

Minutes: Russell Township Board of Zoning Appeals
Russell Fire-Rescue Station
May 2, 2011

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.

CONTINUANCE OF VARIANCE REQUEST #458 Deer Lake Estates Homeowners Association

Request to locate a boat dock and canoe rack with a 5-foot side yard in lieu of 50 feet required in an R-5 zone per Section 5.2.B

In attendance were Richard Kaplan, Vice-President of Deer Lake Homeowners Association (H.O.A.), Susan and Mike Slovich, Angela Hambrick, and attorney Jeffrey Huntsberger.

The secretary confirmed that she published the legal notice in the News Herald and Chagrin Valley Times on 4/21/11 and sent it to the parties and neighbors on 4/15/11. The Chairman swore in all those in the audience who planned to give testimony or make comment.

Jeffrey Huntsberger confirmed he had been sworn in, and stated that he, Mike Slovich and James Hambrick met with Captain Russell of the Russell Fire Department. He presented a letter from the Fire Chief John Frazier that indicated the Fire Department did not have a problem with the access from Fawn Court to Deer Lake. Mr. Huntsberger also presented an artist's rendition of the entire dock area showing the proposed new Parcel 1 property lines, the dock, a deck, canoe rack and stairs. He explained that the closer the dock is to the new lot line the less visible it will be from the Slovich residence directly up the hill to the north, so Mr. Slovich has asked for this location as a condition of the land swap with the H.O.A.

There were questions from the board. Mike Slovich confirmed he had been sworn in and stated the wood portion of the dock will be 6 ft. by 20 ft., or 120 sq. ft. and at ground level. It will be raised above the water only as far as needed to prevent it being damaged by ice. Mr. Gokorsch commented that 120 sq. ft. is far less than the maximum of 400 sq. ft. agreed at the last hearing. Mr. Slovich said the canoe rack will accommodate six canoes, and will be as low in height as it can be and still contain two levels of canoes. He said that being cut into the hillside it will not be visible from his or the Hambricks' homes.

Mr. Huntsberger said the stairs shown on the rendition do not exist now, but will be added to help with access to the dock area. He confirmed that the Fire Chief does not need vehicular access to the lake. Richard Kaplan, 15700 Buckland Trail, confirmed he was sworn in and stated that the gravel path will be widened to accommodate vehicles, but the Fire Captain had advised at their meeting that the Fire Department does not need vehicular access off Fawn Court since they have access through other properties to the lake. Vehicles can go as far as the proposed stairway. Mr. Huntsberger presented photos of the gravel path showing the steep slope, of the Slovich residence in relation to the steep slope, and with the proposed lot line marked in red.

Mr. Cuffari asked how wide the H.O.A. planned to make the gravel path, and Mr. Kaplan said no more than six feet. It is now four to four-and-a-half feet, and pick-up trucks use it now. There was a discussion during which Mr. Huntsberger said the H.O.A. does not want to encourage vehicles on the path as it is against the rules. Mr. Slovich said there is no accommodation for parking in the plans, and in ten years he has never seen a vehicle use the path. Mr. Gokorsch asked if it is their preference to keep the trail an undisturbed footpath only, and Mr. Slovich replied yes, and they would make sure it looks like a footpath.

No unauthorized boats or vehicles are permitted. Mrs. Hambrick said she has never seen ATV's use the trail.

There being no further comments, *Mr. Cuffari made the motion to close the public portion of the hearing, Mr. Johns seconded and the motion passed unanimously.*

Mr. Downing made the motion to accept Applicant's Exhibits 1 through 6:

- #1 – Letter from the Russell Fire Chief pursuant to access path to the lake;*
- #2 – Photo – from bottom of the gravel pathway that leads down to the recreation area;*
- #3 – Photo – a similar view of the path looking down at land then up, showing lower grass area;*
- #4 – Photo – view showing the sharp drop-off and terrain at the northeast corner of Block A;*
- #5 – Photo – from the grassy area looking up to Mike Slovich's home;*
- #6 – Color artist's rendering of the dock, canoe stand and the pathway.*

Mr. Cuffari 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: Does not apply to this variance request.
- b) Whether the variance is substantial: No, although close to the property line the dock is only 120 sq. ft., is approximately at ground level and is not habitable.
- 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 testimony was presented to indicate any alteration to the neighborhood or a detriment to adjoining properties.
- d) Whether the variance would adversely affect the delivery of governmental services: No, per the Fire Chief's letter, the Fire Department does not have any issue with delivery of emergency services.
- e) Whether the property owner purchased the property with the knowledge of the zoning restriction: Yes, according to the Notice of Appeal.
- f) Whether the property owner's predicament feasibly can be obviated through some method other than a variance: Testimony was provided that there is no other option due to the deed restrictions on Block A. Although the structures could be located more than five feet from the property line the adjoining property owners have asked for the proposed location in order to minimize the visual impact from their houses.
- g) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance: The board heard testimony that there is not unanimity within the H.O.A. regarding the installation, but the board itself did not hear any testimony to indicate other than that the spirit and intent would be observed and substantial justice done by granting the variance.
- h) Such other criteria which relate to determining whether the zoning regulation is equitable: None. Mr. Cuffari noted that the intention behind the proposed variance was a negotiation between a number of members of the H.O.A. to design something that would create access to the lake for everyone in the development, which is a commendable intent.

Mr. Cuffari made the motion to accept Variance Request #458 as submitted, Mr. Johns 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 #458 was granted.

