

Minutes: Russell Township Board of Zoning Appeals  
Russell Town Hall  
February 26, 2007

Present: Steve Gokorsch, Chairman  
William Downing  
Matthew Galemmo  
Edith Lerner, Ph.D. (arrived at 7:12 p.m.)  
Diana Steffen, Secretary

Also in attendance: Ric Machnics, Zoning Inspector and residents as shown.

The Chairman called the meeting to order at 7:00 p.m. and swore in all those in the audience who planned to give testimony or make comment regarding the variance requests.

### **LAUREL SCHOOL – Conditional Use Permit Annual Review of Environmental Management Plan**

In attendance were Mary Ann Pellerano and Dave Besoin, representing Laurel School, Kathy Jankowski of Knight & Stolar Inc., landscape architects, and Meiring Borchers, representing the Chagrin River Watershed Partners, Inc.

Ms. Jankowski stated she had submitted the updated program with all test results to the Zoning Office. It was reviewed by Mr. Borchers who wrote a memo approving the program with comments relating to suggested revisions for technical accuracy and completeness. Ms. Jankowski responded to those comments in a memo dated February 21, 2007.

Ms. Jankowski stated that Laurel School built its 'magic' tree house in 2006. She said the athletic fields have done well. They completed three tests on the ponds, which were found to have low levels of phosphorous and nitrogen. They have been working to remove buckthorn, an invasive species, from the campus. Asked about a pond that last year had some bacteria in it, Ms. Jankowski said that the northeast pond has not had any more algae growth, although another pond does have some and will be treated in March.

Mr. Borchers stated that the C.R.W.P. has approved the Environmental Management Plan update. He is scheduling a site visit for the spring since it has been a year since they were there. He is satisfied that Laurel is working to address C.R.W.P.'s comments.

*Mr. Galemmo made the motion to accept Laurel School's Environmental Management Plan 2007 Update as submitted, Mr. Downing seconded and the motion passed unanimously by 3-0.*

## **VARIANCE REQUEST #434 William Gibbons, 7150 Hillbrook Lane South**

Request for a side yard setback of 22 feet for a detached garage in lieu of 50 feet required per Section 5.2.B in an R-5 zone.

In attendance were Mr. and Mrs. William Gibbons and Al Klauss of Anthony Paskevich & Associates, Architects. The Chairman asked if the applicants wished to proceed with the hearing, wait for Dr. Lerner to arrive or reschedule to the following month, since only three members of the board were present. Mr. Gibbons indicated he wished to proceed with the hearing.

The Chairman opened the public hearing. Mr. Klauss confirmed he was sworn in and stated he was representing the applicants, was also a Russell resident and was a former member of the Russell Township Zoning Commission. He handed out an aerial photo of the property and seven photographs, and referred to the as-built survey of the property. (Dr. Lerner arrived at this time and the Chairman asked Mr. Klauss to repeat his earlier comments.) Mr. Klauss stated that the Gibbons own two parcels with the house on the large parcel. He said the Gibbons share the driveway and circular drive with a neighbor who is in attendance tonight. He pointed out a line on the survey that shows the location of the top of the slope that falls south to ravines.

Referring to the aerial photo, Mr. Klauss pointed out the topographic lines at ten-foot intervals that show how the slope falls away into a ravine on one side of the property. Pointing to the photos he had put up on an easel, he explained each one as follows: 1) Shows Hillbrook Lane South and the guardrail that is by the lower parcel and shows the ravine and slope, and the driveway entrance; 2) Shows the driveway looking towards the residence; on the ravine side is an accessory building that was there when the applicant purchased the property and that is used for storing garden equipment; 3) Taken from the residence looking down the driveway and showing the ravine dropping down on one side; 4) The front of the home showing the ravine behind and a residence that is across the ravine; Mr. Gibbons stated that residence is owned by Brock Milstein and Mr. Machnics said it is about 300 feet from the applicant's home; 5) Shows the affected neighbor's home and also the proposed location of the garage; 6) Shows the location of the proposed garage; 7) Shows the slope falling away from the side of the applicants' home.

Mr. Klauss showed plans for the new construction: 1) Site plan showing the residence, driveway, circle and neighbor's home, plus the 50-foot setback line and property line; 2) First floor plan of the residence and proposed garage; 3) Front elevation of the residence with end view of the proposed garage; 4) Shows the other three sides of the garage.

Mr. Gokorsch asked if the amount of paved surface will increase due to the garage, Mr. Klauss: No. Mr. Klauss stated the garage cannot be placed elsewhere without a different variance, and they believe that architecturally with a courtyard look and for the neighbor this is the best location. Even if they turned the building it would still be within the setback. Adding on to the house is not a good option, since the land falls away from the house one full story. A variance would still be required and it would not be as attractive. Mr. Gokorsch asked whether they could build on the other side of the house where there is a six-foot slope. Mr. Klauss responded that the other side is considered the front of the house due to the configuration of the lot, and a front yard variance would be required. Dr. Lerner asked about locating the garage behind the existing garage but noted the land falls away there too. Mr. Klauss agreed. He also said that when planning the location they realized they would need a variance, but felt this to be the best place architecturally; the owner can also continue to use his other garage and driveway. It fits with the landscape and no trees will need to be removed.

Mr. Downing asked if the affected neighbor's house is closer to the property line than the applicants'. Mr. Gibbons said the two houses are symmetrical and the same distance from the line. Mr. Machnics confirmed this. Asked about the reason for the new garage, Mr. Gibbons stated they are not changing the use of the existing garage, but have to park excess cars in the area of the proposed garage. They would like to enclose this area where they currently park, which is already paved.

The Chairman opened the public hearing to the audience.

Joan Doyle, 7174 Hillbrook Lane South, confirmed she was sworn in and stated she shares a well with the

Gibbons. Mr. Gibbons takes care of the environment and she supported the variance request.

Ron Schafer, 7174 Hillbrook Lane South, confirmed he was sworn in and stated he supported the variance request.

Marlene Levanthal, 7152 Hillbrook Lane South, confirmed she was sworn in and stated she is the affected next door neighbor. She said she has been the Gibbons' neighbor for 15 years and that the Gibbons are environmentally conscientious. The garage will not affect her property and she supported the variance request.

There being no further comments from the audience, *Dr. Lerner made the motion to close the public hearing for Variance Request #434, Mr. Downing seconded and the motion passed unanimously.*

The Chairman asked Mr. Machnics if he believed the proposed location to be the best location for the garage due to the topography of the lot, this being the one flat area on the property. Mr. Machnics said: Yes.

*Mr. Downing made the motion to accept applicant's Exhibit A, the aerial photograph of the site plan showing the topography, and applicant's Exhibit B, a series of seven photos of the property, Mr. Galemmo seconded and the motion 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.
- b) Whether the variance is substantial: Yes, it is substantial, however due to the topography of the lot and location of the ravine, wherever the garage is located it would require a variance, and a different location would require disturbance of the land and trees.
- 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, three neighbors have stated there would not be any detriment or substantial change to the neighborhood.
- 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, according to the Notice of Appeal application form.
- f) Whether the property owner's predicament feasibly can be obviated through some method other than a variance: No, wherever it is located will require a variance due to the topography of the lot. The requested location appears to be the most logical since the area is already paved and cars park there now. The Zoning Inspector testified that this is the obvious location for this structure.
- g) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance: Yes, the applicant has no other recourse due to the specific nature of this lot. Although the lot is over five acres there are not many buildable areas on it.
- h) Such other criteria which relate to determining whether the zoning regulation is equitable: The over-riding concern is the topography of the lot itself.

*Mr. Galemmo made the motion to grant Variance Request #434 as submitted, Dr. Lerner seconded and upon roll call the vote was Mr. Downing – yes, Mr. Galemmo – yes, Dr. Lerner – yes, Mr. Gokorsch – yes, and the motion passed unanimously.*

Variance request #434 was granted.

**VARIANCE REQUEST #435 Ted Poucher, 8611 Kinsman Road**

Request for two variances to construct an attached garage, specifically a side yard setback of 20 feet in lieu of 50 feet required and a rear yard setback of 82 feet 9 inches in lieu of 100 feet required per Section 5.2.B in an R-5 zone.

The Secretary announced that a legal notice for both of tonight's variance requests was published in the Chagrin Valley Times and News Herald on 02/15/07, was sent by certified mail to the parties involved and neighbors on 02/12/07, and was posted at the Administration Building for ten days. She stated there was a typographical error in the wording for #435, where the proposed garage was referred to as 'detached' when it is in fact to be 'attached' to the residence by a covered walkway.

The Chairman swore in Mr. and Mrs. Poucher. Al Klauss explained that he was representing the applicants, and he presented aerial photos showing the topography of the subject property and photos of the existing garage and residence.

Mr. Gokorsch asked the applicants whether they wished to proceed or reschedule to the next meeting when all members of the board were expected to be in attendance. The applicants asked to continue the hearing to the next meeting in order to have a full board available.

*Mr. Downing made the motion to continue Application #435 to the next regular meeting in March at the applicants' request, Dr. Lerner seconded and the motion passed unanimously.*

**MINUTES OF OCTOBER 30, 2006** – *Dr. Lerner made the motion to approve the minutes as submitted, Mr. Downing seconded and the motion passed unanimously.*

**ELECTION OF OFFICERS** – *Dr. Lerner made the motion to open nominations for officers, Mr. Galemmo seconded and the motion passed unanimously.*

*Dr. Lerner nominated the current Chairman, Steve Gokorsch, to continue as Chairman for 2007, Mr. Galemmo seconded.*

*Mr. Downing made the motion to close nominations for Chairman, Mr. Galemmo seconded, and the motion passed unanimously.*

*Upon roll call nominating Steve Gokorsch as Chairman, the vote was Mr. Downing – yes, Mr. Galemmo – yes, Dr. Lerner – yes, Mr. Gokorsch – yes, and the motion passed unanimously.*

*Mr. Downing made the motion to open nominations for Vice-Chairman, Mr. Gokorsch seconded and the motion passed unanimously.*

*Mr. Galemmo nominated Fred Cuffari to continue as Vice-Chairman for 2007, Dr. Lerner seconded.*

*Mr. Downing made the motion to close nominations for Vice-Chairman, Dr. Lerner seconded and the motion passed unanimously.*

*Upon roll call nominating Fred Cuffari as Vice-Chairman the vote was Mr. Downing – yes, Mr. Galemmo – yes, Dr. Lerner – yes, Mr. Gokorsch – yes, and the motion passed unanimously.*

Steve Gokorsch was re-elected Chairman and Fred Cuffari was re-elected Vice-Chairman for 2007.

**OTHER BUSINESS** – The Secretary stated that Assistant County Prosecutor Rebecca Schlag has verbally approved the final draft of the revised Rules. Mr. Gokorsch asked the Secretary to send out the approved Rules to the board and to the Board of Trustees and Zoning Commission.

Mrs. Steffen gave the board copies of the updated Zoning Resolution and explained the recent amendments. The Chairman asked her to provide the board with a list of these amendments.

