

Minutes: Russell Township Board of Zoning Appeals
Russell Fire-Rescue Station
April 2, 2012

Present: Steve Gokorsch, Chairman
Fred Cuffari
William Downing
Charles Johns
John Rybak
Diana Steffen, Secretary

Also in attendance: Ric Machnics, Zoning Inspector.

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

VARIANCE REQUEST #465 Richard Clark, 8432 Music Street

Request for a side yard setback of 27 ft. in lieu of 30 ft. and a front depth setback of 54 ft. in lieu of 70 ft. for an addition and porch, in violation of Section 5.2.B for a pre-existing lot of record under 3 acres in an R-5 zone. Existing front depth setback is 60 feet.

Mrs. Steffen confirmed that the notice of public hearing was published in the News Herald and Chagrin Valley Times on 03/22/12 and was sent to the neighbors on 03/20/12. The Chairman swore in the applicant, his neighbor and the Zoning Inspector.

Mr. Cuffari made the motion to open the public hearing, Mr. Johns seconded and the motion passed unanimously.

Applicant Richard Clark stated that he wished to put an addition on to the rear and west side of his house, with a wraparound porch on the side and front. The existing sideyard setback is 33 feet, and the addition and porch are 6 feet wide so will extend 3 feet into the required setback of 30 feet. Additionally the house is 60 feet from the edge of the right-of-way in front, and the porch will extend another 6 feet to the front, making a front depth setback of 54 feet, which will be 16 feet into the required setback of 70 feet.

Mr. Clark said there is an existing garage that is only 6 to 8 feet from the side property line, and in order to do the addition he will have to demolish it. He said that in reality, even with the proposed addition, this will create a greater setback on the side yard than what is there now. In answer to a number of questions from the board Mr. Clark said he would like to erect a new garage sometime in the future, but he understood it could not go in the same location. He also said he did not know why the house was located near the front of the lot, but confirmed that it was built in 1901, and a bedroom addition was added on the east side in 1994. Asked if the back yard is wet Mr. Clark said no, the yard slopes uphill and stays fairly dry. Mr. Gokorsch asked about the septic system, and Mr. Clark stated that its location is marked on the site plan, and that it was installed two years ago and does not require a leach field, but has three or four tanks that are pumped out to the ditch.

Mr. Gokorsch asked Mr. Machnics if he thought the addition would fit with the character of the neighborhood. Mr. Machnics said yes, the existing structure is already in violation of the required front setback, and the garage is in violation of the sideyard setback. On researching other properties on Music Street he had found from the zoning property files that the house at 8318 Music Street is at the 70-foot required setback, 8290 Music Street is at 63.5 feet, and 8170 is shown at 90 feet but appears to be at 70 feet or less. He said he believed the proposed location would be in character with the neighborhood.

Pat Gannon, 8414 Music Street, confirmed he was sworn in and stated that he is the affected neighbor directly next door to the west. He thanked the board for the work it has done in protecting the integrity of Russell Township. He stated he has spoken with Mr. Clark and looked at the plans and that he fully supports the variance request. The character of the neighborhood was the reason he moved to Russell 10 years ago, and he thought the addition will add to that character. Mr. Cuffari asked if there are properties with similar frontage along Music Street, and Mr. Gannon said he did not know, but since it is not a development the houses are in many different locations on the lots.

There being no questions from the audience, *Mr. Downing moved to close the public hearing, Mr. Cuffari seconded and the motion passed unanimously.*

The board discussed the request, and agreed that the sideyard setback will actually increase from 6 feet to 27 feet with the demolition of the garage, and thus the property will move towards conformance. Mr. Cuffari compared the square footage of the 24 ft. by 32 ft. garage that will be removed versus that of the porch being added. He said 768 sq. ft. will be removed. The new porch will be 48 ft. by 6 ft. and 52 ft. by 6 ft., or 600 sq. ft., resulting in a net removal of building area of 168 sq. ft.

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: No facts were submitted on this factor.
- b) Whether the variance is substantial: Since the proposal suggests removing square footage that is currently out of conformance and adding less square footage it is not only not substantial but is beneficial. The side yard setback will increase from 6 feet to 27 feet, although the front yard setback will decrease from 60 feet to 54 feet. The net building area will decrease by 168 square feet.
- 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, according to the Zoning Inspector's testimony the addition will be in character with the neighborhood.
- d) Whether the variance would adversely affect the delivery of governmental services: There was no testimony presented on this factor.
- e) Whether the property owner purchased the property with the knowledge of the zoning restriction: No, according to the Notice of Appeal completed by the applicant.
- f) Whether the property owner's predicament feasibly can be obviated through some method other than a variance: No, because of the age of the house and its location on the lot there is no other solution.
- 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: None.

Mr. Downing made the motion to approve Variance Request #465 as submitted, Mr. Cuffari seconded and upon roll call the vote was Mr. Cuffari – yes, Mr. Downing – yes, Mr. Johns – yes, Mr. Rybak – yes, Mr. Gokorsch – yes, and the motion passed unanimously.

Variance request #465 was granted.

MINUTES OF MARCH 5, 2012 – *Mr. Rybak made the motion to approve the minutes of March 5th, Mr. Johns seconded and the motion passed unanimously.*

There being no other business Mr. Cuffari moved to adjourn, Mr. Downing seconded and the meeting adjourned at 7:45 p.m.

Respectfully submitted,

Diana Steffen
Secretary

Date

Steve Gokorsch
Chairman

Date

bza minutes 04-02-12