

**Minutes: Russell Township Board of Zoning Appeals
Russell Fire-Rescue Station
September 12, 2016**

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

Absent: Dushan Boucek

Also in attendance: Shane Wrench, Zoning Inspector; Jennell Dahlhausen, Zoning Secretary; Paul Bellitto; Karen Bellitto; Joe Molnar; Finley Stay; Greg Horten.

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

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

VARIANCE REQUEST #497: Requesting two variances for a storage building:

- a side yard setback of 30 feet for a storage building in lieu of the 50 feet required in an R-3 zoned district per Section 5.2(B)
- to place the storage building in the front yard in lieu of the requirement that accessory buildings shall not be located in the front yard per Section 4.7(V)

Mr. Grassi moved to open the public hearing for variance request #497, seconded by Ms. Moore. Motion passed unanimously.

The audience members were sworn in.

Mr. Gokorsch explained to Mr. and Ms. Bellitto that a quorum of the Board is present, which allows for enough members to vote on the variance request. However it should be understood that for this request to pass, three members must vote affirmative. Therefore, the probability of success is better when all five members are present. Mr. Bellitto stated that the Zoning Secretary made him aware of this option but he and Ms. Bellitto would like to proceed with their request at this meeting.

Mr. Bellitto stated that he requested a variance for the side yard setback of 30 feet but had the Ohio Utilities Protections Service (OUPS) locate utility lines and the electric line runs underground near the proposed location. Mr. Bellitto stated he would like to build a 20 feet by 20 feet storage building, in place of the 20 feet by 25 feet originally proposed. Therefore, he will only need a variance of 15 feet with a side yard setback of 35 feet. The variance request submitted was revised by Mr. Bellitto to note the change.

Mr. Bellitto stated the reason he doesn't have access to the back yard is due to the water well and electric box location as noted in exhibit A. The leach field is in the front yard and there is a very active stream on the other side of the house. Mr. Bellitto provided exhibits D1, D2 and D3 to show the stream. The township installed a storm drain several years ago due to the excessive amount of runoff during rainstorms and when the snow melts, which causes the backyard to become extremely wet. Mr. Bellitto stated this is the only practical location for a storage shed due to the utilities and the stream.

Mr. Joe Molnar stated he lives across the street from the Bellitto's and agrees this is the only area that is feasible for a storage building due to the utilities and very active stream. The stream prohibits some use of their property since it takes a lot of storm water runoff from neighboring properties.

Mr. Gokorsch asked Mr. Molnar if the shed would impact the character of the neighborhood. Mr. Molnar added that he doesn't feel the storage building will impact the look of the neighborhood. He cannot see the Bellitto house from his front yard in the summer months, as it is screened by trees in the front yard which is shown in exhibit B. He doesn't think he will be able to see the storage shed in the winter either.

Being no further comment from the public, Mr. Grassi moved to close the public hearing for variance request #497, seconded by Mr. Downing. Motion passed unanimously.

VARIANCE REQUEST #497 CONTINUED:

The Board noticed a few new exhibits to discuss.

Mr. Grassi moved to reopen the public hearing for variance request #497, seconded by Mr. Downing. Motion passed unanimously.

Photos of the active stream were discussed.

Being no further comment, Mr. Grassi moved to reclose the public hearing for variance request #497, seconded by Ms. Moore. Motion passed unanimously.

Mr. Downing made the motion to accept Exhibit A - aerial photograph of the property and placement of the utilities, Exhibit B - photographs of where the driveway approaches the house, showing the power box, a photo of the front yard and a photo of the proposed location of the storage shed, Exhibit C - site plan of the proposed structures placement, and Exhibits D1, D2, & D3 - photographs of the culvert opening and the depth of the creek, seconded by Mr. Grassi. 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: The board answered yes. Due to the location of the well and leach field, this is the only feasible location. The applicant answered no.
- B) Whether the variance is substantial: The board answered no for the side yard setback. The applicant is requesting a 30% variance which isn't substantial. The board answered yes for the front yard storage building location, as it is a substantial request. The applicant answered no.
- 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 is a wooded area in the front yard that will limit visibility of the storage building. A neighbor, Mr. Molnar, stated that he doesn't think it will impact the look of the neighborhood and that he doesn't see their house from his front yard when the leaves are on the trees. Mr. Molnar doesn't think he will be able to see the proposed storage building either. The applicant answered no.

D) Whether the variance would adversely affect the delivery of governmental services: No. The applicant answered no.

E) Whether the property owner purchased the property with the knowledge of the zoning restriction: No. The applicant purchased the property with the knowledge of the utilities. The applicant answered no.

F) Whether the property owners' predicament feasibly can be obviated through some method other than a variance: No. As shown in exhibit A with the placement of the underground electric utilities stream, well head, and septic field, this location is the most practical. The applicant answered no.

G) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance: Yes. All of the items noted by Mr. Bellitto show that there is little available space on the lot to build a storage shed. Only the front of the yard, near the existing drive is available due to the placement of the utilities and the active stream, etc. The applicant answered yes.

H) Such other criteria which relate to determining whether the zoning regulation is equitable: There would be no way to access a storage building in the rear yard due to the placement of the water well, electric, leach field and the stream that runs along the side of the property carrying storm water runoff from neighboring properties. It was also noted that the underground power lines from the distribution box to the house prohibits building a drive across this area.

Ms. Moore moved to approve Variance #497 as amended by the applicant to reduce the request from a 30 feet setback to a 35 feet setback, seconded by Mr. Downing. In favor; Mr. Downing, Mr. Grassi, Ms. Moore, Mr. Gokorsch. Motion passed.

FINDINGS OF FACT: *Ms. Moore moved to approve the Findings of Facts for variance request #496 from Joe and Chris Luca at 8545 Pekin Road, seconded by Mr. Grassi. In favor; Ms. Moore, Mr. Grassi, Mr. Gokorsch. Abstained; Mr. Downing. Motion passed.*

MINUTES OF AUGUST 1, 2016: *Ms. Moore moved to accept the minutes of the August 1, 2016 meeting, seconded by Mr. Grassi. In favor; Ms. Moore, Mr. Grassi, Mr. Gokorsch. Abstained; Mr. Downing. Motion passed.*


OTHER BUSINESS: Ms. Moore would like to add a public comment section to the agenda to be in compliance with a recent resolution that the Township Trustees adopted. Mr. Gokorsch specified this section would be separate from the Public Hearings comments.

Ms. Moore moved to add a public comment section under Old Business on the agenda, seconded by Mr. Grassi. Motion passed unanimously.


Mr. Gokorsch would like to discuss the possibility of having an alternate person fill in if a board member could not make a meeting. The last three meetings didn't have a full board present and if someone wants to hold off on a variance request until a full board is available, it could cause the applicant to push back the start of their project until the next building season. Mr. Gokorsch stated the person would only fill in if another member is absent. If the hearing is continued, the alternate would fill in for that specific request at the next meeting and excuse themselves after a vote is taken.

The Zoning Inspector stated the Bainbridge Board of Zoning Appeals has two alternate members that function the same way that Mr. Gokorsch has recommended. Mr. Gokorsch would like to discuss this topic further when Mr. Boucek is present at the next meeting.

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 8:07 p.m.



Jennell Dahlhausen Date 10/3/16
Zoning Secretary



Steve Gokorsch Date 10/3/16
Chairman

FINDINGS OF FACT

VARIANCE REQUEST #497 Paul and Karen Bellitta, 14711 Sleepy Hollow Drive, Novelty, OH 44072

The Board of Zoning Appeals held a Public Hearing on September 12, 2016.

The appellant requested the following variances for a storage building:

- A side yard setback of 30 feet (amended at hearing to 35 feet) for a storage building in lieu of 50 feet required in an R-3 zone per Section 5.2.B. "Dimensions which apply to lot size and building placement in residential zones."
- To place the storage building in the front yard in lieu of the requirement that accessory buildings shall not be located in the front yard per Section 4.7(V).

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, based on location of the well and leach field and underground power feed, the requested location is the only feasible location for placement of the storage building.

b) Whether the variance is substantial.

Side yard variance: The variance requested is not substantial.

Front yard variance: The variance requested 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.

The applicants responded no as the location of the proposed storage building would be in an area with woods between it and the street, which would limit visibility of the structure. Testimony from an affected neighbor across the street confirmed that he would likely not see the storage building placed in the proposed location. The neighbor also confirmed the essential character of the neighborhood would not be substantially altered.

d) Whether the variance would adversely affect the delivery of governmental services.

No, the applicants responded "no" in the variance request, and no testimony was presented to the contrary.

e) Whether the property owner purchased the property with the knowledge of the zoning restrictions.

The applicants responded no in the application.

- f) Whether the property owner's predicament feasibly can be obviated through some method other than a variance.**

The applicants answered "no" and testified that the location of the underground utility lines on the property prohibits using the area on the south side of the home to the south property line for purposes of constructing permanent access to the backyard. Further, applicants testified the location of an active stream in the front yard prevented constructing permanent access to the backyard on the north side of the home and north property line. The applicants also testified the location of the well-head and septic field impacted combined with the foregoing variables created a predicament that cannot be feasibly obviated through some method other than a variance.

- g) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.**

The applicants answered "yes" and explained that without the requested variance, the homeowners would not be able to construct the storage building as there were no other locations on the parcel to place the structure. Applicants testified that the requested variance would not cause a substantial detriment to the neighborhood and would be in keeping with the spirit and intent of the zoning resolution. There was no testimony to the contrary.

- h) Such other criteria which the board believes relates to determining whether the zoning regulation is equitable.**

The location of the underground utility lines on the property prohibits using the area on the south side of the home to the south property line for purposes of constructing permanent access to the backyard. Further, applicants testified the location of an active stream in the front yard prevented constructing permanent access to the backyard on the north side of the home and north property line. The applicants also testified the location of the well-head and septic field prevented placement of the storage building in the rear yard. The distance between the south side of the storage shed and the nearest neighbor would be about 130 feet.


Ms. Moore made the motion to approve variance request #497. Mr. Downing seconded and upon roll call the vote was Mr. Downing – Yes, Mr. Grassi – Yes, Ms. Moore – Yes, and Mr. Gokorsch – Yes, and the motion passed.

Variance Request #497 was granted.

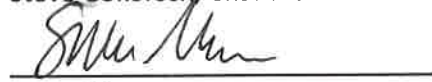
THE RUSSELL TOWNSHIP BOARD OF ZONING APPEALS



Steve Gokorsch, Chairman



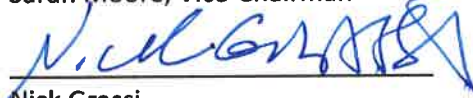
William Downing



Sarah Moore, Vice-Chairman



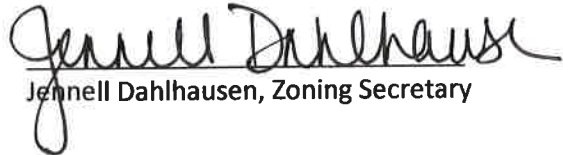
Dushan Boucek



Nick Grassi

10/3/16

Date



Jennell Dahlhausen, Zoning Secretary

7-12-16 Ram Butts

EXHIBIT A



1 Inch = 39.42 Feet | Scale: 473

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A

Gaugua County GIS
 Frank J. Gliha, Geauga County Auditor
 Joe Cattell, Geauga County Engineer PE, PS



Geauga REALink

9A-16 Kambachito EXHIBITS



South Side

9-12-16
Karin Bulatto

Exhibit C



→ door faces ~~WEST~~
EAST

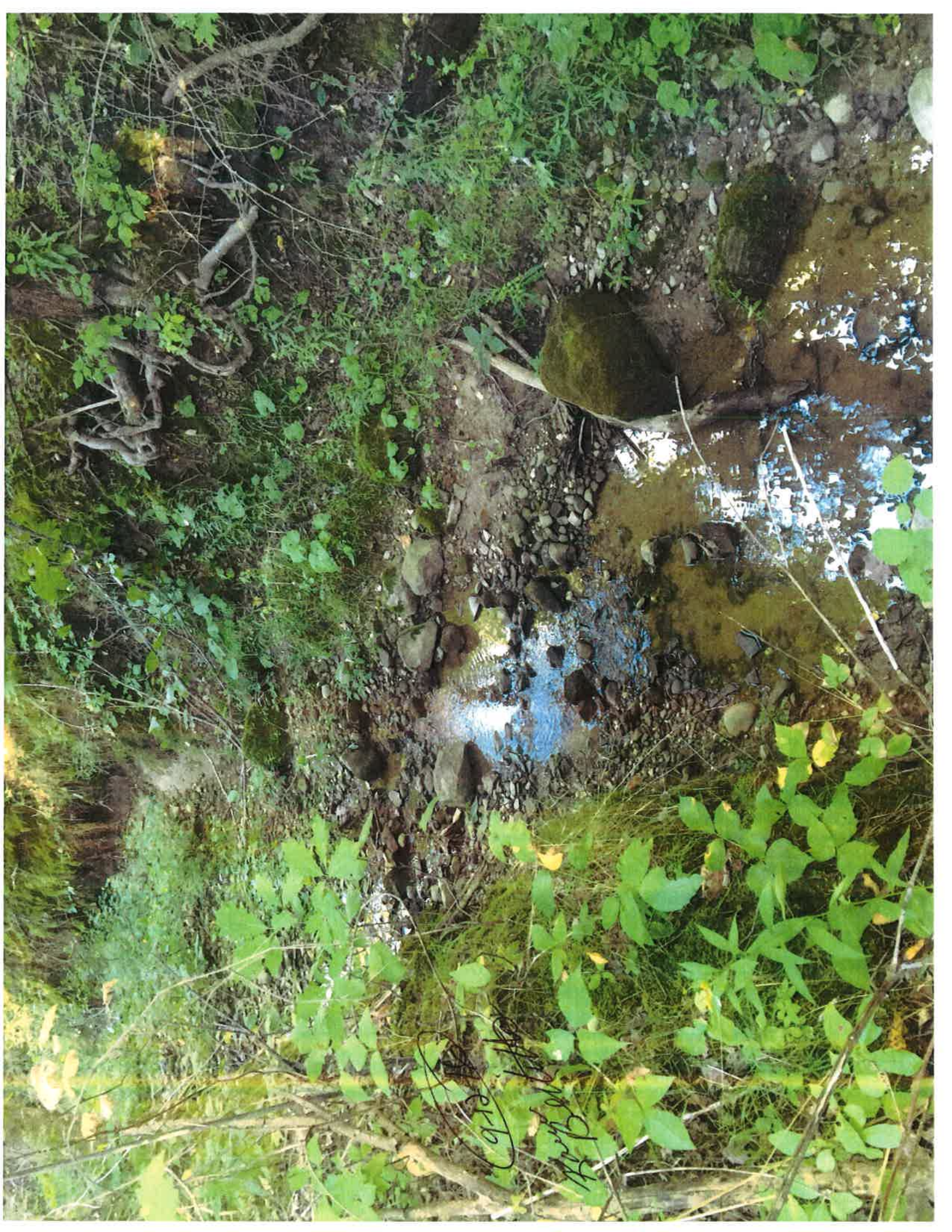


EAST

9-12-16
Kam Bellitto

Front
of
Property





1910
H. B. Smith

Exhibit D-2
Area #2

9-12-16 Ron Bellotti



Exhibit D-2
Area #2

9-12-16
Ramon Buitrago