

Minutes: Russell Township Board of Zoning Appeals
Russell Fire-Rescue Station
January 4, 2016

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

Mr. Grassi was absent with apologies.

Also in attendance: Diana Steffen, Zoning Inspector.

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

Mr. Downing made the motion to open the nominations for chairman and vice chairman. Mr. Boucek seconded the motion and it passed unanimously.

Mr. Downing nominated Mr. Gokorsch to be the chairman and Ms. Moore to be the vice chairman. Upon roll call the vote was Mr. Downing – Yes, Ms. Moore – Yes, Mr. Boucek – Yes, Mr. Gokorsch – Yes. The motion passed by a unanimous vote.

Mr. Downing made the motion to close the election. Mr. Boucek seconded the motion and it passed unanimously.

The legal notice was published in the Chagrin Valley Times on December 24th. The certified letters and regularly mailed letters for the meeting were mailed on December 21st.

CONTINUANCE OF VARIANCE REQUEST #489: Request for a side yard setback of 8 feet in lieu of 30 feet, and an amended request for a rear yard setback of 10 feet in lieu of 25 feet, to construct an accessory building.

Mr. Boucek made the motion to open the public hearing for the continuance of variance request #489. Mr. Downing seconded the motion and it passed unanimously.

Mike Cloonan, 7641 Blackford drive, confirmed that he was sworn in.

Mr. Cloonan told the board that he is requesting an accessory building be built 10 feet from the rear property line. He said that he could change the 10 feet to 8 feet to move the accessory building farther away from the home. Mrs. Steffen said that if Mr. Cloonan was amending his request to 8 feet, than he would have to change the distance on his notice of appeal and sign and write the date next to the change. The applicant approached the board and amended his notice of appeal to ask for an 8 foot rear yard setback and signed and dated the change.

Mrs. Steffen said that she spoke with the Fire Chief about his opinion on whether the distance from the accessory building to the applicant's home and neighboring homes was a safety concern. The Fire Chief said that the farther back the accessory building was from the home the better, since side to side fire exposure is riskier than corner to corner exposure. Mr. Cloonan said that the front of the shed will be behind the back edge of the house about 6 feet. Mr. Downing asked if the shed could be rotated to be even further away from the house. Mr. Cloonan said that the neighbor had no issue with the placement of the shed and there were no windows on the shed or the side of the neighbor's home that would be facing the shed. He believes the shed will look better from a street view if is not rotated so you can see the front and not the side of the building.

Mr. Cloonan approached the board to amend the site plan for the shed which will be exhibit #3 and will replace exhibit #1. The final site plan now shows the shed 8 feet from the side yard property line and 8 feet from the rear yard property line.

Ms. Moore made the motion to accept the applicant's exhibit #3, the site plan showing the distance to the side and rear property lines. Mr. Downing seconded the motion and it passed unanimously.

Mr. Boucek made the motion to close the public hearing for the continuance of variance request #489. Mr. Downing seconded the motion and it 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 owner answered yes in the application.**

B) Whether the variance is substantial. **Yes. The request is greater than 50%.**

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 applicant gave testimony, and the two adjacent neighbors gave testimony that they didn't think the shed was a detriment or changed the character of the neighborhood.**

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

E) Whether the property owner purchased the property with the knowledge of the zoning restriction: **No. The applicant answered no and there was no testimony to the contrary.**

F) Whether the property owners' predicament feasibly can be obviated through some method other than a variance: **No. The applicant's lot is a corner lot and has two front yards, one side yard, and no back yard. The Zoning Inspector gave testimony that this is the only practical spot for the shed.**

G) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance: **Yes. The applicant will be able to put away items that are normally left in the yard, with the variance the applicant's yard will be tidy enhancing the neighborhood.**

H) Such other criteria which relate to determining whether the zoning regulation is equitable: **The board requested an opinion from the Fire Chief who confirmed the shed would be in a better location if it were positioned further back from the home.**

Mr. Boucek moved to approve variance request #489 as amended by the applicant. Mr. Downing seconded the motion. Upon roll call the vote was Mr. Downing – Yes, Ms. Moore – Yes, Mr. Boucek – No, Mr. Gokorsch – Yes. The motion passed.

VARIANCE REQUEST #490: Request for a rear yard setback of 19 feet in lieu of 25 feet required for an accessory building.

Mr. Boucek made the motion to open the public hearing for variance request #490. Mr. Downing seconded the motion and it passed unanimously.

Greg Popik, 13992 West Willard Drive, confirmed that he was sworn in.

Mr. Popik requested a 6 foot variance, from 25 feet to 19 feet, due to the topography of the land and the way the yard drains. There is also a large leach field on the south side of the home. Mr. Popik said that he was unaware that he needed a variance so he had started to build the accessory building, and he picked the location because it is on a hill and his yard is very wet. When there is heavy rain or a snow melt there is water flowing through the yard.

The applicant spoke to the neighbors as soon as he found out he needed a permit. The Zoning Inspector walked the property to verify that the yard was wet, and noted that there was a swale across the yard. There is a tree line across the rear property line where the closest neighbor would be affected, but that neighbor had no issue with the location of the storage building.

Robert Healey, 14016 West Willard Drive, confirmed that he was sworn in.

Mr. Healey is the closest neighbor to the south and said that he has no problem with the accessory building. He said that Mr. Popik has improved and cleaned up the property and the neighbors appreciate it. Mr. Healey told the board that there is a water problem and flowing water on Mr. Popik's property.

Mrs. Steffen, Zoning Inspector, agreed that there is a swale in the yard and a water issue between the leach field and the house behind the garage. The area is very wet and has flowing water. The downspouts on the southwest corner go right into the swale of the yard. Mr. Popik said that the accessory building is on a concrete slab that raised the building above the ground. Mrs. Steffen said that affected neighbor to the rear couldn't attend the hearing and called her in the zoning office to tell her that they had no issue with the accessory building or the location of it.

Ms. Moore asked if the trees on the back property line block the view of the accessory building from the neighbor's home. Mr. Popik said that the neighbor's house was on a hill so their view is not completely blocked and sits a little above the tree line.

Mr. Boucek asked how wet the property was. The applicant answered that if it rained and you walked through the yard, your shoes would be soaked with water. Mr. Popik told the board that he has to pump the rain water into the ditch. Mr. Gokorsch asked if there was a pump on the curtain drain. Mr. Popik said that there was an electric pump on the curtain drain that pumps water into the ditch.

Mr. Boucek asked the applicant if he considered installing drain tile. The applicant said that there is a pipe underground and there is no place to discharge the water except into the neighbor's yard.

Ms. Moore asked Mrs. Steffen if the accessory building on the neighboring property to the north is close to the property line. Mrs. Steffen said yes the building is 15 feet or less from the side property line. Mr. Gokorsch asked if the subject accessory building would have an impact on the neighborhood. The Zoning Inspector said not the entire neighborhood, but the building would impact the neighbor on the property behind Mr. Popik.

Mr. Boucek asked the applicant if he moved the building east could grading be done to fix the water problem. The applicant answered that the entire area is very wet and you couldn't grade without being too close to the curtain drain. The only way would be to bulldoze and then grade but then the underground pipes would be very far underground and the county doesn't want that.

Mr. Downing made the motion to accept the applicant's exhibit #1, an aerial photograph showing the electric sump pump and curtain drain, and exhibit #2 the site plan showing the water flowing east to west. Mr. Boucek seconded the motion and it passed unanimously.

Ms. Moore asked the applicant if there was a reason why the accessory building couldn't be closer to the home. Mr. Popik said he picked the spot for the accessory building because it is on a hill and is the only dry spot in the yard due to all the runoff and flowing water. Mrs. Steffen said that the aerial picture shows the yard area behind the house looking like rough land, but since the photo was taken the applicant has planted grass over the land and uses it for his personal space.

Mr. Boucek made the motion to close the public hearing for variance request # 490. Mr. Downing seconded the motion and it 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 yes.**

B) Whether the variance is substantial. **No. The applicant answered no, and the board noted the variance is about 24%.**

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 applicant answered no, the accessory building is far from the road and there is a tree line between the neighboring property and the building. The Zoning Inspector stated that there would only be an impact on the rear neighbor.**

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

E) Whether the property owner purchased the property with the knowledge of the zoning restriction: **No. The applicant answered no and there was no testimony to the contrary.**

F) Whether the property owners' predicament feasibly can be obviated through some method other than a variance: **No. The property owner and the Zoning Inspector gave testimony to the wet condition of the yard. They both gave testimony that this location is the driest and best location. It was noted that due to the curtain drain other areas can't be built on.**

G) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance: **Yes. The applicant answered yes. Water drainage makes the property unique. Alternate sites are not possible due to water flowing through the yard.**

H) Such other criteria which relate to determining whether the zoning regulation is equitable: **There is a swale with water flowing through the property going east to west.**

Mr. Boucek made the motion to approve variance request #490 as submitted. Mr. Downing seconded the motion. Upon roll call the vote was Mr. Downing – Yes, Ms. Moore – Yes, Mr. Boucek – Yes Mr. Gokorsch – Yes. The motion passed.

MINUTES OF DECEMBER 7, 2015 – *Ms. Moore made the motion to accept the minutes of December 7, 2015 as amended. Mr. Downing seconded the motion and it passed unanimously.*

There being no other business, Ms. Moore made a motion to adjourn. Mr. Boucek seconded and the meeting adjourned at 7:50 p.m.

Respectfully submitted,

Jennifer Dorka Date

Steve Gokorsch Date
Chairman