

Minutes: Russell Township Board of Zoning Appeals
Russell Township Hall
June 7, 2021

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

Mr. Steve Gokorsch, Chairman, was absent with apologies.

Mr. Dushan Boucek was acting Chairman for the meeting.

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 May 27, 2021.

The certified letters announcing the meeting were mailed on, May 25, 2021.

All in attendance (5) were sworn in.

Variance Application # 539 – Submitted by Kenneth & Mary Kathleen Slater, 8010 Music Street. The applicant is proposing to construct a 24 x 32 foot detached garage that sits 24’8’ off the property line. The required setback is 30 feet. The applicant is seeking 5’4” variance, per section 5.2(B).

Mr. Downing made a motion to open the public hearing for Variance #539. Mr. McGrievy seconded the motion and it passed unanimously.

Kenneth & Mary Kathleen Slater, 8010 Music Street, confirmed they were sworn in.

Mr. Boucek advised the Applicant that there was a four member board and that the variance request approval requires the majority vote of the board. He gave Mr. & Mrs. Slater the chance to postpone the meeting, until there could be a full board.

Mr. & Mrs. Slater declined to postpone their meeting.

Mrs. Slater explained that their existing attached garage door is not wide enough for two cars to enter and exit the garage, which is less than 15 feet wide. They would like to build a new 24 x 32 foot detached garage on the East side of their house.

They bought the house 26 years ago and it does not have a basement or an attic and the addition of storage space will be a real plus.

The new garage will go where a barn is located, which will be taken down for the new garage construction.

The new garage will be a pole building structure with a concrete floor.

Their property is all tree lined and the neighbors would not see the new garage.

They cannot build the garage behind the house because of their septic and if they build on the West side of their house, they would still need a 5'4" inch variance. She referenced Exhibit A (well/septic site plan).

Mr. Boucek asked if the new garage will be free standing? **Mrs. Slater said Yes.**

Mr. Boucek asked if the new garage will be 16 feet from the house. **Mrs. Slater said Yes with a concrete pad walkway between the house and new garage.** Will the existing shed be moved? **Mrs. Slater said No. We are razing the existing shed. We have an 8 x 10 foot utility shed in the back of the house, which we are keeping.**

Mr. McGrievy verified with Mr. Slater that their variance is 5'4", which is 24'8" not the 5'2" she stated. **Mr. Slater said Yes, she made the correction.**

Mr. Downing asked what types of building material will be used? **Mrs. Slater stated their house is yellow brick and the new garage will be wood framed with vinyl siding.**

Mr. Rambo asked if the garage will be heated. **Mrs. Slater said No.**

Mrs. Slater stated that there will be a garage door, no windows and two man doors; one facing front and one facing back.

Mr. Boucek asked what type of roof, gable or shed? **Mrs. Slater stated gable.**

Mr. Boucek asked if the roof shingles will match the existing house? **Mrs. Slater said Yes.**

Mr. Boucek asked if any trees were coming down for the new construction? **Mrs. Slater said No. They allowed their neighbor to plant pine trees along the East side of their property and these giant pine trees will serve as a barrier and block the view of our house.**

Mr. Boucek asked Mrs., Slater to sign and date the well/septic site plan so they can be added as exhibits.

Exhibit A (well/septic site plan)

Mr. Downing made a motion to accept the applicants' site plan (exhibit A) into the record. Mr. Rambo seconded the motion and it passed unanimously.

Mr. McGrievy made a motion to accept the correction from 5'2" to 5'4", total 24'8" into the record. Mr. Downing seconded the motion and it passed unanimously.

Mr. McGrievy made a motion to close the public hearing for request #539. Mr. Downing seconded the motion and it passed unanimously.

The Board reviewed the Duncan Factors for Variance #539:

- 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 17%.**
- 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. Boucek stated there is a heavy tree hedge. Mr. Rambo stated the garage structure will have the same character of the home.**
- D) Whether the variance would adversely affect the delivery of governmental services: **No testimony given.**
- 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. Mr. Downing stated the existing garage goes beyond the front of the house. Mr. Boucek said the septic system is in the backyard. Mr. Rambo stated the West side of the house would need the same variance.**
- G) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance: **Yes. Mr. Downing stated the restriction would leave one car outside because the existing garage does not accommodate two cars.**
- H) Such other criteria which relate to determining whether the zoning regulation is equitable: **No testimony given.**

Mr. McGrievy made the motion to approve Variance #539. Mr. Downing seconded the motion. Upon roll call the vote was Mr. Downing – Yes, Mr. McGrievy – Yes, Mr. Rambo – Yes, Mr. Boucek – Yes. The motion was approved.

Variance Application #540 - Submitted by Dennis & Melissa Mulvihill, 9077 Kinsman Road. The property is located in the R5 Zone. The applicant is seeking to install a pool and deck in their back yard. Per 5.2(B) of the Zoning Resolution, the required setback is 100'. The applicant is proposing 55' setback, thus requiring a 45' variance.

Mr. Rambo made a motion to open the public hearing for Variance #540. Mr. Downing seconded the motion and it passed unanimously.

Mr. Mulvihill, 9077 Kinsman Road, confirmed he was sworn in.
Mr. David Manhart, Project Manager, Payne & Payne Builders, confirmed he was sworn in.

Mr. Boucek advised the Applicant that there was a four member board and that the variance request approval requires the majority vote of the board. He gave Mr. Mulvihill the chance to postpone the meeting, until there could be a full board.

Mr. Mulvihill declined to postpone his meeting.

Mr. Mulvihill stated the house was built in 1993 and is surrounded by trees on all sides.

The zoning inspector had documents showing the house was built in 1992 and there was a deck variance on record in 2009.

Mr. Manhart presented an updated layout Exhibit A (site plan) showing the rear setback outline dimension.

Mr. Downing asked if any trees will be coming down? **Mr. Manhart said a couple of trees will be coming down for the patio.**

Mr. Manhart stated they are requesting a 45 foot rear setback variance from the edge of the deck to rear property line. The deck/patio with pool is 55 feet from the rear setback. Requirement is 100 feet.

Mr. Mulvihill stated that he shares a driveway with two other neighbors. His property is to the East and the other two neighbors are to the West. His frontage is far back and the Geauga County Park District, West Woods Park, is to the South and East of his home.

Mr. Boucek asked if the pool will be above ground or in ground? **Mr. Manhart stated the pool will be 2 feet above ground and is a pre-fab, treadmill type pool which will be heated for all round use.**

Mr. Mulvihill stated that the pool will be 10 x 15 feet, which is not a regular size pool and is not for play.

Mr. Boucek referencing the updated exhibit showing a stone walkway around the patio? **Mr. Manhart said the stone walkway will be removed. Mr. Mulvihill said that the walkway is mossy and slippery.** Mr. Boucek asked if the walkway will be replaced? **Mr. Manhart said Yes, the walkway will be replaced with cultured stone concrete.**

Mr. Boucek asked if there will be a cover around the pool? **Mr. Manhart said Yes. The cover will be a seasonal enclosure looking arch. Mr. Mulvihill stated that the cover will be able to retract for warmer weather and close during the winter and the hoop like covering will be able to take the weight of snow.**

Mr. Downing asked if they had a landscape plan? **Mr. Manhart said No.**

Mr. Downing made a motion to accept the applicants' updated site plan (exhibit A) into the record. Mr. McGrievy seconded the motion and it passed unanimously.

Exhibit A (site plan)

Mr. Downing made a motion to close the public hearing for request #540. Mr. McGrievy seconded the motion and it passed unanimously.

The Board reviewed the Duncan Factors for Variance #540:

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.**

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.**

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

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

F) Whether the property owners' predicament feasibly can be obviated through some method other than a variance: **No. Mr. Downing stated the location of the house is so far back already.**

G) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance: **Yes. No other testimony given.**

H) Such other criteria which relate to determining whether the zoning regulation is equitable: **No testimony given.**

Mr. Downing made the motion to approve Variance #540. Mr. McGrievy seconded the motion. Upon roll call the vote was Mr. Downing – Yes, Mr. McGrievy – Yes, Mr. Rambo – Yes, Mr. Boucek – Yes. The motion was approved.

Other Business:

Findings of Facts:

Mr. Downing made the motion to accept the Findings of Fact for Laurel School Conditional Use #380 from the May 10, 2021 meeting. Mr. McGrievy seconded the motion and it passed unanimously.

There being no other business, Mr. McGrievy made a motion to adjourn. Mr. Rambo seconded and the meeting adjourned at 8:05 p.m.

Mrs. Cathleen Birli 7-12-21

Mrs. Cathleen Birli
Zoning Secretary

Date

Mr. Dushan Boucek 7-12-21

Mr. Dushan Boucek
Vice - Chairman

Date