

Minutes: Russell Township Board of Zoning Appeals
Russell Fire-Rescue Station
November 5, 2018

Present: Steve Gokorsch, Chairman
Nick Grassi
William Downing
Dushan Boucek

Ms. Moore was absent with apologies.

Also in attendance: Shane Wrench, Zoning Inspector.

The meeting was called to order at 7:00 p.m.

The legal notice was published in the Chagrin Valley Times on April 21st. The certified letters and regularly mailed letters for the meeting were mailed on April 19th.

VARIANCE REQUEST #517: Requesting a side yard setback of 25 feet in lieu of 50 feet required per Section 5.2.B for an attached garage in an R-5 zone.

Mr. Downing made a motion to open the public hearing for variance request #517. Mr. Boucek seconded the motion and it passed unanimously.

Jason Baylor, 10750 Mayfield Rd., confirmed that he was sworn in.

Mr. Baylor, with Payne and Payne, the builders of the home on Cypress Pond, is asking for a side yard variance due to a large pond and the topography of the property. He knew about the pond and the ground water problem, but didn't know the extent of the problem. There were test holes dug on the perimeter of the proposed house and two of them, nearest the pond, filled with water within an hour. He would like to build the home south closer to the left property line to avoid water seeping into the basement from the pond. Moving the foundation will cause a side lot line encroachment issue with the proposed accessory building.

Mr. Baylor noted that the pond was recently filled in reducing it in size. Mr. Gokorsch asked when the pond was filled. Mr. Baylor didn't know, but the Zoning Inspector advised that part of the pond was filled in 2013.

Jen Wilson, 15350 Cypress Pond, was sworn in.

Mrs. Wilson told the board that the pond was back filled twice earlier. She was asked if there was a lot of water in the area, she was not sure but thought so. Mr. Gokorsch asked if there was inflow and outflow from the pond. The Zoning Inspector answered that there was no inflow to the pond however the outflow was to a ravine crossing the property behind the proposed home location.

Steven Wilson, 15350 Cypress Pond, was sworn in.

Mr. Wilson advised the board that the pond is filled from runoff water from his roof and property. Mr. Boucek asked if the pond ever overflows. Mr. Wilson answered not since he has lived there, but there is an emergency outflow. Mr. Boucek asked if the pond elevation was higher than the proposed home. Mr. Baylor said that the first floor will be at same level as the pond, but the basement will be below the pond level. Mr. Boucek asked if there was a spillway put in at the same time the development was built. Mr. Wilson said that there was one installed as long as he has lived there - 2010. Mr. Gokorsch asked if there will be drain tile installed to the ravine. Mr. Baylor said no since there is a natural slope down to the ravine, but the pond outflow will feed to the ravine. Mr. Boucek asked how many test holes were dug. Mr. Baylor said there were six test holes and marked their location on an exhibit.

Mr. Bouchek asked if there was a garage attached to the house, Mr. Baylor answered yes. Mr. Bouchek asked if there was going to be a garage on the barn also, Mr. Baylor said yes, for extra storage, a workshop, and a boat. Mr. Bouchek asked if both the garage and the barn will have side entry doors. Yes they both will.

Mr. Bouchek asked if the garage could be turned. The garage can't be turned to face the street due to deed restrictions which do not allow garage doors to face the street. The board asked if the structure could be moved further back. The answer is no due to the topography. There is a substantial drop in the grade to the rear into the ravine.

There is nothing today built on the lot next door. It was noted the building area on that lot is a substantial distance away from the lot line due to a riparian setback.

Mr. Gokorsch asked the Zoning Inspector if there was a natural boundary on the lot line which would require any structure on the neighboring lot to be set back. Mr. Wrench answered that there was a natural boundary on the property line.

Karen Walder, 9240 Music Street, confirmed that she was sworn in.

Mrs. Walder told the board that when she had her barn built that there were placement issues. She wanted the building further away from the house but the barn had to be placed closer to the house to be in conformance, and needed fill dirt due to the slope on the property. Mrs. Walder said that if the variance was permitted that it will affect future owners and homes of lots 2 & 4, and that they could have two outbuildings within 50 feet of each other. Mr. Gokorsch asked Mrs. Walder why she didn't simply apply for a variance when building her barn. She said her and her husband decided not to, because they could make the structure conform without a need for a variance.

Steven Wilson, 15350 Cypress Pond, confirmed he was sworn in at 7:36 pm.

Mr. Wilson told the board that lot 2 has been sold and lot 4 is already owned.

Mr. Grassi asked what the distance from the home to the barn will be. The barn will be 40 feet from the house.

Greg Breier, 13340 Hidden Oaks Dr., confirmed he was sworn in.

Mr. Breier told the board that he spoke with both adjoining neighbors and they didn't have a concern with the placement of the barn.

Mr. Downing made the motion to accept the applicants exhibit #1 a site plan, and applicants exhibit #2 a development layout for Cypress Pond Ln. Mr. Grassi seconded the motion and it passed.

The board reviewed the factors used to establish a practical difficulty:

A) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance: **Yes. There was no testimony otherwise.**

B) Whether the variance is substantial: **Yes. It is substantial.**

C) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance: **No. The Zoning Inspector said that the ravine on the south side protects that neighbor's view, and the variance would not alter the character of the neighborhood.**

D) Whether the variance would adversely affect the delivery of governmental services: **No. There was no testimony given.**

E) Whether the property owner purchased the property with the knowledge of the zoning restriction: **Yes. As noted on the variance request.**

F) Whether the property owners' predicament feasibly can be obviated through some method other than a variance: **Yes. They could not build an accessory building, or make the building smaller. However, if they want to build this structure, the ravine to the lot rear drops 9 feet and limits the building area. The pond overflow runs behind the house through that ravine making it unbuildable. Test holes showed water accumulation near the northeast corner of the proposed home – not a suitable area for a basement.**

G) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance: **Yes. Lot topography requires moving the location of the house foundation away from the area where the pond was backfilled.**

H) Such other criteria which relate to determining whether the zoning regulation is equitable: **The board understands that the pond was filled in three times earlier and the filled pond area would not be suitable for construction. The garage doors must be 45 degrees to the street due to deed restrictions in this development, forcing a side drive entrance from the house side. Due to the ravine the structure can't move to the rear of the lot.**

Mr. Downing moved to approve variance request #517 as submitted by the applicant. Mr. Boucek seconded the motion. Upon roll call the vote was Mr. Downing – Yes, Mr. Grassi – Yes, Mr. Boucek – Yes, Mr. Gokorsch – Yes. The motion passed.

There being no other business, Mr. Downing made a motion to adjourn. Mr. Boucek seconded and the meeting adjourned at 8:14 p.m.

Respectfully submitted,

Jennifer Dorka Date

Steve Gokorsch Date
Chairman