

Minutes: Russell Township Board of Zoning Appeals
Russell Fire-Rescue Station
July 8, 2019

Present: Sarah Moore, Vice-Chairman
Chuck Johns
William Downing
Dushan Boucek

Also in attendance: Shane Wrench, Zoning Inspector

Mr. Gokorsch was absent with apologies.

Mrs. Walder, Zoning Secretary, was absent with apologies.

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

Mr. Johns made the motion to adopt the agenda. Mr. Boucek seconded the motion. Upon roll call the vote was Mr. Downing – Yes, Mr. Johns – Yes, Mr. Boucek – Yes, Ms. Moore – Yes. The motion passed.

VARIANCE REQUEST #519 (CONTINUED): Variance request #519 was withdrawn.

Mr. Boucek made the motion to accept the withdrawal of variance request #519. Mr. Johns seconded the motion. Upon roll call the vote was Mr. Downing – Yes, Mr. Johns – Yes, Mr. Boucek – Yes, Ms. Moore – Yes. The motion passed.

VARIANCE REQUEST #522: The applicant is in need of an upgraded septic system, due to having "two living units" the owner is seeking a variance to allow two septic systems. One for the home, and a separate system for a pool house which has bathrooms, and a bedroom.

Mr. Boucek made the motion to open the public hearing for variance request #522. Mr. Downing seconded the motion. Upon roll call the vote was Mr. Downing – Yes, Mr. Johns – Yes, Mr. Boucek – Yes, Ms. Moore – Yes. The motion passed.

Christein Semarjian 7350 Calley Lane, confirmed that she was sworn in.

Mrs. Sermarjian needs a new septic for her home, but due to having a pool house she is required to have two septic systems, (the pool house having one and a half bathrooms, and a bedroom). She is seeking a variance to allow her to have two septic systems. She told the board that the pool house is not rented out and is only used as a pool house and storage, the family has no intention of ever renting the pool house out.

Ms. Moore asked the Zoning Inspector if he had pictures of the pool house. Mr. Wrench advised the board that there was a permit issued in 2005 for the pool house as it was drawn. The layout of the structure is still the same. The second floor loft is being used for storage.

Mr. Johns asked if the pool house needed its own septic.

Collin Cooper from Horizon Excavating, 17126 Maple Dr, Chagrin Falls, confirmed that he was sworn in.

Mr. Cooper advised the board that the health department is requiring that there are two separate septic systems for the house and the pool house due to a state law that requires each dwelling to have a septic system. Both systems will have aeration and UV disinfecting light.

Ms. Moore asked the Zoning Inspector if he verified that two septic systems were needed. Mr. Wrench said that Dave Sage at the health department confirmed over the phone that two septic systems are needed. Mr. Boucek observed that the pool house was designed for a residence. Mrs. Sermarjian told the board that they purchased the home in 2011, and moved in the home in 2016 and the pool house was already there when they purchased the home.

Ms. Moore advised the board that they were limited in the variance due to the immediate need for sewage system. Mrs. Sermarjian said that it is unsafe for her children and dogs to be in the yard until the septic is fixed, and the family is trying to limit water use during the issue. Ms. Moore asked if the variance is granted contingent that the pool house would not be rented, Mrs. Sermarjian said yes that they had no intention of ever renting the pool house. Mr. Johns asked if a neighbor could confirm that the structure is only used for a pool house.

Ernest Dechellis 7340 Calley Lane, confirmed that he was sworn in.

Mr. Dechellis told the board that he has never seen the pool house rented by either owner, and it is used rarely in the summer for events. To his knowledge the pool house is not used at all right now.

The board asked if there were any comments from the public.

Mr. Boucek made the motion to close the public hearing for variance request #522. Mr. Johns seconded the motion. *Upon roll call the vote was Mr. Downing – Yes, Mr. Johns – Yes, Mr. Boucek – Yes, Ms. Moore – Yes. The motion passed.*

Mr. Downing made the motion to approve variance application #522, which is a narrow and limited application to vary from 5.2(A)1 based on legal requirements of HDSTS Rule 3701-29-06 for required septic system and contingent on homeowner not renting pool house under any circumstance. Mr. Boucek seconded the motion. Upon roll call the vote was Mr. Downing – Yes, Mr. Johns – Yes, Mr. Boucek – Yes, Ms. Moore – Yes. The motion passed.

VARIANCE REQUEST #523: The applicant is requesting a lot split, with several versions in order to divide the parcel and build a new single-family home.

Mr. Johns made the motion to open the public hearing for variance request #523. Mr. Boucek seconded the motion. Upon roll call the vote was Mr. Downing – Yes, Mr. Johns – Yes, Mr. Boucek – Yes, Ms. Moore – Yes. The motion passed.

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

Mr. Hummer presented the board with three prints of site plans in the order of his preference, for a lot split of his property. The reason for the lot split is so that he can build a new single-family home without taking down the home that is on the property and displace the renter, who has lived there for eight years. Mr. Hummer advised the board that option #1 was what he preferred, and thinks will fit the character of the neighborhood the best.

Mr. Boucek asked to walk through each option and the required variances:

1.) The small lot would be 1.62 acres instead of the required 5 acres. The small lot would need a variance for frontage and width of 175ft instead of the required 300ft. The large lot would also need a frontage variance of 244ft instead of the required 300ft. Option one requires a total of four variances.

2.) The small lot would be 3 acres instead of the required 5 acres. A width variance will be needed for the small lot for 284ft instead of the required 300ft. The large lot will have a frontage of 69ft instead of the required 300ft. Ms. Moore asked based on the home on the smaller lot, would a side lot variance be required? Mr. Wrench advised that a variance was granted in Finds of Fact from the request in 1992. Option two requires a total of three variances.

3.) The small lot would be 3 acres instead of the required 5 acres. The large lot would need a frontage variance for 119.7ft instead of the required 300ft. Option three requires two variances.

The board asked Mr. Hummer which option he wanted to proceed with. The board can only vote on one option and needs to focus on that one site plan. Mr. Hummer would like option one to be voted on.

Ms. Moore asked the Zoning Inspector what he thought of option one. Mr. Wrench advised that in his opinion option one would fit best with the character of the surrounding neighborhood. The small lot will be similar shape and frontage as other lots on the street, and a large parcel with smaller frontage wouldn't be in character. Mr. Hummer advised the board that the new home on the larger lot wouldn't be visible from the street and he intends to keep it that way. Mr. Downing said that according to the diagram from Realink that it shows other homes on the street with frontages of 141ft, 141ft, and 148ft, and thinks the frontage in option one would match the character of the area. Mr. Johns told the board that the small lot would have acreage consistent with other homes on Caves Road.

Mr. Downing asked if there were plans to subdivide the lot anymore. Mr. Hummer said that he has four children and might want to create a family compound someday, or build his mother a home on the property. The property wouldn't be open to the public. Mr. Downing asked how much of the large lot would be buildable. Mr. Hummer didn't have an exact answer, but thinks two or three other homes could be built on the property.

The board asked if there was any public comments.

Eileen Fisco 14451 Hunting Hills, confirmed that she was sworn in.

Her property borders his and she appreciates how conscious the board is about the neighbors. She is impressed with how Mr. Hummer has improved the property, and it needed it. Ms. Moore asked Ms. Fisco if the lot split would keep in character of the neighborhood. Ms. Fisco said it would. Mr. Downing asked where her property abutted Mr. Hummers. She said it was at the back of his property.

Mr. Downing made the motion to accept the applicants exhibit #1 - the overall site plan of option one, and to accept the BZA exhibits #1 - Realink diagram showing the widths of the properties, and #2 a Realink diagram showing the acreage of properties in the area. Mr. Johns seconded the motion. Upon roll call the vote was Mr. Downing – Yes, Mr. Johns – Yes, Mr. Bouchek – Yes, Ms. Moore – Yes. The motion passed.

The board reviewed the factors used to establish a practical difficulty: For the area variance of the small lot.

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 it can't benefit without the variance.**

B) Whether the variance is substantial: **Variance is substantial at 68% of required size of the 5 acres required. The property lot line is in line with surrounding lots.**

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 change or detriment and there was testimony from a resident and the Zoning Inspector supporting this.**

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

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

F) Whether the property owners' predicament feasibly can be obviated through some method other than a variance: **The applicant answered no. The applicant has been in front of the board before and took considerations from the board and worked with the Zoning Inspector to get a proposal to best voice all opinions and concerns.**

G) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance: **Yes. Testimony from neighbor that it would improve the neighborhood. The applicant indicated that he is open to the condition for lot not to be split for development, but could go for future structure variances for his family use.**

H) Such other criteria which relate to determining whether the zoning regulation is equitable: **Small parcel is consistent with older lots up and down Caves Road.**

Mr. Bouchek made the motion to approve the area variance for the smaller lot of 1.625 acres in lieu of 5 acres. Mr. Johns seconded the motion. Upon roll call the vote was Mr. Downing – Yes, Mr. Johns – Yes, Mr. Bouchek – Yes, Ms. Moore – Yes. The motion passed.

The board reviewed the factors used to establish a practical difficulty: For the variance on the small lot frontage and width.

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: **See prior answer to A.**

B) Whether the variance is substantial: **Is substantial at 58% for both the frontage and width requirement.**

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: **See prior answer to C.**

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

E) Whether the property owner purchased the property with the knowledge of the zoning restriction: **See prior answer to E.**

F) Whether the property owners' predicament feasibly can be obviated through some method other than a variance: **Incorporate the answer from prior variance.**

G) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance: **Incorporate the answer from prior variance.**

H) Such other criteria which relate to determining whether the zoning regulation is equitable: **Incorporate the answer from prior variance.**

Mr. Bouchek made the motion to approve the variance request for frontage of 175ft in lieu of 300ft, and for a width of 175ft in lieu of 300ft for the small parcel. Mr. Downing seconded the motion. Upon roll call the vote was Mr. Downing – Yes, Mr. Johns – Yes, Mr. Bouchek – Yes, Ms. Moore – Yes. The motion passed.

The board reviewed the factors used to establish a practical difficulty: For a variance on frontage with a supplemental condition for the large lot.

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: **Incorporate the answer from prior variance.**

B) Whether the variance is substantial: **19% not as 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: **Incorporate the answer from prior variance.**

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

E) Whether the property owner purchased the property with the knowledge of the zoning restriction: **Incorporate the answer from prior variance.**

F) Whether the property owners' predicament feasibly can be obviated through some method other than a variance: **Incorporate the answer from prior variance.**

G) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance: **Incorporate the answer from prior variance.**

H) Such other criteria which relate to determining whether the zoning regulation is equitable: **Incorporate the answer from prior variance.**

Mr. Boucek made the motion to approve the variance request for frontage of 244.27ft in lieu of 300ft for the large parcel with supplemental condition as to section 9.19 - other than family, other structures for himself or family. Mr. Johns seconded the motion. Upon roll call the vote was Mr. Downing – Yes, Mr. Johns – Yes, Mr. Boucek – Yes, Ms. Moore – Yes. The motion passed.

Ms. Moore made the motion to accept the Findings of Fact from variance request #520. Mr. Johns seconded the motion. Upon roll call the vote was Mr. Downing – Yes, Mr. Johns – Yes, Mr. Boucek – Yes, Ms. Moore – Yes. The motion passed.

Mr. Downing made the motion to accept the minutes from the May 6, 2019 meeting as amended. Mr. Boucek seconded the motion. Upon roll call the vote was Mr. Downing – Yes, Mr. Johns – Yes, Mr. Boucek – Yes, Ms. Moore – Yes. The motion passed.

Mr. Downing made the motion to accept the minutes from the June 3, 2019 meeting as amended. Mr. Boucek seconded the motion. Upon roll call the vote was Mr. Downing – Yes, Mr. Johns – Yes, Mr. Boucek – Yes, Ms. Moore – Yes. The motion passed.

There being no other business, Mr. Downing made a motion to adjourn. Mr. Boucek seconded and the meeting adjourned at 8:34 p.m.

Respectfully submitted,

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

Date

Sarah Moore
Vice-Chairman

Date

Recorded by: J. Dorka