtieri added that if the inspections are not done on time, Jozette Hopkins would then move in with Mr. and Mrs. Hopkins for safety reasons. Mrs. Hopkins asked if she could get an independent inspection if this happens. Mrs. Pancost confirmed with Mr. Gano that this would require the county's Building Inspector. Mr. Gano confirmed the same. Mr. Franek stated that Mrs. Hopkins should communicate with Rich Gano if she is having a problem.

Mrs. Pancost asked what time line there should be for structural improvements if needed. Mrs. Pancost asked if there was a severity rating on the reports. Mr. Gano confirmed that he receives the reports but does not recall seeing severity noted. Mrs. Gualtieri stated that if the building does not pass inspection, they can repair it and do what needs to be done but it is not to be occupied during that time. Mr. Gano

suggested a Certificate of Occupancy. Mrs. Pancost suggested that the Building Inspector should inspect and issue a Certificate of Occupancy within sixty days. Mrs. Pancost read the revised language:

The Portage County Building Department is to perform a structural inspection within sixty days and issue a Certificate of Occupancy. Repairs may be performed as long as they are completed within six months.

Bette Gaultieri motioned to approve the Variance for Jozette Hopkins with conditions. The conditions are as follows:

1. **The Portage County Building Department performs an electrical inspection within thirty days and the property passes inspection.**
2. **The Portage County Building Department is to perform a structural inspection within sixty days and issue a Certificate of Occupancy. Repairs may be performed as long as they are completed within six months.**
3. **The only permitted resident of the in-law residence is Jozette Hopkins.**
4. **Upon the vacating of the in-law residence by Jozette Hopkins, the structure reverts to an agricultural building in perpetuity.**
5. **For Jozette Hopkins to have permission to occupy the in-law residence, the deed must be in the name of Jozette Hopkins or Jessica and Scott Hopkins. Any other ownership of parcel number 20-050-00-00-13-000 will cause the in-law residence to revert to an agricultural building.**

Wendell Schulda motioned to accept the Variance with conditions. Gary Bott seconded the motion. Roll Call: Janet Pancost YES, Bette Gaultieri YES, Gary Bott YES, Wendell Schulda YES, Tom Franek YES.

Mrs. Pancost clarified the appeal process. The meeting to journalize the meeting minutes was scheduled for Thursday, January 5, 2017 at 6:30 p.m. Mrs. Pancost informed Mrs. Hopkins that she can proceed with the inspections immediately as it speaks to the issue of her mother-in-law's safety and it isn't cost prohibitive. She added that if it is cost prohibitive Mrs. Hopkins should speak with Mr. Gano.

The Board members reviewed the November 30, 2016 meeting minutes.

Tom Franek motioned to approve the November 30, 2016 minutes as written. Wendell Schulda seconded the motion. Roll Call: Janet Pancost YES, Bette Gaultieri (abstained), Gary Bott YES, Wendell Schulda YES, Tom Franek YES.

Tom Franek motioned to adjourn. Bette Gaultieri seconded the motion. Roll Call: Janet Pancost YES, Bette Gaultieri YES, Gary Bott YES, Wendell Schulda YES, Tom Franek YES.