

Minutes: Russell Township Board of Zoning Appeals
Russell Township Hall
July 12, 2021

Present: Mr. Steve Gokorsch - Chairman
Mr. Dushan Boucek, Vice-Chairman
Mr. Bill Downing
Mr. Mark McGrievy
Mr. Matt Rambo

Also in attendance: Mr. Shane Wrench, Zoning Inspector; Mrs. Cathleen Birli, Zoning Secretary

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

The legal notice was published in the Chagrin Valley Times and Geauga Maple Leaf on July 1, 2021.

The certified letters announcing the meeting were mailed on, June 29, 2021.

All in attendance (5) were sworn in.

Mr. Gokorsch made them motion to accept the Agenda, Mr. Boucek seconded the motion and it passed unanimously. Roll call vote was as follows: Mr. Downing – Yes, Mr. Gokorsch – Yes, Mr. Boucek – Yes, Mr. McGrievy – Yes, Mr. Rambo – Yes.

Variance Application # 538: Submitted by Twin Lakes LLC, 7515 Twin Lakes Trail.

Parcel #26-180275. The Applicant is seeking to construct a detached three car Garage. The proposed location falls short of the required 50' side yard setback, proposed at 41'9", requiring an 8'3" variance per section 5.2(B). The location also is proposed in front of the principal building, in violation of 4.7(V) – Accessory buildings shall not be located in the front yard.

Mr. Downing made a motion to open the public hearing for Variance #538. Mr. McGrievy seconded the motion and it passed unanimously.

Zoning Inspector presented to the board an affidavit from a neighboring homeowner to be entered in as evidence.

Mr. Gokorsch stated that affidavits are inadmissible, and witnesses need to be present to give testimony and be available to answer any questions.

Mr. Tomisch, 7515 Twin Lakes Trail, confirmed that he was sworn in.

Mr. Tomisch stated that he would like to build a 3-car detached garage (Exhibits A-G) showing a site plan, pictures and renderings of the proposed garage placement.

Mr. Tomisch explained there is a creek running through his backyard and will be hard to build the garage there.

Mr. Speth, Manorbrook Homes, 481 Greenhaven Drive, confirmed he was sworn in.

Mr. Speth said he built the original house and the backyard has a 10 foot drop into a ravine.

Mr. Gokorsch asked if it is a vertical drop? **Mr. Speth said Yes, a 10 foot drop.**

Mr. Gokorsch asked Mr. Speth to locate the septic and leech field on the site plan. **Mr. Speth showed the location of the septic and leech field on the site plan.**

Mr. Gokorsch asked if the leech field was an acre? **Mr. Speth said the leech field is 200 feet long.**

Mr. Boucek asked if the topography in the backyard is lower than the front yard? **Mr. Speth said Yes.**

Mr. Boucek wanted verification on the creek flow? **Mr. Speth notated the creek flow on the site plan.**

Mr. Boucek ask what is behind the creek? **Mr. Speth said there are 800 feet of woods.**

Mr. Boucek asked what materials will be used to build the garage? **Mr. Speth and Mr. Tomisch both stated that the new garage will be brick and stone, the same materials as the home.**

Mr. Boucek asked if the garage aligns with the side of the home? **Mr. Speth said Yes.**

Mr. Boucek asked if they could center the garage on the existing garage site plan, which would not require a side lot variance. **Mr. Speth looked over the site plan and stated that if they moved it, it will be close to the side yard setback of 50 feet, but could work.**

Mr. Gokorsch noted for the record that the adjacent East and West side homes are approximately half the distance to the street vs the proposed garage's distance to the street.

Mr. Speth stated he is ok with centering the garage and be within the 50 foot side yard setback as long as Mr. Tomisch agrees.

Mr. Gokorsch stated they need to modify the site plan to reflect the side yard setback moved back 8 feet 3 inches to the required 50-foot side yard setback, thus this part of Variance #538 will no longer be needed. A variance will still be needed for the proposed garage being in front of the existing home but it will be in line with other homes on the street.

Comments from the Public:

Mr. Jack Jasowski, 7475 Twin Lakes Trail, confirmed that he was sworn in.

Mr. Jasowski stated he is adjacent on the right side of the proposed garage and is relieved that Mr. Tomisch will be moving the proposed garage to the 50-foot side yard requirement.

He said when the leaves come down in the fall, he will be able to see all sides of the proposed garage.

He also said this could create a precedent for future variances.

Mr. Gokorsch stated all variances are independently determined based on the facts presented and the Ohio guidelines do not allow for precedent. The board decides on Area Variances based on the Duncan Factors.

Mr. Gokorsch asked Mr. Tomisch to sign and date the site plan showing the change back to the required 50 foot side yard setback.

Mr. Gokorsch asked Mr. Tomisch to sign and date the site plan, pictures and renderings so they can be included as exhibits.

Exhibit A (rendering of proposed three car garage)

Exhibit B (site plan)

Exhibit C (aerial picture showing wooded area)

Exhibit D (picture from street showing front of house)

Exhibit E (rendering of garage architecture)

Exhibit G (rendering of garage roof elevation)

Mr. Downing made a motion to accept the applicants' site plan, pictures and renderings (exhibit A - exhibit G) into the record. Mr. Boucek seconded the motion and it passed unanimously.

Mr. Boucek made a motion to close the public hearing for request #538. Mr. McGrievy seconded the motion and it passed unanimously.

The Board reviewed the Duncan Factors for Variance #538:

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. Mr. Gokorsch noted the garage would enhance the property value.

B) Whether the variance is substantial: Yes. Mr. Gokorsch stated the new garage is 100% in front of the home.

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. Mr. Gokorsch noted the style design and materials for the new garage will be identical to the existing home.

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

E) Whether the property owner purchased the property with the knowledge of the zoning restriction: No. No testimony was given.

F) Whether the property owners' predicament feasibly can be obviated through some method other than a variance: **No. Testimony was given regarding the topography of the lot which drops 10' in the rear of the home, 11' on the side of the home and behind the home is a creek with a riparian setback.**

G) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance: **Yes. The only alternative is not to build a garage.**

H) Such other criteria which relate to determining whether the zoning regulation is equitable: **Mr. Downing stated that the distance from the garage to adjacent properties is considerable, half the distance from the street.**

Mr. Downing made the motion to approve Variance #538. Mr. Boucek seconded the motion. Upon roll call the vote was Mr. Downing yes, Mr. McGrievy yes, Mr. Rambo yes, Mr. Boucek yes, Mr. Gokorsch yes. The motion was approved.

Variance Application #541 - Submitted by Brian Kish of 14085 Caves Rd. Parcel #26-131190. The Applicant is seeking to construct a 660 square foot detached garage 10' off the property line, requiring a 20' variance. Being in an R-5 with under three acres, the applicant is required to have a 30' side-yard setback per section 5.2B.

Mr. Boucek made a motion to open the public hearing for Variance #541. Mr. McGrievy seconded the motion and it passed unanimously.

Mr. Brian Kish, 14085 Caves Road, confirmed he was sworn in.

Mr. Kish stated he would like to build a detached garage which needs a 20 foot side yard setback variance from the 30 foot requirement. He said his yard has an off-lot septic system in the front of his home and he cannot build the garage behind the home because the soils samples came back showing it to be a non-buildable area.

Mr. Gokorsch asked to describe the "off lot" septic system. **Mr. Kish said the off-lot septic has an aeration system underground, in front of the home.**

Mr. McGrievy asked about a leech field. **Mr. Kish said the leech field empties to a culvert in front of the home.**

Mr. Gokorsch asked if the building will have a concrete floor? **Mr. Kish said Yes.**

Mr. Gokorsch asked if the building will have downspouts? **Mr. Kish said No, but he will put them on if required.**

Mr. McGrievy asked if the downspouts could tie into the catch basin that will be next to the proposed garage? **Mr. Kish said Yes, he will tie into the catch basin.**

Mr. Boucek asked if the garage will be a metal structure? **Mr. Kish said Yes.**

Mr. Boucek asked what the roof will be made of? **Mr. Kish stated steel frame and roof. The side material will be vinyl siding and stone that will match the home.**

Mr. Gokorsch asked the zoning inspector if the metal garage would be in character with neighboring homes? **The zoning inspector said Yes.**

Mr. Boucek asked the zoning inspector if steel garage structures are allowed in the township? **The zoning inspector stated Yes.**

Mr. Gokorsch asked if the drain is the low spot on the lot? **Mr. Kish stated Yes, and water already runs to the drain because the property slants to his home. He stated he will put a cement pad around the drain.**

Mr. Boucek asked if the 10 feet wide area from the North property line slopes and drains on your property? **Mr. Kish said Yes.**

Mr. Gokorsch asked Mr. Kish if it is like a swale? **Mr. Kish said Yes.**

Mr. Boucek asked if the structure will have gutters? **Mr. Kish said Yes.**

Mr. Gokorsch asked about the path of the water around the structure? **Mr. Kish said the water comes from the West and travels East to his driveway using buried drain tiles tied to the catch basin.**

Mr. Rambo asked if the path of the water will be running from the back of the home to the front of the property? **Mr. Kish said Yes, water runs to the driveway through the drain tiles, then to the catch basin.**

Mr. Boucek asked does the water empty into Caves Road? **Mr. Kish said Yes, the water discharges from the catch basin drain to Caves Road.**

Mr. Gokorsch referenced the site plan showing the water runoff East to West where it enters the ditch from the catch basin on Mr. Kish's property.

Mr. Gokorsch stated the importance of gutters and downspouts.

Mr. Downing asked why he needs the variance, could he build the structure at the correct side yard setback of 30 feet? **Mr. Kish said he could but there would be waterflow under the garage structure.**

Mr. McGrievy asked if that is the natural flow of the water? **Mr. Kish said Yes.**

Mr. Boucek asked if the drain tile and the new garage structure will be 10 feet off the property line? **Mr. Kish said Yes and will be at an angle.**

Mr. Gokorsch asked if there will be a swale? **Mr. Kish said Yes.**

Mr. Downing asked if the water runs to Caves Road? **Mr. Kish said Yes.**

Mr. Gokorsch referenced the site plan showing a 12-inch pipe which drains the water from the catch basin to Caves Road.

Mr. Gokorsch asked what the structure will be used for? **Mr. Kish said it will be storage for lawn mowers and shelving.**

Comments from the Public:

Mr. Tom O'Brien, 14065 Caves Road, confirmed he was sworn in. Mr. O'Brien is the next door neighbor.

Mr. O'Brien stated that the property does slope towards Mr. Kish's property and not near his driveway.

Mr. O'Brien also stated he has many trees on the common property line with Mr. Kish and will not be able to see the structure.

Mr. Downing asked Mr. O'Brien if the side of the structure will encroach on his property. **Mr. O'Brien said Yes, but not concerned about the encroachment.**

Mr. Gokorsch made a motion to close the public hearing for request #541. Mr. Bouchek seconded the motion and it passed unanimously.

The Board reviewed the Duncan Factors for Variance #541:

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.**

B) Whether the variance is substantial: **Yes. Mr. McGrievy said the variance is approximately 66%.**

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 zoning inspector noted other similar structures in the neighborhood.**

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

E) Whether the property owner purchased the property with the knowledge of the zoning restriction: **No. Stated in the Application.**

F) Whether the property owners' predicament feasibly can be obviated through some method other than a variance: **No. Drain tiles are installed across the back yard making it impossible to build on. The property has a water problem as attested to by the installation of a catch basin and 12" drain pipe to the street.**

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: **Mr. Gokorsch suggested putting downspouts and gutters on the garage. Mr. Boucek is unclear how the water from the garage structure will drain properly without gutters and downspouts being tied into the catch basin.**

Mr. Downing made the motion to approve Variance #541. Mr. Boucek seconded the motion. Upon roll call the vote was Mr. Downing Yes, Mr. McGrievy Yes, Mr. Rambo – Yes, Mr. Boucek No, Mr. Gokorsch Yes. The motion was approved.

Other Business:

Minutes:

Mr. McGrievy made the motion to accept the minutes from the May 10, 2021 meeting. Mr. Boucek seconded the motion and it passed unanimously.

Mr. Downing made the motion to accept the minutes from the June 7, 2021 meeting. Mr. Rambo seconded the motion and it passed unanimously.

Approval Letters:

Signed Approval Letter for Variance #539 – Slater

Signed Approval Letter for Variance #540 - Mulvihill

There being no other business, Mr. Gokorsch made a motion to adjourn. Mr. Downing seconded and the meeting adjourned at 8:36 p.m.

