

Minutes: Russell Township Board of Zoning Appeals  
Russell Town Hall  
May 14, 2007

Present: Steve Gokorsch, Chairman  
William Downing  
Matthew Galemmo  
Edith Lerner, Ph.D.  
Diana Steffen, Secretary

Fred Cuffari was absent with apologies.

Also in attendance: Ric Machnics, Zoning Inspector, and James Dickinson, Chairman of the Board of Trustees.

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. The Secretary confirmed that a legal notice for tonight's two hearings was published in the Chagrin Valley Times and News Herald on 05/03/07 and was sent to the parties and neighbors by certified mail on 05/02/07.

**APPEAL #436 Angela A. Hambrick, 9099 Fawn Court**

Request for a variance to construct a detached garage with a rear yard setback of 35 feet in lieu of 75 feet required per Section 5.2.B. in an R-3 zone.

In attendance were Mr. and Mrs. James Hambrick, and Tim Trask and Matthew Neff of Trask Construction, Inc. Mr. Neff confirmed he had signed the Notice of Appeal as the Hambricks' representative.

Mr. Trask stated he was representing the Hambricks. The main reason for the variance was that the Deer Lakes Estates Architectural Review Committee (A.R.C.) has notified the homeowners that it approves the garage in the requested location but made note that it would not approve it anywhere else on the property. He has submitted a copy of the letter dated May 11, 2007, from the A.R.C. to Mrs. Hambrick.

Mr. Hambrick explained that his property is unusual because it abuts Deer Lake and there is also a common area that surrounds the end of the lake. In the planned location the garage would be tucked in a flat area below a steep slope in an unobtrusive location where it would not be visible from the lake. There is a 25-foot drop down the hill to the original creek bottom with a wet area bordering the common area of Paw Paw Lakes to the south in South Russell. By locating the garage in the corner it will not disturb neighbors; there is a common area of low wetland in Paw Paw Lakes and the houses in Paw Paw Lakes are not visible from his property. The drop in slope from his east side line is about 20 feet over the course of 30 feet. Mr. Hambrick stated that if they move the structure out from the requested 35-foot rear setback it would have to be nearer the lake and would be visible from the neighbors with homes on the lake and from Deer Lakes common area.

Mr. Trask explained the color photos he had submitted. The tree house shown in a photo is about 14 feet above the ridge, so the garage will be about 6 feet below that area and will look a lot lower from the common area. Mr. Machnics stated that they cannot build in the septic area that is between the residence and the proposed location. Mr. Trask said that if they move the building out of the setback area then due to the slope the foundation at the back will be elevated about 5 to 6 feet above grade which increases the overall look of the height of the building. Mrs. Hambrick stated it would then be visible from the common area that is used by neighbors in the development and the Architectural Review Committee will not allow that. Mr. Hambrick said that using the planned location and looking from the lake upstream to his property, you would just see the ridge line of the building rather than the whole building.

Asked about the common area in Paw Paw Lakes, Mr. Hambrick said there are about 30 to 40 acres of low land between the two developments that he believed can never be developed. Because they cannot see the houses in Paw Paw Lakes he presumed the garage would not be visible from those homes either. Mr. Machnics confirmed that the low land is not buildable.

Harriet Holleran, President of Deer Lake Estates Homeowners Association was sworn in and stated she was representing the Architectural Review Committee that is appointed by the Board of Directors of Deer Lakes. The A.R.C. reviewed the site drawings and approved the building and the location, so Mrs. Holleran said that on behalf of the Board of Directors she could confirm that Deer Lake Estates Homeowners Association is comfortable with the location and scope of the project. She is also aware that residents surrounding the property have indicated their approval in letters to the Board of Zoning Appeals.

Sue Slovich, 9090 Fawn Court, confirmed she was sworn in and stated that she is an adjacent neighbor and her husband is a member of the A.R.C. She has seen the drawings and walked the site with the Hambricks; she said she thinks the garage will look "gorgeous" and supports the variance. Mr. Hambrick explained that there is an easement on the common area that runs between Mrs. Slovich's property and his property. This has a walking path through the woods and over a bridge and there are a couple of park benches.

Mr. Neff said the garage's main purpose is to house a large horse trailer, which is the reason the footprint of the first floor is 1616 square feet. The size of the horse trailer also drastically affects the space needed for the apron in front of the garage. The garage will also house a pickup truck and possibly a boat in the future.

There being no further comments from the audience the Chairman closed the public portion of the hearing.

The Hambricks had submitted a supplement to the Notice of Appeal, in which the answers to questions 4a to 4h were answered more fully. Mrs. Hambrick signed and dated this supplement.

*Mr. Downing made the motion to accept the amended version of the Notice of Appeal as submitted, Dr. Lerner seconded and the motion passed unanimously.*

Mr. Downing identified three Applicants' Exhibits: 1) Letter from Deer Lake Estates Homeowners Association Architectural Review Committee identifying the proposed location as the only location they would accept and Mrs. Holleran, who is present this evening, has signed the document as President of the Deer Lake Homeowners Association; 2) Access Geauga aerial view of the subject property showing the location of the lot lines, the cul-de-sac, the primary residence and the lake as it is situated just off the applicants' property; 3) Aerial photo showing the house and rear portion of the applicants' property and off to the west the start of the watercourse of the lake and the property that is the vacant land that is part of Paw Paw Lakes to the south.

*Mr. Downing made the motion to accept the three Applicants' Exhibits as submitted, Dr. Lerner 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: No testimony has been presented that there could not be a reasonable return or beneficial use without the variance.
- b) Whether the variance is substantial: At 53% the variance is substantial but there are mitigating circumstances due to the topography of the property and the septic field behind the home. The ravine drops off 20 feet over 20 to 30 feet. There is low land at the rear line that beyond to the south includes 30 to 40 acres in Paw Paw Lakes that is unoccupied by houses and is unlikely to be developed due to the nature of the land. Additionally, placing the garage in this location would have minimum impact in terms of view from other neighbors or people who are in the common area.
- 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, in fact one neighbor stated she thinks the proposed structure would be "gorgeous" and the A.R.C. of the homeowners association wrote that it is the right location and the only site that would be approved.
- d) Whether the variance would adversely affect the delivery of governmental services: No testimony was presented that the variance would do so.

- e) Whether the property owner purchased the property with the knowledge of the zoning restriction: No, according to the application.
- f) Whether the property owner's predicament feasibly can be obviated through some method other than a variance: No, Deer Lakes A.R.C. stated in its letter to Mrs. Hambrick that it will not approve the location of the garage anywhere else on the property.
- g) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance: Yes, the garage will not be intrusive and will not affect the view of the lake in the common area. The people who are most affected are the adjacent neighbors, who approve the location, and the Homeowners Association A.R.C. has been specific that they will only accept that location.
- h) Such other criteria which relate to determining whether the zoning regulation is equitable: The topography, septic system, ravine, visibility issue from the lake, height and the land beyond are all factors. The Zoning Inspector's opinion is that the neighboring Paw Paw Lakes property is not buildable due to the topography and that it is a common open space area.

*Mr. Downing made the motion that Appeal #436 Angela Hambrick, to construct a detached garage, be approved as submitted, Mr. Galemmo 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 #436 was granted.

**APPEAL #437 Grazia & Jeffrey Thornberry, 14735 Hillbrook Lane North**

Request for two variances to construct a detached garage in the front yard, in violation of Section 4.7.V, and with a front yard setback of 50 feet in lieu of 125 feet required per Section 5.2.B in an R-5 zone.

Mr. and Mrs. Thornberry were in attendance and confirmed they were sworn in. Mr. Thornberry showed a survey site plan of his 19-acre property that he explained is divided into two parcels of 13.0367 acres and 5.94 acres. The existing house and a lake are on the 13.0367 acre parcel. The site plan shows a 50-foot wide right-of-way that is technically a dedicated private road. Physically there is no road, just his driveway that extends to his house. There is no road extending beyond the sharp turn shown on the survey. He said that he understands that technically the area between the residence and the road is the front yard.

Mrs. Steffen explained that the second survey plan submitted by Mr. Thornberry is a copy of the site plan submitted to the Zoning Office in 1979 for the new residence permit. It shows a dimension of 160 feet from the residence to the edge of the right-of-way, and that dimension is used on the Application for Zoning Certificate as the front yard. The Zoning Inspector at that time issued the certificate based on that being the front yard dimension. Mr. Machnics confirmed that he determined the area between the residence and the dedicated right-of-way to be the front yard.

Showing the Board an Access Geauga aerial map with 2-foot contours, Mr. Thornberry explained that Griswold Creek flows through his property. The lake is to the east of the house. The land drops down 30 feet from the house towards the creek to the northeast, an area that he believed could flood and therefore is not suitable for building. He cannot build on the other side of Griswold Creek as he has no way of crossing it, plus he is aware that Russell zoning restricts building within 30 feet of the stream. The septic field is located to the northwest of the house in the trees, so he cannot build there. The existing attached garage is straight off the driveway.

Mr. Thornberry explained the photographs he had submitted showing the proposed building area, the Hillbrook condominiums and his residence. Mr. Machnics confirmed that the front yard area is flat. On the east side of the flat area the topography slopes down dramatically to the driveway. Asked if he could add on to the residence beside the existing garage, Mr. Thornberry stated he could not because he would then lose the driveway that goes beside the house and circles around what is the actual front of the house on the west side. He cannot build on the east side of the house due to the 30-foot slope down on that side to the lake.

