

Minutes: Russell Township Board of Zoning Appeals
Russell Township Hall
April 8, 2024

Present: Mr. Steve Gokorsch, Chairman
Mr. Dushan Boucek, Vice-Chairman
Mr. Mark McGrievy
Ms. Nicole Mulloy

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

Mr. Bill Downing was absent with apologies.

The meeting was called to order at 7:05 p.m.

The Legal Notice was published in the Chagrin Valley Times and Geauga Maple Leaf on Thursday, March 28, 2024.

The Certified Letters were mailed Tuesday, March 21, 2024.

Mr. Boucek made the motion to open the public meeting for Variance #558, Ms. Mulloy seconded the motion and it passed unanimously.

Continuance from February 5, 2024, Board of Zoning Appeals Meeting: Application #558: Submitted by Mr. Christopher Weeder. The property is located at 14493 Chillicothe Road. There are two parcels: parcel #26-123600 (2.11 acres) and parcel #26-214050 (10 acres). The Applicant is seeking to consolidate the two lots and then split them, to make two buildable lots. The Applicant is seeking three variances. The first two variances are for road frontage requirements of 250 feet per lot. The Applicant is asking for a 40 foot road frontage, for each lot, requiring a 210 foot variances. The third variance, the Applicant is seeking a lot width of 200 feet, for one lot, requiring a 50 foot variance, to the required 250 foot requirement.

Mr. Gokorsch advised the Applicant that there was a four-member board, and that the Variance Request approval requires the majority vote, three members, of the board. He gave Mr. Weeder the chance to postpone the meeting until there could be a full board.

Mr. Weeder declined to postpone his meeting.

Mr. Weeder, 14493 Chillicothe Road, confirmed he was sworn in.

Mr. Weeder has two parcels; Parcel #26-123600 is 2.11 acres, consisting of the driveway; Parcel #26-214050 is 10 acres, located East of the property, in the rear of the lot, which is landlocked.

Mr. Weeder is requesting 3 variances. Two variances are for the 2.11 acre lot, to reduce the 80 foot existing drive to make two drives, 40 feet wide, requiring a 210 foot variances, for both. The third variance is a lot width variance of 200 feet, for the proposed 3 acre lot in the rear, requiring a 50 foot variance to the required 250 foot requirement.

Mr. Weeder stated he talked with the Geauga County Building Department, and they advised him that Geauga County will not allow a shared driveway/easement, but he is still seeking the Variances.

Mr. Gokorsch asked the Zoning Inspector to verify that it is not possible to pursue the two (2) variances for the driveway easement. **The Zoning Inspector read the Geauga County Planning Commission response: “The Planning Commission’s review and consideration of a variance from its Subdivision Regulations is a separate matter from the Township Zoning Requirements. If the Township were to grant a variance to allow the creation of two lots with 40 feet of road frontage that approval does not imply Planning Commission must grant variances from the platting procedures to allow a shared driveway instead of a public or private road built to County specifications.”**

Mr. Boucek asked the Zoning Inspector if a Right of Way Road off Chillicothe Road would be considered a County Road or a Rural Road? **The Zoning Inspector said it depends on the road. Mr. Weeder did not want to pursue that option.**

Mr. Boucek asked, looking at Exhibit B submitted at the February 5, 2024, Board of Zoning Appeals meeting, if the lot line dimensions are staying the same, for this meeting. **Mr. Weeder said Yes.**

Mr. Gokorsch asked if the current driveway is a single drive. **Mr. Weeder said Yes.**

Ms. Mulloy asked about the Historical Area of this property. **The Zoning Inspector stated that the original ten (10) acres in the rear were landlocked, thus the 2.05 acres of land was sold for the access driveway to the back ten (10) acres.**

Mr. Gokorsch asked how wide the two (2) driveways would be. **Mr. Weeder said each of the two (2) driveways would be 10 feet wide.**

Mr. Gokorsch asked if he wanted a shared driveway. **Mr. Weeder said No. He would like two separate driveways that go back to the rear ten (10) acres for two future homes.**

Mr. Gokorsch asked about the third (3) variance which Mr. Weeder is seeking to split the one ten (10) acre rear lot into two buildable lots. **Mr. Weeder said Yes. The edge of one proposed lot is closer to the lot line, which is why the third (3) variance is needed. This third (3) variance would be a fifty (50) side width variance, from 250 feet to 200 feet.**

Mr. Boucek asked Mr. Weeder if he had reached out to a Civil Engineer for professional assistance. **Mr. Weeder said No. The Zoning Inspector said the Geauga County Planning Commission suggested Mr. Weeder seek legal advice for the variances.**

Mr. Gokorsch stated that easements run with the land. The driveways owner would need to share costs for maintenance, etc. Therefore, having two driveways would make it easier, and the fifty (50) side lot variance would not be needed for the rear ten (10) acres.

Mr. Bouchek recommended tabling the third (3) variance for the side yard until the two (2) driveway variances are settled.

Mr. Bouchek asked if the third (3) variance is a lot width variance. **Mr. Weeder said Yes.**

Mr. Gokorsch asked if he had a survey done. **Mr. Weeder said a survey will be determined depending on the variance request approvals.**

Comments from the Public

Mr. Charles Madden, 14505 Chillicothe Road. Confirmed he was sworn in.

Mr. Madden stated that Mr. Weeder should use the lot in the way it was designed, for one (1) house.

Mr. Madden was wondering if granting the three (3) variances would set precedent for other residents to split their large lots into smaller lots.

Mr. Gokorsch said No. There is no precedent in Zoning Variances. Each variance request is different and must be decided on the Zoning Resolution and the facts, and he stated he understands Mr. Madden's concerns.

Mr. Gokorsch made a motion to close the public hearing for variance request #558, Mr. McGrievy seconded the motion and it passed unanimously.

**The Board reviewed the Duncan Factors for Variance #558
For the one Variance: Road Frontage of 9.06 Acre Variance**

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. Approximately 84%.

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.
No Testimony Given.**

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

F) Whether the property owners' predicament feasibly can be obviated through some method other than a variance: No. A width of 250 foot road frontage is required.

G) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance: Yes. Proposed use for each individual lot. This must be reviewed by the Board, my notes say NO.

H) Such other criteria which relate to determining whether the zoning regulation is equitable: Could split the ten (10) acres to split into two (2) conforming lots. Then one (1) lot would not need a variance.

**The Board reviewed the Duncan Factors for Variance #558
For the two Variances: Road Frontage of 3.05 Acre Variance and Rear Lot Width Variance**

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: Yes. 84% is 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: No.

**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.

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: The board is split on the 3.04 Acre parcel with drive.

H) Such other criteria which relate to determining whether the zoning regulation is equitable: None mentioned.

Mr. Boucek made the motion to approve variance #558, Mr. McGrievy seconded the motion. Upon roll call, the vote was, Ms. Mulloy - no, Mr. McGrievy – yes, Mr. Boucek - no, Mr. Gokorsch – no.

The motion was denied.

Mr. Bouchek made the motion to open the public meeting, for Variance #559, Ms. Mulloy seconded the motion and it passed unanimously.

Variance Application #559: Submitted by John Cunningham of 14445 Hartwell Trail, PP# 26-115571. The Applicant is seeking to install a structure within the side yard setback, located in the R5 district. The Applicant would be seeking a 40 feet variance, in lieu of the 50 feet required.

Mr. Gokorsch advised the Applicant that there was a four-member board, and that the Variance Request approval requires the majority vote, three members, of the board. He gave Mr. Cunningham the chance to postpone the meeting until there could be a full board.

Mr. Cunningham declined to postpone his meeting.

Mr. Cunningham of 14445 Hartwell Trail, confirmed he was sworn in.

Mr. Cunningham is requesting a variance to install a whole house generator close to the North side lot of his property. This area already has underground electric and gas utility lines. He stated that the company installing the generator said the noise level is 63 decibels, same as an automobile.

The house was built on the side a hill, which makes putting the generator in the rear of the home difficult.

If the generator is put on the South side of his property, it will be close to the side of his garage and will be viewable from the street.

The only other place he could put the generator is at the rear of his property, back in the woods, about 50 feet. This will pose a problem putting in electric and gas utility lines.

The generator will also not be able to go behind the house because the house is built on the side of a hill. The generator will need to go along the basement wall, which has windows.

Mr. Cunningham will plant a row of trees and will install a sound barrier if needed, around the generator.

Mr. Gokorsch asked if near the garage is a possible alternate location. **Mr. Cunningham said Yes.** Are there windows in the garage, near where the generator could be installed. **Mr. Cunningham said No.**

Mr. Bouchek and Mr. Gokorsch asked if this could be a possible location. **Mr. Cunningham said Yes. But the aesthetics from the street will be affected.**

Mr. Gokorsch asked if the generator could be installed behind the driveway. **No. This is the access to the septic and there is a creek running through that area.**

Mr. Boucek asked if the generator could be located back in the woods. **Mr. Cunningham said Yes. Then he will need to run the electric and gas utility lines, which will be expensive.**

Mr. Boucek asked Mr. Cunningham to label on Exhibit A (aerial site image of utility location) where the underground utilities were.

Mr. Boucek asked if there is a gas meter. **Mr. Cunningham said Yes.** Color of the generator. **Dark Green.** How will you screen the generator. **Row of evergreens and plastic corrugated noise fencing.** Mr. Boucek asked the length of the generator. **6 feet long.**

Comments from the Public

Mr. Neil Butera, 14540 Russell Lane. Confirmed he was sworn in.

Mr. Butera stated that a generator can be as loud as a lawnmower. If sound is an issue, Mr. Cunningham would set the ten minute weekly generator test to any time of the day, perhaps consult with the neighbor for the best time.

Mr. Gokorsch asked Mr. Cunningham to sign and date Exhibit A (aerial site image of utility location).

Exhibit A (aerial site image of utility location).

Mr. Boucek made a motion to accept the Applicants' aerial site image of utility location (Exhibit A) into the record. Ms. Mulloy seconded the motion and it passed unanimously.

Mr. Gokorsch made a motion to close the public hearing for variance request #559, Mr. McGrievy seconded the motion and it passed unanimously.

The Board reviewed the Duncan Factors for Variance #559

- 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. 20% is 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: No.**
- 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: No.**
- 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 location already has access to underground gas and electric utility lines. The home is a Frank Lloyd Wright design and aesthetics will be compromised if the generator is put in front of the house.**

Mr. Boucek made the motion to approve variance #559, with conditions, Ms. Mulloy seconded the motion. Upon roll call, the vote was, Ms. Mulloy - yes, Mr. McGrievy – yes, Mr. Boucek - no, Mr. Gokorsch – yes.

Conditions: (1) Arborvitae Screening and (2) Noise Reduction Fencing

The motion was Approved.

Mr. McGrievy made the motion to open the public meeting for Variance #560, Mr. Boucek seconded the motion and it passed unanimously.

Variance Application #560: Submitted by Neil Butara of 14540 Russell Lane. PP#26-098000. The Applicant is seeking to construct a new portion of deck inside the 120 feet Riparian setback. Ch.4.16(H)(1)

Mr. Gokorsch advised the Applicant that there was a four-member board, and that the Variance Request approval requires the majority vote, three members, of the board. He gave Mr. Butara the chance to postpone the meeting until there could be a full board.

Mr. Butara declined to postpone his meeting.

Mr. Butara, 14540 Russell Lane, confirmed he was sworn in.

Mr. Butara purchased the house seven (7) years ago and enjoys his backyard. The whole house is on the Riparian setback, and he was unaware a variance was needed for the deck addition.

The house was built in 1974 and the original deck addition was built in 1994.

There is an easement with the Geauga County Watershed that leads to a water treatment plant, with a building.

Mr. Butara performed a substantial 250 foot restoration to reinforce the riverbank edge, which was a large investment, which the Army Corps of Engineers and Geauga County Soil & Water approved.

The new additional deck will be seven (7) to eight (8) feet above the watermark and will not be close to the North or South side of the Chagrin River. The deck addition will be running parallel to the river.

Twenty-Four (24) feet of the exterior of the old deck will be removed, and ten (10) feet of new deck will be constructed in its place.

There will be four (4) feet of ground cover around the deck.

Mr. Boucek asked if the sixteen (16) feet dimension of the new deck will face the current side of the home or the old deck. **Mr. Butara said the new deck will be constructed on the side of the home.**

Mr. Boucek asked if the berm on the property will be disturbed. **Mr. Butara said No. The new deck construction will be up to the edge of the berm.**

Mr. McGrievy made a motion to close the public hearing for variance request #560, Mr. Boucek seconded the motion and it passed unanimously.

The Board reviewed the Duncan Factors for Variance #560

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: No. 100% not permitted to build. The whole structure is in the riparian setback.

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. No Testimony Given.

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

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: Homeowner worked with Geauga County Soil & Water, Army Corp of Engineers and Chagrin River Watershed and received their approval.

Mr. Boucek made the motion to approve variance #560, Ms. Mulloy seconded the motion. Upon roll call, the vote was, Ms. Mulloy - yes, Mr. McGrievy – yes, Mr. Boucek - yes, Mr. Gokorsch – yes.

The motion was Approved.

Variance Application #561: Submitted by Clint Ballash of 8200 Chagrin Mills Road, PP# 26-087900. The property is in the R5 district with less than three acres, the Applicant is proposing a side yard setback of 9 feet, resulting in a variance request of 21 feet, in lieu of the 30 feet required.

Mr. Gokorsch advised the Applicant that there was a four-member board, and that the Variance Request approval requires the majority vote, three members, of the board. He gave Mr. Ballash the chance to postpone the meeting until there could be a full board.

Mr. Ballash declined to postpone his meeting.

Mr. Ballash, 8200 Chagrin Mills Road, confirmed he was sworn in.

Mr. Ballash stated his house is on an angle with a stream, so there is no area available to put an outbuilding for storing his lawn equipment. The North side yard of his property is the only practical place since it is more level.

There is a patch of woods to the West and the neighbors to the North have an outbuilding.

The Variance request approval will let me put the outbuilding nine (9) feet from the property line in lieu of the thirty (30) feet required.

Mr. Gokorsch asked if there would be power. **Mr. Ballash said Yes. Water? No.**

Mr. McGrievy asked if there would be exterior lighting. **Mr. Ballash said he has no plans to add lighting.**

Mr. Gokorsch asked how far the outbuilding will be to the house. **Mr. Ballash said eighty (80) feet.**

Mr. Gokorsch asked if the outbuilding will be on the North side of the property. **Mr. Ballash said Yes.**

Mr. Gokorsch asked what is along the South side of the property. **Mr. Ballash said there is a walkway to get to the rear of the house.**

Mr. McGrievy asked what the topography was behind the house. **Mr. Ballash said the yard slopes three (3) to five (5) feet towards the rear of the property.**

Mr. Boucek asked if the neighbors have an outbuilding. **Mr. Ballash said Yes, on the side of their driveway, which is where he wants to put his outbuilding.**

Mr. Boucek asked what the height of the outbuilding would be. **Mr. Ballash's answer was unclear. Will there be shrubbery for screening. Yes.**

Mr. Gokorsch asked if the outbuilding would be visible from the street. **Mr. Ballash said Yes.**

Ms. Mulloy asked if the outbuilding would match the house. **Mr. Ballash said Yes. Same color as the house.**

Mr. Boucek asked what type of materials will be used. **Mr. Ballash said he would be using “Forever board” and paint to match the house.**

Mr. McGrievy made a motion to close the public hearing for variance request #561, Mr. Boucek seconded the motion and it passed unanimously.

The Board reviewed the Duncan Factors for Variance #561

- 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. 66% is 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: **No.**
- 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: **No.**
- F) Whether the property owners’ predicament feasibly can be obviated through some method other than a variance: **No. Topography in the rear is sloping.**
- 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 outbuilding will match the color of the house and roof. There will be no exterior lighting.**

Mr. Boucek made the motion to approve variance #561, Ms. Mulloy seconded the motion. Upon roll call, the vote was, Ms. Mulloy - yes, Mr. McGrievy – yes, Mr. Boucek - yes, Mr. Gokorsch – yes.

The motion was Approved.

Minutes

Mr. McGrievy made the motion to accept the minutes from the February 5, 2024, meeting. Mr. Boucek seconded the motion and it passed unanimously.

#559



1 Inch = 68.13 Feet | Scale: 818

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March 14, 2024



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Charles E. Walder, Geauga County Auditor
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