

Minutes: Russell Township Board of Zoning Appeals
Russell Fire-Rescue Station
May 2, 2016

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 #493: Requesting a side yard setback of 30 feet in lieu of 50 feet required per Section 5.2.B for an attached garage in an R-5 zone.

Mr. Boucek made the motion to open the public hearing for variance request #493. Mr. Downing seconded the motion and it passed unanimously.

Mr. Boucek recuse himself.

John Quinn, 14331 Crestview Dr., confirmed that he was sworn in.

Mr. Quinn is requesting a side yard variance for an additional garage. Mr. Quinn said he has a small lot and his house was built in the wrong spot, making it impossible to build an additional garage without a variance. He has proposed a location for the garage trying to minimize the side yard variance.

Mr. Gokorsch asked Mr. Quinn if his property was a corner lot. Mr. Quinn indicated that it wasn't. Mr. Gokorsch asked where the septic was on the lot, Mr. Quinn said that the septic was identified on the site plan with the proposed garage and was located behind the house, and the leach field is behind and north of the house. Mr. Downing asked if there were neighbors south of his property, Mr. Quinn said yes.

Chris Stormann, 14373 Crestview Dr., was sworn in.

Mr. Stormann is the neighbor to the south of Mr. Quinn. Mr. Stormann told the board there is a split rail fence on the wood line and he thinks that is the property line.

Mr. Gokorsch asked what the distance was from the property line to the proposed structure. Mr. Quinn said he wasn't sure but guessed about 100 feet. Mr. Gokorsch asked what the distance from the property line to the house was. He guessed about 10 feet, and was not sure. Mr. Gokorsch asked Mr. Stormann if he had any input for the board. Mr. Stormann said that he was new to the area and was not trying to be a pain, he received a letter about the hearing and thought he would see what it was about.

Mr. Grassi asked Mr. Quinn if there was a garage now, Mr. Quinn said there was a two car attached garage and it was shown on the proposed plan. Mr. Quinn showed the proposed plan to Mr. Stormann, and Mr. Stormann said he had no issue with the garage and thanked Mr. Quinn for showing him the plan. Mr. Quinn advised the board that the new garage will match the front of the home.

Mr. Downing asked Mr. Quinn to identify the part of the building next to the existing garage on his proposed plan. Mr. Quinn told the board that the garage was the front part and there is a mud room in the back.

Mr. Grassi asked what the reason for the garage was, and Mr. Quinn said that he owns five cars and would like to put them all in a garage. Mr. Gokorsch asked if there was going to be heat, water, septic, or a livable space in the second garage. Mr. Quinn said there is going to be heat, and no water, septic, or livable space. Mr. Downing asked if the architect considered overlapping the garage with the mud room, Mr. Quinn said that the grade behind the mud room goes up very quickly, and that would be tough to do.

Mr. Quinn said the spot he picked is the most aesthetically pleasing and convenient.

Mr. Gokorsch asked if the slope on the driveway is the same as where the garage will be placed. Mr. Quinn said it was. Mr. Gokorsch asked how many feet he will have to dig down to make the garage level, Mr. Quinn said two or three.

Mr. Grassi asked how the garage will look aesthetically. Mr. Quinn said that the garage will have a breezeway, and will be setback farther than the house. Mr. Grassi asked if the garage will look like it's part of the house, Mr. Quinn said it will.

Mr. Stormann asked if there was a survey done to determine the property line. Mr. Quinn said there is a pin in the back corner of the property and he has an aerial survey and used the survey from when the house was purchased to verify the property lines.

Mr. Downing made the motion to accept applicant's Exhibit 1 an aerial photograph of the property. Applicant's Exhibit 2 four photographs taken from the street. Mr. Grassi seconded the motion and it passed. Mr. Boucek abstained.

Mr. Boucek made the motion to close the public hearing for variance request #493. 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: **There was no testimony.**

B) Whether the variance is substantial. **Yes. The request is 40%.**

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. There was no testimony that this would be a detriment. The neighbor testified that he had no issues with the variance.**

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

E) Whether the property owner purchased the property with the knowledge of the zoning restriction: **No. The applicant answered no not at the time the property was purchased.**

F) Whether the property owners' predicament feasibly can be obviated through some method other than a variance: **No. There was testimony that there is a severe slope, corner lot, and leach field and septic behind the house.**

G) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance: **Yes, based on testimony.**

H) Such other criteria which relate to determining whether the zoning regulation is equitable: **None.**

Mr. Downing moved to approve variance request #493 as submitted by the applicant. Mr. Grassi seconded the motion. Upon roll call the vote was Mr. Downing – Yes, Mr. Grassi – Yes, Mr. Bouchek – abstain, Mr. Gokorsch – Yes. The motion passed.

VARIANCE REQUEST #494: Request for side yard setback of 15 feet in lieu of 30 feet required per section 5.2.B for an addition that extends nonconformance of a nonconforming building per section 7.4.A Nonconformance.

Mr. Bouchek made the motion to open the public hearing for variance request #494. Mr. Downing seconded the motion and it passed.

Mary Beth Dale, 14741 Chillicothe Road, confirmed she was sworn in.

Ms. Dale is asking for a variance for an addition on the back of her home for a bedroom with a half bath. Ms. Dale has health requirements that require larger door jams, her niece and nephew live with her and she only has two bedrooms and they are living in tight quarters. There is only one bathroom in the house and that is why she would like a half bath in the bedroom. The north side of the house is 17 feet from the property line, and the side yard is 15 feet from the property line. Ms. Dale identified where her septic and leach field are located. She said there are drainage problems on the north side by the garage.

Mr. Bouchek asked if the addition was going to be in line with the home. Ms. Dale said yes it would. Mr. Bouchek asked if the house was parallel with the property line, and she replied that it's not. Mr. Bouchek asked if the house is in line with the property line, and Ms. Dale said it is.

Mr. Downing asked if the addition will follow the existing home line. Ms. Dale said yes it will be flush.

Mr. Gokorsch said that the side lot encroachment will not change and will remain the same.

Mr. Downing made the motion to approve the applicant's Exhibit 1 an aerial view from Realink including sketch where the addition will be and where the septic and leach field are. Mr. Grassi seconded the motion and it passed.

Mr. Bouchek made the motion to close the public hearing for variance request #494. Mr. Downing 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: **No. Applicant responded there is no beneficial use for the property on the variance application. Applicant stated she has a niece and nephew living with her in a 2 bedroom house with one bathroom.**
- B) Whether the variance is substantial. **No, doesn't increase nonconformance by extending the building line.**
- 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: **There was no testimony.**
- D) Whether the variance would adversely affect the delivery of governmental services: **There was no testimony.**
- E) Whether the property owner purchased the property with the knowledge of the zoning restriction: **No. The applicant answered no on the application.**

F) Whether the property owners' predicament feasibly can be obviated through some method other than a variance: **No. The septic is behind the house and this location keeps the same building line as the house and keeps the addition away from the septic and leach field, there is a drainage problem on the north side of the property.**

G) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance: **Yes. Homeowner stated 3 people are living in a 2 bedroom house with one bathroom and she has health issues which require wider doorways and added bath for her needs.**

H) Such other criteria which relate to determining whether the zoning regulation is equitable: **There was testimony that all homes in the area have small side lots.**

Mr. Downing made the motion to approve variance request #494 as submitted. 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.

VARIANCE REQUEST #495: Request for an addition within the front yard setback but 10 feet 4 inches behind the nonconforming front of the existing residence; existing front yard setback 41.9 feet and proposed addition has a front yard setback of 52.23 feet. Required front yard setback is 100 feet in an R - 3 zone. Area variance required per section 7.4.A.

Mr. Boucek made the motion to open the public hearing for variance request #495. Mr. Downing seconded the motion and it passed.

Hallie Bowie, 1792 Brookshire Road, confirmed she was sworn in.

Ms. Bowie told the board that the garage has substantial damage. The addition will be behind the home and will not be encroaching on the front yard. The well is located on the south west corner between the house and the addition. The location of the well restricts area for the addition. The grade goes up towards the back of the property making placement difficult.

Mr. Gokorsch asked if the addition was to the rear and right of the home, and Ms. Bowie said yes. Mr. Gokorsch clarified that the home is two stories and the addition will be one story, Ms. Bowie said yes the addition is only one story.

Ms. Bowie said that the homeowners would like to rebuild the garage at the same time since the garage is in such bad shape, it needs a new foundation. She said that the new foundation will be in the same line as the current garage. Mr. Boucek asked if the homeowners were going to tear down the garage and completely rebuild it, Ms. Bowie said they would like to. The board asked if there was going to be any work done in the home, Ms. Bowie said yes there was, the addition will change the layout of the kitchen.

Mr. Boucek asked if the side door to the patio had stairs, and Ms. Bowie said yes. Mr. Boucek asked if the addition would look the same as the house. Ms. Bowie said yes the addition will have the same details and materials so that it matches the house.

The Zoning Inspector asked if the height of the addition will still be the same as previously indicated. Ms. Bowie said yes it will.

Mr. Downing made the motion to accept the applicant's Exhibit 1 a site plan showing the addition, setback, side yard, well, and septic. Mr. Boucek 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: **There was no testimony as to the property yielding a return.**
- B) Whether the variance is substantial: **The variance is substantial as it is 50 feet in lieu of the required 100 feet, but less nonconforming than the house.**
- 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: **There was no testimony, the finishes will be the same as the house.**
- D) Whether the variance would adversely affect the delivery of governmental services: **There was no testimony.**
- E) Whether the property owner purchased the property with the knowledge of the zoning restriction: **The applicant answered no on the application, they were not aware.**
- F) Whether the property owners' predicament feasibly can be obviated through some method other than a variance: **No. The entire home is not within the setback so all activity to change the home requires a variance.**
- G) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance: **Yes.**
- H) Such other criteria which relate to determining whether the zoning regulation is equitable: **Testimony that existing garage is falling apart and needs to be structurally replaced.**

Mr. Downing made the motion to approve variance request #495 as submitted. 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

MINUTES OF MARCH 7, 2016: *Mr. Grassi made the made the motion to accept the minutes of March 7, 2016 as amended. Mr. Boucek seconded the motion and it passed.*

FINDING OF FACT #491: *Mr. Downing made the motion to adopt Finding of Fact for appeal #491 as submitted. Mr. Boucek seconded the motion and it passed.*

ZONING SECRETARY: Mr. Gokorsch told the board that the job description that they wrote had to have legal review because government jobs have to have specific legal terms. Mr. Gokorsch said that some people in the Township want to hire immediately, but the board wants to find the right person and the Trustees agree. The advertisement will be placed and applications will start to be collected.

There being no other business, Mr. Downing made a motion to adjourn. Mr. Boucek seconded and the meeting adjourned at 8:27 p.m.

Respectfully submitted,

Jennifer Dorka Date

Steve Gokorsch Date
Chairman