

Minutes: Russell Township Board of Zoning Appeals
Russell Town Hall
April 22, 2009

Present: Steve Gokorsch, Chairman
Fred Cuffari
William Downing
Edith Lerner, Ph.D.
Justin Madden
Diana Steffen, Secretary

Also in attendance: Ric Machnics, Zoning Inspector and Kristina Port, Township Trustee.

The Chairman called the meeting to order at 7:00 p.m. He welcomed Justin Madden to the Board. Mr. Madden was appointed by the Board of Trustees to replace Matt Galemmo who retired at the end of his term.

Mrs. Steffen stated she had sent a Sunshine Notice to five newspapers rescheduling the April 27th meeting to tonight. She confirmed that a legal notice for tonight's hearing was published in the Chagrin Valley Times and the News Herald on April 9th and was sent by certified mail to the neighbors on April 3rd. The Chairman swore in all those in the audience who planned to give testimony or make comment.

VARIANCE REQUEST #443 Jochen Grocke 7260 Hillbrook Lane South

Request for variance from Section 5.2.A.1 for an existing efficiency unit with bathroom on second floor of detached garage.

In attendance were the applicants Mr. & Mrs. Jochen Grocke, and the potential buyer Tom Warren.

Mr. Machnics explained the background to the request, stating that Mr. Grocke purchased his residence in 1996. There was an existing accessory building and the previous owner had installed a living space above the garage that included a bedroom and bathroom. Mr. Grocke is in the process of selling his property and during that process the Geauga County Health Department (G.C.H.D.) inspected the septic system and determined that it needs to be replaced. Mr. Grocke advised the G.C.H.D. of the living space over the garage and a plan was drawn up to hook up both the residence and the accessory building to one new system. Mr. Machnics said that there is one single-family dwelling on the property plus the accessory building and they are detached from each other. According to the Zoning Resolution, one single-family dwelling is permitted on a lot. The G.C.H.D. will not consider approving the tie-in of the accessory building until it receives confirmation from the Zoning Office that the bedroom and bathroom are legal.

Mr. Gokorsch opened the public hearing.

Jochen Grocke thanked the Board for changing the meeting date to accommodate his travel plans, and confirmed he was sworn in. He stated that, as he wrote in his letter to the Board, he has a tentative purchase agreement with contingencies with Mr. Thomas Warren, and it was when he was looking into a new septic system as part of the sale that the G.C.H.D. told him it needed approval from Russell Township to tie in two lines. The sale is pending and will be in jeopardy if he does not receive the variance. In addition, due to current market conditions the selling price is less than the market value. The house across the street was recently auctioned and this was not good for the neighborhood.

Mr. Grocke stated that there are no technical problems with the proposed new septic system, since he has more than 10 acres, which exceeds the lot requirement in the Township. There is a suitable location for the leach field, and soil tests were positive. He offered to submit the soil test reports to the Board.

Mr. Machnics reminded the Board that Mr. Grocke bought the property with the living space over the garage. A zoning permit was issued to a previous owner in 1978 for an accessory building, but the drawings do not show any planned living area, which must have been installed later by the previous owner.

Mr. Cuffari asked Mr. Machnics, as the Township's representative, if he denied the tie-in because there cannot be a dwelling unit in two separate buildings and Mr. Grocke was challenging that decision, or whether this was a request for a variance to allow two families on the same lot. These are two separate issues. Mr. Machnics stated he would like the Board to interpret the definition of a dwelling unit. In his opinion there is only one dwelling unit with an accessory unit that has a working bathroom, living space and cooking facilities. A discussion took place regarding the correct procedure. Either the applicant could ask the Board to review the Zoning Inspector's interpretation of the zoning code, or he could ask for a variance from the requirement of one single-family dwelling per lot in order to allow a two-family dwelling. Mr. Machnics stated he would like the Board to provide guidance in his interpretation of the code. He did believe there is a single dwelling with multiple buildings as opposed to two dwelling units.

Bill Wendell, registered sanitarian with the G.C.H.D., confirmed he was sworn in and explained the process used pertaining to G.C.H.D. approval. Health Department rules indicate one septic system to serve one dwelling on one lot, and this coincides with many townships' zoning regulations. There are situations where there is a second structure that has a living unit consisting of bathroom, kitchen, bedroom and living area, where someone could be self-sufficient, and such a situation is considered to be a separate dwelling by G.C.H.D. Then when a new septic system is required for the main residence and the owner asks for a tie-in for the second structure, he must apply to the Board of Health for a variance. However, the Board of Health will not hear the variance until it knows if the situation is acceptable to local zoning.

Mr. Wendell stated that he visited Mr. Grocke's property for a lot evaluation. The installer drew up a layout to satisfy the linear footage of leach trench for a six-bedroom

home, being five bedrooms in the main house and one additional bedroom. A soil analysis was done and Mr. Wendell determined there was enough room on the site and the soil could support the system.

Mr. Machnics said he has not spoken to the Zoning Commission regarding its interpretation of a dwelling unit. Mr. Gokorsch read aloud the definition in the Zoning Resolution of a dwelling unit: "Space within a building comprising living and/or dining and sleeping rooms and space for cooking, bathing and toilet facilities all of which are used by only one (1) family for residential occupancy." The Board asked Ms. Port, as a representative of the Board of Trustees, for any concerns on the part of the Township. After being sworn in by the Chairman, Ms. Port stated that in this particular case she believed the circumstances warranted interpretation as a one-family dwelling unit with multiple structures.

Mr. Wendell cautioned that the Health Department considers the potential situation of one family residing in the main house and another family living above the garage. He confirmed that they consider the number of bedrooms, not kitchens, as an indicator of the number of people who may use the system.

Mr. Machnics then stated that he had decided to interpret the dwelling unit to be a one single-family dwelling with multiple buildings, since he did not see a potential for the secondary living space to be used as a separate dwelling by another family. He stated he was now willing to send approval to the Health Department so that Mr. Grocke could proceed with the new septic system.

The applicant then stated he wished to withdraw his application for a variance.

Mr. Cuffari asked Mr. Machnics to discuss with the Zoning Commission the definition of a dwelling unit, since clarification would be helpful to the Board if similar cases come before it in the future. Mr. Downing asked if the area above the garage was large enough for two or three more bedrooms to be added. Mr. Machnics reviewed the original drawings for the garage and said it is 22 feet by 19 feet with a tapered roof so the walls come in on the sides in the living area; there is also a narrow area with a dormer window. Mr. Downing was satisfied that the number of rooms could not be increased.

Scott Aiman, 7241 Hillbrook Lane South, confirmed he was sworn in, and stated he lived across the street from the applicant. He had been prepared to testify that he supported the variance; now his only concern would be if the property became a multi-family lot.

Mr. Cuffari made the motion to close the public hearing, Dr. Lerner seconded and the motion passed unanimously.

Variance request #443 was withdrawn.

