

Minutes: Russell Township Board of Zoning Appeals  
Russell Fire-Rescue Station  
September 12, 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.

**VARIANCE REQUEST #462 Craig Seabrook, 14444 Watt Road**

Request to locate an accessory building in the front yard in violation of Section 4.7.V "Accessory buildings shall not be located in the front yard."

The secretary confirmed that she published the legal notice in the News Herald and Chagrin Valley Times on 09/01/11, and sent it by certified mail to the party and neighbors on 08/26/11. The Chairman swore in those in the audience who planned to give testimony or make comment.

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

Craig Seabrook confirmed he had been sworn in, and stated he wished to build an additional storage building in front of his house, which is set far back on his property. His lot is 150 feet by 600 feet. The building will be used for storage of garden equipment and antique cars. It will have a foundation and the same type of siding as his house. It will not be a pole building. He said that because the location is so far back it will not interfere with neighbors. He built the residence 40 years ago in 1971.

Upon questioning by the board, Mr. Seabrook explained that the pond in the center of the lot was not in existence when he built the residence. He said he constructed the pond around 1980; there is a ravine through the property which he dammed up to create the pond, and the stream goes around the pond now. The board viewed the topography of the site as shown on the Access Geauga aerial photo and on Mr. Seabrook's hand-drawn site plan. Asked if there is a detached garage on the property, Mr. Seabrook said yes, as shown on his site plan. He said there are three accessory buildings.

Zoning Inspector Ric Machnics noted that there is over 3500 sq. ft. of storage space already, including the residence, and he has heard that Mr. Seabrook runs a business out of the accessory buildings. He asked Mr. Seabrook the type of business he operates, and Mr. Seabrook replied that he restores dashboards and rebuilds body tubs of old M.G. cars. He has a wood shop, and has a business partner who is self-employed and works there part time three hours a day, and he himself is also self-employed. This is really a hobby that has become a small business. He was not aware that having a business partner or employee come to his property is not permitted by zoning.

Asked by Mr. Gokorsch if the location of the residence is out of line relevant to the other homes in the neighborhood, Mr. Machnics stated that it is set far back, whereas most of the other homes are fairly close to Watt Road. He also said Mr. Seabrook's residence and outbuildings are not really visible from the road due to the woods in front. Mr. Gokorsch asked if there is a creek in front of the pond, and Mr. Seabrook replied that it is only wet when it rains, and is really a grassy swale that can be mown. It starts on his neighbor's (Bradac) property and runs through his lot to Watt Road. Mr. Machnics said it appears to be an ephemeral stream.

Mr. Johns asked why the accessory building cannot be located behind the residence, and Mr. Seabrook said he would have to cut down some trees and the access would be less convenient. He said it could go in the back yard but he would prefer it to be in the proposed location in front of his residence.

Referring to the aerial photo that showed some vehicles around the north side of the existing accessory buildings, Mr. Downing asked about the usage of the buildings. Mr. Seabrook replied that he does his restoration work in all three buildings. He confirmed that the area where the cars are parked is a turnaround and parking area and provides vehicle access to the rear building. Mr. Downing asked Mr. Machnics if he knew where the property line on the north side is located, since it appears to be shown incorrectly on the aerial photo. Mr. Machnics said he believed it to be on the north side of Mr. Seabrook's driveway, and that in fact all the lots shown are 150 feet wide, although Mr. Seabrook's lot is shown narrower in the photo. Mr. Seabrook stated that his lot is not narrower than his neighbors' lots.

Mr. Downing asked Mr. Seabrook if it was just his preference to locate the building in front rather than behind the house, and Mr. Seabrook stated it was his preference, but it would be much more difficult to build it in the rear yard because the ground rises higher towards the back of the lot.

Mr. Machnics stated that home-based businesses are permitted, but there can be no employees coming to the residential property. Mr. Seabrook's business would not be grandfathered just because it has been there for a long time. A variance is needed whether or not the building will be used for the business or yard equipment.

Mr. Rybak asked when the other buildings were constructed, and Mr. Seabrook said the 37 x 23 building was built in 1973 or 1974, the 15 x 15 building two years later, and the 29 x 30 building in 1979. Mr. Machnics said that although the board will be voting on the variance as requested by the applicant, given the fact that Mr. Seabrook has stated he is running a commercial operation, he would not grant him a zoning certificate for it. Mr. Downing asked if zoning certificates were obtained for the three buildings without requesting commercial use. Mrs. Steffen said there are zoning certificates in the property file for the three buildings, with no mention of commercial use.

Mr. Machnics read aloud Section 5.2.A.2 Accessory Uses, for home businesses:

"Home occupations, provided such uses shall occupy not more than thirty (30) percent of the total floor area of the dwelling, and no persons not resident within the dwelling shall be employed in such use. In no case shall such occupations include the commercial manufacture, storage, display and sale of merchandise within the dwelling nor within any accessory building, nor anywhere on the property, nor in any way alter the exterior appearance of the building from that of a dwelling, except for a sign as provided in this Resolution."

Mr. Johns commented that the commercial operation conducted in the three accessory buildings consists of more than 30% of the floor area of the dwelling.

Mr. Downing asked Mr. Seabrook how much truck traffic comes to his property as part of the restoration business. Mr. Seabrook stated he works on M.G.s made after World War II, and these have a sheet metal skin and skeleton, so people bring in old bodies for custom work. He does about three a year, and the parts brought in are 4 feet wide and 6 feet long, usually in a basket. Three per year come in and three go out. He does more work on wooden dashboards that are sent to him.

Mr. Machnics said he calculated the three outbuildings to be a total of 1946 sq. ft., and with the proposed 810 sq. ft. building, the total will be 2756 sq. ft. Mr. Johns said the residence is 2016 sq. ft., and asked had there been no business involved, could the applicant have unlimited storage space. Mr. Machnics said the only other applicable area restriction limits to ten percent the impervious surface coverage on a lot.

James Bradac, 14430 Watt Road, confirmed he had been sworn in, and stated he lives next door to the north. He said that the building in its proposed location will be visible from his deck and family room. He also stated that Mr. Seabrook does run a business on his property, and he could expand the business into the proposed accessory building. He was concerned about the future use of all the accessory buildings when the property is eventually sold. Mr. Downing asked about the truck traffic, and Mr. Bradac confirmed that there is little traffic apart from a U.P.S. truck.

Joe Leuty, 14454 Watt Road, confirmed he had been sworn in, and stated he lives next door to the south. He said that although the building will be close to his lot Mr. Seabrook takes good care of his property and he had no objection to the variance.

Sheldon Gross, 14410 Watt Road, confirmed he was sworn in, and stated he lives two houses to the north. He said that with all the trees the building would not be visible from his property and he had no objection to the variance.

There being no other comments from the audience, *Mr. Cuffari made the motion to close the public portion of the meeting, Mr. Rybak seconded and the motion passed unanimously.*

The board discussed the testimony and agreed that the matter of a home business should not be part of its consideration of the request. The board will consider whether the applicant has a practical difficulty in placing the proposed accessory building in a location that would comply with the zoning regulations.

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: There was no testimony to indicate the property would not yield a reasonable return nor have a beneficial use if the variance is not approved. There are three outbuildings now, providing adequate storage for residential use and a home business based on the parameters for a home business in the Zoning Resolution.
- b) Whether the variance is substantial: Because the residence is set so far back the outbuilding would also be set far back on the lot and mostly not visible from neighboring properties. In addition, the applicant stated the proposed building will match the residence architecturally, so the view of the buildings may look nearly the same from the front of the lot. For these reasons, the variance is not necessarily substantial. The proposed size is substantial, since it would be 40% of the size of the existing residence. Mr. Cuffari said that judging whether the variance is substantial should not be based on square footage alone. Mr. Gokorsch noted that the proposed structure has a concrete slab foundation, is two stories tall, 4.5 cars wide, and with a separate man door. This is not a simple pre-fab storage shed which could later be easily removed.
- 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: One neighbor stated the building would be visible from his residence. The board also took into consideration the fact that if the variance is approved there will be five buildings on the property, all of substantial size, with a question as to the future use of the outbuildings whenever the property is transferred. There was no testimony to indicate whether the additional building might impact the value of neighbors' properties, and the Zoning Inspector had stated it would not really be visible from the street. However, the total square footage of the four outbuildings would be greater than the residence, which is out of character with the neighborhood. Mr. Machnics agreed that would be out of character.
- d) Whether the variance would adversely affect the delivery of governmental services: There was no testimony on this factor.
- e) Whether the property owner purchased the property with the knowledge of the zoning restriction: According to the secretary, Section 4.7.V was added to the Zoning Resolution in 1992, so this factor is not applicable since the applicant purchased the lot in 1971.

- f) Whether the property owner's predicament feasibly can be obviated through some method other than a variance: Yes, the applicant has stated he could locate the building in the rear yard, although he preferred to put it in the front yard.
- g) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance: No, because this would be the fourth accessory building on the property, all of which are of significant size and would total more square footage than the residence, with one being in the front yard. Any of the existing buildings should be sufficient to store lawn and garden equipment.
- h) Such other criteria which relate to determining whether the zoning regulation is equitable: None.

*Mr. Cuffari made the motion to accept the board's Exhibit #1, aerial photo of the area, Mr. Downing seconded and the motion passed unanimously.*

*Mr. Cuffari made the motion to approve variance request #462 as submitted, Mr. Downing seconded and upon roll call the vote was Mr. Cuffari – No, Mr. Downing – No, Mr. Johns – No, Mr. Rybak – No, Mr. Gokorsch – No, and the motion failed unanimously.*

Variance request #462 was denied.

**MINUTES OF JULY 11, 2011** – *Mr. Cuffari moved to approve the minutes as submitted, Mr. Downing seconded and the motion passed unanimously.*

**OTHER BUSINESS** – Mrs. Steffen mentioned two Phase II educational programs that will take place in October.

There being no other business, Mr. Cuffari moved to adjourn, Mr. Downing seconded and the meeting adjourned at 8:06 p.m.

Respectfully submitted,

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Diana Steffen  
Secretary

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Date

\_\_\_\_\_  
Steve Gokorsch  
Chairman

\_\_\_\_\_  
Date