

Minutes: Russell Township Board of Zoning Appeals
Russell Fire-Rescue Station
June 3, 2019

Present: Steve Gokorsch, Chairman
Chuck Johns
William Downing
Dushan Boucek

Ms. Moore was absent with apologies.

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

VARIANCE REQUEST #519 (CONTINUED): Seeking a variance for parcel #26-066400. Requesting relief from section 5.2(b) - the applicant is seeking a lot split, with one lot being under the 5 acre requirement. The applicant is also requesting relief for both parcels for road frontage.

Paul Hummer 14580 Caves Road, confirmed that he was sworn in.

Mr. Hummer postponed his hearing due to not having a full board.

VARIANCE REQUEST #520: Seeking two variances for parcel #26-113000 in effort to construct a new single-family residence. per sections 5.2(a)(1) and 5.2(b) .

Mr. Boucek made the motion to open the public hearing on variance request #520. Mr. Downing seconded the motion and it passed.

Bethany Hurtuk 406 Deer Court, Chagrin Falls, confirmed that she was sworn in.

Mrs. Hurtuk is the landlord for the current home on the property. She would like to take down the current residence and build a new one for their retirement home, but would like to keep the current rental house until the new home is built.

Edward Hurtuk 46 Deer Court, Chagrin Falls, confirmed he was sworn in.

They would like to let the current tenant stay while they build the new home, and will remove the rental home when the project is finished. The new house will be farther back from the property line, and there is currently a garage and barn on the property and they will not be removed.

Mr. Boucek asked if there was a variance on the property already due to the structure being 30ft away from the property line. The Zoning Inspector answered that to his knowledge there is no variance, because there was no variance records in the property file. Mr. Johns asked if the same driveway would be used, and the applicants answered yes but a circle will be added.

Mr. Boucek asked if the two structures behind the current home were sheds? The applicants advised the board that one structure had the well in it, and the other had an old milk tub in it. They think the structures are historic. Mr. Gokorsch asked the board if there would be a restriction on the two small sheds in the front of the home, and if it could be a special circumstance since the structures are historic. Mrs. Hurtuk said that the structures don't have to stay, but they would like to fix them up and keep them.

Mr. Boucek asked how many bedrooms were in the current house, and the applicants said there were three. Mr. Boucek asked how many bedrooms would be in the new home, and the applicant said that there would still only be three bedrooms in the new home.

Mr. Boucek advised the applicants that if they want to keep the two historic structures that they will need an additional variance for have structures in the front yard. They also need a side yard variance since the current garage doesn't have enough side yard from the property line. Mrs. Hurtuk said that the garage shouldn't need a variance because they already have a variance on it, and the barn was grandfathered with its side yard distance about three years ago when the last Zoning Inspector was here. Mr. Gokorsch asked if they had a copy of the variance, and the applicant said not with them but they could go home and get it, they only live five minutes away. If they went home they could also provide pictures of the two historic structures. Mr. Gokorsch told the board he would like to see the variance for the 30 foot side yard. Mr. Boucek advised that even with that variance the applicant would still need a variance for having two sheds in the front yard. Mr. Gokorsch asked for a motion.

Mr. Boucek made the motion to close and continue the hearing on variance request #520. Mr. Downing seconded the motion and it passed.

VARIANCE REQUEST #521: Seeking variances to locate fuel storage tanks, and trash dumpster by north property line.

Mr. Boucek made the motion to open the public hearing for variance request #521. Mr. Johns seconded the motion and it passed.

Robert Wellert 5136 Beach Road, Medina, confirmed that he was sworn in.

Mr. Wellert explained to the board that ODOT said the driveway needs to be moved east because there are no turning lanes on Chillicothe or Kinsman roads. When the driveway is moved that will move the fuel storage tanks further from the property line, which will modify the tank sideline setback to 20.87 feet to the north and 70 feet to the south. The trash will also be moved and will no longer be visible from the street. This will change the lighting plan due to rearranging the light poles. The one by the property line will be moved farther away, and the sign on Kinsman Road will be moved further away from the right of way due to a 20 foot sewer easement.

Mr. Gokorsch asked if there will still be underground storage tanks for surface water. Mr. Wellert told the board that the pipe might be moved, but the system that is being put in will not change. Mr. Boucek asked if the apron for the driveway on Kinsman Road will go onto the property next-door. Mr. Wellert advised the board that ODOT has not approved the driveway plans yet, but the driveway will be on their property and not on the neighbors. ODOT recommended that the driveway be placed as far to the east as possible.

Savanna Vandicant-Pete 935 E Tallmadge Ave, Akron, confirmed that she was sworn in.

Mr. Johns asked if the grease trap is separate from the water storage. Mr. Wellert answered yes.

Mr. Downing asked to verify that the canopy lights were no longer on the prints, and if that meant there wouldn't be any lights on the canopy. Mr. Wellert answered yes there were no lights on the prints so it seems that there will be no lights on the canopy.

Eileen Fisco 14451 Hunting Hills, was sworn in at 8:01 pm.

Ms. Fisco told the board that since this is such a major intersection in the township that she appreciates all the architectural details, and all the work that the board has done.

John Wagner 13391 Fox Hollow, was sworn in at 8:03 pm.

Mr. Wagner asked if the lighting on the canopy was really gone. Mr. Wellert said that since they are no longer on the plans then they are no longer part of the project. Mr. Wagner asked if the light poles were the same height as before, Mr. Wellert answered yes. Mr. Wagner asked if the water plan had been changed at all, and it has not changed.

Mr. Downing made the motion to accept the Applicant's exhibits numbers 24, and 25 as presented. Mr. Johns seconded the motion and it passed.

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

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 areas in question were moved farther from the lot-line, reducing the variance.**

B) Whether the variance is substantial: **Yes, but the variance was reduced.**

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 would be no change in the character, or the underground water storage.**

D) Whether the variance would adversely affect the delivery of governmental services: **No. The storage tanks are underground.**

E) Whether the property owner purchased the property with the knowledge of the zoning restriction: **Yes.**

F) Whether the property owners' predicament feasibly can be obviated through some method other than a variance: **No. The tanks have to be on the property.**

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: **By moving the tanks, farther from the property line makes the change in favor of the Townships Zoning.**

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

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, trash is required.**

B) Whether the variance is substantial: **Yes, but the variance was reduced.**

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: **It was a concern that the trash would be seen from State Route 87, this is improving the character from the original plan.**

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

E) Whether the property owner purchased the property with the knowledge of the zoning restriction: **Yes.**

F) Whether the property owners' predicament feasibly can be obviated through some method other than a variance: **No.**

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: **This moves the trash so it is no longer visible from State Route 87, and the trash container is out of public sight.**

The board corrected the applicant's exhibit number to 24, 25, and 26.

Mr. Bouchek moved to approve variance request #521 with the condition that the driveway on State Route 87 will be worked out by easement, or other placement plans. Mr. Downing seconded the motion. Upon roll call the vote was Mr. Downing – Yes, Mr. Johns – Yes, Mr. Bouchek – Yes, Mr. Gokorsch – Yes. The motion passed.

Tim Ristau 7705 Deerfoot Trl, confirmed he was sworn in.

Mr. Ristau asked if there are any more variances required. Mr. Gokorsch advised Mr. Ristau that there are no more required variances from the Board of Zoning Appeals at this time, but that ODOT has to approve the driveway plans.

Mr. Bouchek made the motion to open and continue the public hearing for variance request #520. Mr. Downing seconded the motion and it passed.

Bethany Hurtuk gave the board the zoning variance that she had at home, and the variance was signed by Diana Steffen, who was the Zoning Inspector at the time.

Mr. Gokorsch asked what the age of the two structures were, and when they were built. Mr. Hurtuk said they were built around 1850, which was before there was zoning. The applicants decided that they would like to remove the two structures, and not seek a variance to keep them in the front yard. The applicants changed their request to just frontage and width. The applicants told the board that they could have the current home taken down within 9 months from when the construction of the new home begins.

Mr. Bouchek made the motion to close the public hearing on variance request #520. Mr. Downing seconded the motion and it passed.

Mr. Downing made the motion to accept the Applicant's exhibits #1, 2, 3, 4, and 5. Mr. Bouchek 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.**

B) Whether the variance is substantial: **No. It is 10 feet.**

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 given.**

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: **Unknown. The applicant didn't answer on the application.**

F) Whether the property owners' predicament feasibly can be obviated through some method other than a variance: **No.**

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: **The existing structure will be razed within 9 months of construction. The applicant decided to raze the two additional structures to avoid needing a front lot variance.**

Mr. Downing made the motion to accept variance request #520 as amended. Mr. Johns seconded the motion. Roll call vote was as follows: Mr. Gokorsch - Yes, Mr. Boucek - Yes, Mr. Downing - Yes, Mr. Johns- abstained.

COMMENTS FROM THE PUBLIC WERE RECIEVED.

Peter Harding 2589 Mechanicsville Road.

Mr. Harding advised the board that he is no longer representing Mr. Hummer on variance request #519. He advised the board that Mr. Hummer has drawings that are not his and he doesn't have permission to submit to the board, and asked if there was anything the board could do. Mr. Gokorsch advised Mr. Harding that the board can't control what drawings that applicants submit, but suggested that he withdraw the variance request in writing to the Zoning Inspector.

The board tabled the minutes from the May 6, 2019 meeting, and would like more time to review them.

There being no other business, Mr. Boucek made a motion to adjourn. Mr. Downing seconded and the meeting adjourned at 8:47 p.m.

Respectfully submitted,

Karen Walder, appointed to serve
as Secretary of the Board of Zoning Appeals

Date

Steve Gokorsch
Chairman

Date

Recorded by: J. Dorka