

**Minutes: Russell Township Board of Zoning Appeals  
Russell Fire-Rescue Station  
November 16, 2017**

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

Also in attendance: Shane Wrench, Zoning Inspector; Jennell Dahlhausen, Zoning Secretary; Mike Bonner; Peter Berk; John Wagner.

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

The Zoning Secretary stated the Public Hearing was advertised in the Chagrin Valley Times.

**VARIANCE REQUEST #504:** Michael Bonner of 9570 Kinsman Road is seeking a side yard setback of 20 feet in lieu of the 30 feet required in an R-3 Residential zoned district (lot under 3 acres) per Section 5.2(B).

The audience members planning to give testimony were sworn in.

*Mr. Boucek moved to open the public hearing for variance request #504, seconded by Mr. Downing. Motion passed unanimously.*

Mr. Gokorsch asked Mr. Bonner, who was sworn in, if all of the statements in the variance application were truthful and he responded yes.

Mr. Bonner stated he would like to build an open pavilion on his property. He owns an acre and a half on Kinsman Road and is requesting the variance due to a hill to the west and many large trees that would need removed if the pavilion was within the 30 foot side lot setback. He originally requested a 10 foot side lot variance but will be building a smaller pavilion so he revised his request to an 8 foot variance, with the pavilion setback 22 feet from the side lot line. The pavilion will be landscaped and will look very nice and Mr. Bonner feels this will be a nice addition to his property and the neighborhood.

Mr. Gokorsch asked Mr. Bonner if he plans to store anything under the pavilion in the winter. Mr. Bonner stated that he would store his sailboat under it but wouldn't store anything with flammable liquids. He stated he might eventually run an electric line to the pavilion.

Mr. Grassi asked the Zoning Inspector if a pavilion was treated any different than an enclosed structure with walls such as a garage. The Zoning Inspector stated that it is treated the same as any other structure. The floor was opened for comments.

Mr. Peter Berk owns properties at 9610 and 9658 Kinsman Road. He stated that he believes the structure will conform to the character of the neighborhood and will be a positive asset to Mr. Bonners property.

Mr. Downing asked Mr. Bonner if he was able to place the pavilion anywhere else on the property within the required setback. He stated that he could but he wouldn't want to because the proposed location is most aesthetically pleasing.

*Being that there was no further comment from the public, Mr. Boucek moved to close the public hearing for variance request #504, seconded by Mr. Downing. Motion passed unanimously.*

*Mr. Downing moved to accept exhibit #1 – a picture from the driveway, looking northwest on the property towards the pavilion site, exhibit #2 – an annotated map from REALink denoting neighboring properties frontages and the topography of the land, for variance request #504, seconded by Ms. Moore. Motion passed unanimously.*

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. The applicant answered the pavilion will be an asset and increase the value of the property.*

B) Whether the variance is substantial: *No. The board agreed that 8 feet is not 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. Mr. Berk testified that he doesn't think the pavilion will substantially alter the neighborhood and that it will be landscaped and the Board agreed.*

D) Whether the variance would adversely affect the delivery of governmental services: *No. The applicant answered no. The Board noted there is no testimony to the contrary.*

E) Whether the property owner purchased the property with the knowledge of the zoning restriction: *No. The applicant answered he did not know the setback requirements 30 years ago and that he was surprised that the township doesn't have different setbacks for different kinds of structures.*

F) Whether the property owners' predicament feasibly can be obviated through some method other than a variance: *Yes. The applicant answered that it can be built within the setback requirement but the end result will not be as pleasing to him. The other options include: build closer to the house or cut down trees and build into the hill.*

G) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance: *No. The applicant answered this is an open structure, not a house, garage or storage shed. The green space to the west of the pavilion will be landscaped and he believes the spirit and intent would be observed. The Board determined there were alternate locations available which would comply to current side lot requirements.*

H) Such other criteria which relate to determining whether the zoning regulation is equitable: *The board discussed the fact that this is a pavilion is mostly glass and without sides. The primary driver for the side lot setback distances is to guarantee that in the event of fire it will not spread to adjacent buildings. The proposed structure is open so it doesn't have much capability of burning. Rules regarding structures such as this may need to be reviewed by the Zoning Commission.*

*Mr. Grassi moved to approve variance request #504 as amended by Michael Bonner, seconded by Mr. Boucek. In favor; Mr. Gokorsch, Mr. Grassi. Against; Mr. Boucek, Mr. Downing, Ms. Moore. Motion denied.*

**MINUTES OF JULY 10, 2017:** *Ms. Moore moved to approve the minutes of the July 10, 2017 meeting, seconded by Mr. Boucek. Motion passed unanimously.*

**OTHER BUSINESS:** Ms. Moore stated that she based her decision on variance request #504 due to the fact that there was another location that would have worked within the required setbacks and added that she felt she needed to be fair to other past applicants and residents. She would like the Zoning Commission to review a possible change to the Zoning Resolution to allow different setbacks for pavilions since they aren't enclosed. The board discussed and agreed.

The Zoning Inspector stated that Mr. Hack purchased the property next to him, which resolves the issue of needing a variance (request #503) for the vacant property that was discussed at the last meeting. Mr. Vincent (request #501) also resolved his addition issue for the garage that was reviewed at the May 2017 BZA hearing. Ms. Moore asked that they both send a letter withdrawing their variance requests.

Mr. Downing stated that he feels there should be a time limit on continuances of Public Hearings when they have been inactive for a long period of time. The Board discussed and agreed.

*Ms. Moore moved to request the Zoning Commission revise the Zoning Resolution to put a time limit on continuances of variance requests that have no activity; and to consider treating a pavilion different from other structures possibly allowing a different setback, seconded by Mr. Boucek. Motion passed unanimously.*

The Zoning Secretary discussed the possibility of the township providing iPads to the board members with Mr. Gokorsch, but he didn't feel there was a need. The Board agreed.

Dates were discussed for the next meeting since it will need rescheduled. The Zoning Secretary will contact the board with the finalized date.

Being that there was no further business to come before the Board, Ms. Moore moved to adjourn, seconded by Mr. Grassi. The meeting adjourned at 8:00 p.m.

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Jennell Dahlhausen  
Zoning Secretary

Date

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Steve Gokorsch  
Chairman

Date