

Minutes: Russell Township Board of Zoning Appeals
Russell Town Hall
June 25, 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. The Chairman called the meeting to order at 7:00 p.m. The Secretary confirmed that a legal notice for the two hearings tonight was published in the Chagrin Valley Times and News Herald on 06/14/07 and was sent to the parties and neighbors on 06/11/07. The Chairman then swore in all those in the audience who planned to give testimony during either hearing.

**CONTINUANCE OF APPEAL #437 Grazia and 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 75 feet in lieu of 125 feet required per Section 5.2.B in an R-5 zone.

Mr. and Mrs. Thornberry confirmed they were sworn in. Mr. Thornberry stated that since the last meeting he has researched standard sizes of garages. Regarding the issue of a loft space adding to the height, he looked at plans for single story garages, but realized he does need loft storage space and does not wish to build a structure that does not meet their needs. The roof pitch of the proposed garage matches the roof pitch of the home, and he needs the pitch to avoid concern about snow load. Regarding the issue of the size of the proposed garage, he stated that other plans he looked at demonstrate that 24 ft. by 36 ft. is standard for a three-car garage, plus he spoke with a builder who confirmed that 24 ft. is a standard depth for a two or three-car garage and 32 ft. to 37 ft. is a standard width. Mr. Thornberry stated that his existing attached garage is 24 ft. deep. He showed plans for two and three-car garages. The height of the proposed garage is 20 ft. 8 ins. and his existing garage is 20 ft. at its peak.

Mr. Thornberry stated that with regard to the location of the proposed garage, he has tried to move it as far as possible from the nearest neighbor. It was confirmed at the last meeting that it is not feasible to excavate the field down due to cost and drainage issues, and also not practical to move it farther north due to trees and the hillside. With a setback of 75 feet from the edge of the right-of-way of the non-existent road the garage will be 150 feet away from the neighbor's condominium. Mr. Thornberry stated that he had a solution that he believed would solve the problem for the neighbors of seeing the garage from their home. He plans to landscape with large plantings and trees. Since the

garage would only be visible from the Harrisons' kitchen window and porch, this would essentially hide it from view.

Mr. Thornberry stated that he believed the garage would not change the character of the neighborhood at all, since it would only be visible to people on his property. It is preferable to looking at equipment, a truck and a tractor in the yard. Mrs. Thornberry stated that the garage will be attractive and unobtrusive to neighbors.

Asked by Mr. Downing whether enough information has been provided to verify the location of the garage in the field, Mr. Machnics confirmed that the plot plan shows that the garage will be 32 feet from the driveway, and that he will be able to verify the location once it has been staked. Mr. Thornberry said he measured from the edge of the right-of-way. He also stated that by planting trees in the area he has chosen, he will still have use of most of the meadow and yet they will give the neighbors privacy.

Mr. Gokorsch asked if 24 feet is a standard depth for a garage and Mr. Machnics said yes. He also confirmed that excavating the field down would add considerably to the cost. Regarding the height of 20 feet, Mr. Machnics said that is arbitrary, and Mr. Thornberry said that the plans he showed the board show that 20 feet is typical.

Joe and Sue Harrison, 14661 Hillbrook Lane North, confirmed they were sworn in. Mr. Harrison said he objected to the second story, since he believed that 20 feet is higher than a standard garage. The existing attached garage does not appear to be high because it is located five to seven feet below grade. He was also concerned that in the future the second story might be converted to living quarters. Mr. Harrison said he wished to approve the type of screening to be planted. Mr. Machnics said that with regard to the concern about living space, he was certain this would never occur since neither Russell's zoning nor the Geauga County Health Department allows two residences on one lot. Mr. Thornberry said he had no intention of using the second story for living space.

Mr. Gokorsch asked Mr. Thornberry whether the screening could be done to preserve the character of the neighborhood while also obscuring the garage from the Harrisons' home. Mr. Thornberry said yes, but he did not wish to plant trees all over the meadow since he would then lose the use of it. He could either plant in one area to hide the view from their porch or he could plant evergreens along the property line. Asked if trees could be planted near to the proposed garage, Mr. Machnics said not since over the years they could cause damage to the garage and its foundation. Mr. Thornberry drew on an aerial photo the area where he planned to plant trees as screening. Mr. Gokorsch said that the intent is to plant them in direct sight line from the Harrisons' north side kitchen window to the south side of the garage.

Mr. Galemmo made the motion to accept Exhibit #2A, aerial photo showing the general location of the tree screening, and Exhibit #4, south side elevation of the garage, Dr. Lerner seconded and the motion passed unanimously.

Mr. Downing made the motion to close the public hearing for Appeal #437, 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: Yes.
- b) Whether the variance is substantial: Yes, the request being 75 feet in lieu of the required 125 feet and an accessory building in the front yard. However, the board agreed there are mitigating factors for the requested location: 1) Griswold Creek runs through the property north to south; 2) The septic field is northwest of the house and so that area is unbuildable; 3) Topography - There is a ravine behind the house and a drop off at the house and sides of the house, so the applicant could not add on to the existing garage or add on to the house on the other side; 4) The platted road that was not built that caused the delineation of the front yard; the Zoning Inspector believes the platted unimproved road will never be built because it is very close to the condominiums.
- 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: The board agreed that in terms of the entire neighborhood there will be no alteration in character. Due to concern from the most affected neighbor that the garage would affect the view from his home the applicants have agreed, and have indicated on Exhibit #2A, to planting a screen of evergreen or other appropriate trees to the south of the garage.
- d) Whether the variance would adversely affect the delivery of governmental services: There was no testimony on this item.
- e) Whether the property owner purchased the property with the knowledge of the zoning restriction: No, according to the Notice of Appeal form completed by the applicant.
- f) Whether the property owner's predicament feasibly can be obviated through some method other than a variance: No, that is the only location due to topography, existing structures, septic system and the creek; the Zoning Inspector has said that in terms of construction the requested location is the most suitable.
- 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: Although a large property, the criteria given in 'b' shows there is nowhere else to build the garage. If the garage is located closer to the house there is a steep rise from the driveway with trees that would add to the cost.

Mr. Galemmo made the motion to grant Appeal #437, as amended with an evergreen landscape buffer on the south side of the garage, to allow a detached garage in the front yard as well as a front yard setback of 75 feet in lieu of 125 feet, 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 #437 was granted.

**REQUEST TO AMEND CONDITIONAL USE #422 Russell Township Land Development LLC
Rivendell Subdivision, PP #26-179100 Caves Road**

In attendance were attorney Dale Markowitz and engineer Thomas E. Beutler of Land Design Consultants for Russell Township Land Development LLC, Roy Podojil - Chairman of Russell Park Commission, James Dickinson – Chairman of the Russell Township Board of Trustees, Kyle Dreyfuss-Wells – Executive Director of the Chagrin River Watershed Partners, and Rebecca Schlag – Assistant County Prosecutor and legal counsel to the Board of Zoning Appeals.

Mr. Markowitz stated that since the last meeting his client looked into moving both stormwater basins out of the open space areas. The engineer has determined that this can be done, and so Mr. Markowitz asked to amend the application to simply approve their restoration plans for the open space: they will move the stormwater basin in Open Space C to Sublot 11, and the small piece of the other stormwater basin that encroaches on Open Space C will be moved to be entirely on Sublot 16. The Geauga County Planning Commission and Geauga Soil & Water Conservation District have approved this.

Mr. Beutler confirmed he was sworn in, and presented improvement plans for the relocation of the two stormwater basins and a restoration plan for the open space area. He said he has obtained approval from the G.S.W.C.D. for revised drainage calculations, and presented a copy of the approval letter from Carmella Shale. They are on the agenda of the G.C.P.C. to amend the final plat showing a new easement on Sublot 11.

Regarding the basin that is currently wholly in the open space area, Mr. Beutler explained that it cannot be moved to Sublot 12 due to the location of the septic fields on that lot. They plan to move it to Sublot 11 because it will not affect the septic area on that lot. Jim Fincham, who conducted the original soils investigations for the development, is reviewing the location. Mr. Beutler said the improvement plan shows the 30-foot required setback from Griswold Creek, but due to the steep slope to the creek they have located the basin farther back for stability. It will be at the top of the slope and another 10 feet back. He said he believes that from an engineering standpoint this will work. The outlet from the basin will go to a flatter area to the southwest of the basin and will discharge to the creek. The basin will be 150 to 180 feet from the home site on that lot. The existing pipe in the easement to the existing basin will be plugged on both ends and disconnected and then rerouted to the new basin.

Regarding the other basin that is on Sublot 16 but encroaches onto the open space, Mr. Beutler stated that they will move the basin back so that the embankment to support the basin will be wholly on Sublot 16. Part of the basin, the discharge pipe and diffuser are in the open space and will be removed. They will plug the pipe at both ends and put in a new pipe with an outlet to a small stream that drains into the open space. They will install silt fence during construction and seed the filled-in area with permanent grass seed.

Mr. Beutler said the plan for the large basin behind Sublots 11 and 12 is to move the dirt 30 feet away from the creek bed. After plugging the pipe and removing the diffuser, both concrete structures and the emergency spillway, they will fill in the basin and grade it down so it will drain. He could not confirm if the site will be put back to the original topography, because they will attempt to have the site drain in both directions as it did originally. He stated that these plans have been approved by G.S.W.C.D. and he read the letter dated 06/22/07 from Carmella Shale.

Mr. Gokorsch asked how the board can verify that the restoration is completed as planned. James Dickinson, Chairman of the Board of Trustees, stated that the Trustees are willing to turn over supervision of the project to the Russell Park Commission with advice from the C.R.W.P. He understood that Roy Podojil has reviewed the plan and Kyle Dreyfuss-Wells has recommendations for the restoration and plantings. Mr. Dickinson stated that if the board approves the restoration plan, the Board of Trustees will remove its objection to the conditional use.

Mr. Beutler said they plan to purchase 100 deciduous hardwood sapling trees from G.S.W.C.D. Mr. Markowitz stated they hope to have the plat approved in July, then once the basins are relocated and that work has been approved by Carmella Shale, they can record the plat and the Declaration of Restricted Covenants. They would plant trees in the fall.

Kyle Dreyfuss-Wells handed out a copy of C.R.W.P.'s recommendations and stated that the Park Commission and Trustees asked the C.R.W.P. to review the restoration plan dated 6/14/07 specifically for the open space area behind Sublots 11 and 12; she was not asked to review a plan for the smaller area next to Sublot 16. Ms. Dreyfuss-Wells noted that she and Carmella Shale have been conferring on the entire project, but Ms. Shale is reviewing only the new plans for the relocation of the basins and not the restoration plan.

Ms. Dreyfuss-Wells said she approved the plans for the removal of the large basin as described by Mr. Beutler, but she has added details that are important to the project. She said the basin should be filled with on-site soils only and then covered with at least 6 inches of clean topsoil to ensure vegetation growth. Mr. Beutler confirmed that there is a mound of topsoil near Sublot 16 that can be used for this. She also recommended using erosion and sediment control best management practices as established in the Geauga County Water Management and Sediment Control Regulations until there is at least an 80% coverage of native grasses. Seeding of these grasses was recommended for Summer 2007 and again in the Fall of 2007. After the grasses stabilize the site at least 50 native

deciduous trees of at least 1-inch diameter breast height with tree bark protectors should be planted. Saplings, as proposed by the applicant, should not be used as they are too small and are likely to be eaten by deer. She recommended planting these trees in Fall 2007 with replanting as necessary in Spring 2008. She then advised that the developer should be required to monitor the site to ensure 80% survivability of the planted trees and grasses at 1 year from the date restoration is complete, and to provide a report to the B.Z.A. If there is less than 80% survivability additional planting will be necessary. The C.R.W.P. is willing to review this report for the Township and make recommendations for any necessary remedial action.

Roy Podojil said that he agreed with Ms. Dreyfuss-Wells that saplings should not be used, and that bigger trees have more chance of surviving deer and beaver that live in that area. The trees must be native to this area and should be planted by tree experts. He emphasized that the trees should be a substantial size to save replanting and further aggravation for everyone involved. He asked to see a list of the type of trees before they are planted.

There was discussion on the timeline for planting grass and trees. Mr. Beutler said it is important that grass and mulch stabilize the site before it is disturbed again by the tree planting. July is not a good time for grass seed to germinate. The board, Mr. Markowitz, Mr. Dickinson, Mr. Podojil and Ms. Dreyfuss-Wells agreed: 1) to change the time of tree planting to Spring 2008 with replanting as necessary in Spring 2009; 2) that the Park Commission, in consultation with C.R.W.P., will have final approval of the type, size, and quantity of the trees prior to planting; 3) the C.R.W.P. and the Park Commission will review Russell Township Land Development LLC's report on restoration, and report to the Board of Zoning Appeals in June 2008 and June 2009. Each party signed a marked-up copy of the recommendations.

Mr. Podojil again emphasized the need for larger tree plantings. He said that they planted 2-inch diameter trees in the Land Lab and they were successful. Ms. Dreyfuss-Wells said that because of the larger size the number of trees required is halved from 100 to 50. Mr. Markowitz said that if some of the one-inch trees do not survive they will replace them.

The board accepted Applicant's Exhibits #1 Engineer's plan for relocated basin on Sublot 11, #2 Engineer's plan for relocated basin on Sublot 16, #3 Restoration plan, #4 Approval letter from G.S.W.C.D. dated 06/22/07, and Trustees Exhibit #1 C.R.W.P. review amended to include the Russell Park Commission and C.R.W.P. approval of type, size and quantity of trees, date of planting, and that Russell Township Land Development LLC will provide a report on the restoration for review by C.R.W.P. and the Park Commission prior to review by the B.Z.A.

Mr. Downing made the motion to accept Applicant's Exhibits #1 through #4, and Trustees Exhibit #1 as submitted, Dr. Lerner seconded and the motion passed unanimously.

