

Minutes: Russell Township Board of Zoning Appeals  
Russell Town Hall  
October 27, 2008

Present: Steve Gokorsch, Chairman  
Fred Cuffari  
William Downing  
Matthew Galemmo  
Diana Steffen, Secretary

Edith Lerner, Ph.D. was absent with apologies.

Also in attendance: Ric Machnics, Zoning Inspector.

The Chairman called the meeting to order at 7:05 p.m. The Secretary confirmed that a legal notice for tonight's hearings was published on 10/16/08 in the Chagrin Valley Times and the News Herald, and was sent to parties and neighbors on 10/14/08. The Chairman swore in all those who intended to give testimony or make comment.

**CONDITIONAL USE #422 RIVENDELL SUBDIVISION  
Public hearing requested by Russell Township Land Development, LLC, in response to the Board of Zoning Appeals' notification of the Board's intent to revoke the conditional zoning certificate.**

Zoning Inspector Ric Machnics reported that on October 21<sup>st</sup> he inspected the Rivendell Subdivision with regard to the requirements listed in the Board of Zoning Appeals' letter of July 10, 2008. He has submitted that report in writing to the Board. He reported that the developer has accomplished the needed repairs to the silt fence below the old retention pond area, installed new silt fencing below and beyond the existing silt fence on the southwest side of the old pond, re-seeded the old outlet area where the discharge structure was removed, replaced the dead trees, and installed new silt fence below the disturbed area of the new retention pond along the south side. He stated that the site is in compliance at this time. He has advised Matt McGill and his attorney Dale Markowitz of this. The Chairman requested that Mr. Machnics' report be put in the record, and it is attached to these minutes.

*Mr. Cuffari made the motion to reverse the Board's intention to revoke the conditional zoning certificate and therefore eliminate the need for a public hearing on the subject at this time, Mr. Galemmo seconded and the motion passed unanimously.*

Mr. Machnics advised the Board that in the spring the site will need to be re-inspected for continued compliance, and to confirm that the trees have survived and the grass continues to grow. He will report back to the Board at that time. Mr. Cuffari asked Mr. Machnics to advise the Board any time the site is not in compliance.

**VARIANCE REQUEST #441 Laurel School, 7420 Fairmount Road  
Request for variance to add a second sign at the entrance; one sign only allowed in the residential zoning district per Section 4.11.F.3.**

In attendance for Laurel School were Mary Ann Pellerano, and Jill Akins and Kevin Kennedy of Van Auken Akins Architects, LLC.

Jill Akins confirmed she was sworn in and presented a rendering of the entrance showing the existing sign on the east entrance wall and a second sign on the western wall that will be the same size, 3 feet by 5 feet. The proposed sign will have the wording, "Butler Campus." She stated they are also going to add low ground lighting which rests in the ground and provides seven foot-candles, which is not a bright light. Mr. Kennedy showed a sample of the type of lamp to be used, and Ms. Akins showed a photometric of the sign and lighting. The bulb is 50 watt. She said the lights on the driveway itself will be 1- to 12-foot candles, whereas this light will be 6 to 7-foot candles on the face of the sign.

Mr. Gokorsch asked how many lumens the light will provide. Mr. Machnics replied that the leaflet submitted with the application show 4,250 lumens, and he had brought a 640 lumen light bulb to show the amount of light that size luminary projects. He plugged it in and showed the light. Mr. Downing commented that it appeared the 640 lumens bulb could light the sign, and that 4,250 lumens seemed like overkill. Ms. Akins stated that they had heard at the previous hearing that the neighbors would prefer the sign to be lit because people miss the entrance and then use their driveway as a turnaround. In the dark it is hard to see the driveway entrance and these lights will glow but will not be bright or flashing. Mr. Kennedy explained that the light is not designed to spread out too much, but to focus on the sign in a limited area, and the 50-watt bulb will be aimed towards the high part of the fixture. If it is too bright then they could lower it, but according to their projection 50 watts is not too much.

Asked by Mr. Gokorsch if the light will have an on-off switch, Ms. Akins said yes. Asked if there will be a timer so it turns off, Ms. Pellerano said yes. Asked if the light will be on every night and not just for events, Ms. Pellerano said she did not think so. Ms. Akins suggested the Township and neighbors could meet with her to look at the lights when they are installed.

Mr. Cuffari commented that in the past the Board has considered double signs, and that together these two signs will be at 30 square feet which is within zoning for a subdivision sign. Mr. Galemmo said he felt that some lighting is necessary for safety. The Board agreed that Mr. Machnics should inspect the lighting to see if it overpowers the entrance and if there is any light migration to surrounding property. Ms. Akins said they would like to install the new sign and lighting within the next two months.

Resident Tom Mortimer, 13753 County Line Road, stated that this light looked like one he used to light up an area around his barn for guests. He believed that people turn in driveways all the time so this was not a safety factor. He said that to turn it off when there is no event seems odd. He questioned whether there was enough knowledge of lighting for the Board to make a decision.

Resident Joe Mariola, 13938 West Willard Drive, stated he lives off Fairmount Road and frequently drives by the entrance. He said he has noticed that when there is an event the students find it hard to locate the entrance, and many times he has witnessed students breaking heavily. He felt there is currently a hazard and the sign needs to be lit.

There being no other comments from the audience, *Mr. Cuffari made the motion to close the public hearing, Mr. Galemmo seconded and the motion passed unanimously.*

The Board noted that Laurel School has offered to show the lighting to the Zoning Inspector, who will evaluate it and report back to the Board.

*Mr. Cuffari made the motion to approve an amendment to the present Conditional Use Zoning Certificate by the granting of a variance to the provisions of Section 6.4 on behalf of Laurel School, request for variance to add a second sign as well as sign lighting, subject to a review of the lighting aspect by the Township after installation and the possible revocation of that component should the Township and Laurel School not be able to come to an agreement on the amount of lighting that will serve the purpose; also the lighting is to have a timer and on-off switch. Mr. Galemmo seconded and upon roll call the vote was Mr. Cuffari – yes, Mr. Downing – yes, Mr. Galemmo – yes, Mr. Gokorsch – yes, and the motion passed unanimously.*

Variance request #441 amending the Conditional Use Zoning Certificate was granted as moved.

**VARIANCE REQUEST #442 Joseph Artino, 13927 Caves Road  
Request for variance for an accessory building currently under construction, with a side yard setback of 23 feet in lieu of 30 feet required per Section 5.2.B for a pre-existing nonconforming lot in an R-5 zone.**

Joe Artino confirmed he was sworn in, and stated he had assumed he did not need a zoning certificate for the accessory building because it does not have a foundation. However Mr. Machnics advised him that all accessory buildings over 80 square feet require a permit. The building is 24 feet by 12 feet and rests on the ground on timbers with no soil disturbance. The base has wolmanized timbers with a 2-inch floor on top. It is 23 feet from his north side line. Mr. Artino showed photos of the building from all sides, and showing a garden in front and also to the south of it.

Mr. Artino explained that he has an old pigeon coop and a portable shed behind the garage, both of which will be removed. The pigeon coop is about 10 feet from the north line and was erected about 15 years ago. Mr. Machnics confirmed the location of the pigeon coop, and also stated that Mr. Artino was granted a variance about eight years ago for the garage to be 20 feet from the side line. Mr. Artino stated that the reason for that variance was to place the garage in line with the driveway and to keep it out of the back yard. He removed an existing garage eight years ago. There is also an existing shed to the east that was built 21 years ago.

The Chairman noted that the pigeon coop is 10 to 12 feet from the north lot line and is to be removed, the subject building is 23 feet from the north lot line, an old garage that was removed was 16.7 feet from the line, and the existing garage was granted a variance to be 20 feet from the line. Therefore the new building will be three feet farther back than the existing garage.

Joe Mariola, 13938 West Willard Drive, stated that he lives directly behind Mr. Artino's lot and that he had no objection and supported the variance request.

Doug Morehouse, 13899 Caves Road, stated that he lives next door to the north. He has no objection because Mr. Artino is going to tear down an old building and build something nicer that will be an improvement to the neighborhood.

Asked the proposed use of the building, Mr. Artino stated it will be mostly equipment storage for two tractors, rototiller and a snow blower because his garage is full. He will also have pet rabbits and pigeons in the building.

There being no further comment, *Mr. Cuffari made the motion to close the public hearing at this time, Mr. Downing 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 facts were submitted as testimony that would have any bearing on the return or use of the property.
- b) Whether the variance is substantial: Yes, but the variance would not increase the degree of encroachment in relation to the existing garage, for which a variance to be 20 feet from the side line was granted previously, nor in relation to the existing pigeon coop that is even closer to the line and will be 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: No, it will be an improvement since the old pigeon coop and the portable structure will be removed; there was testimony from the adjacent neighbor that it will be an improvement.
- d) Whether the variance would adversely affect the delivery of governmental services: No testimony was presented on this factor.
- e) Whether the property owner purchased the property with the knowledge of the zoning restriction: No, according to the Notice of Appeal.
- f) Whether the property owner's predicament feasibly can be obviated through some method other than a variance: No testimony was presented regarding the option of moving the accessory building, and the site plan shows the building could be moved seven feet to the

south; Mr. Machnics stated that trees would have to be removed to do this, which would be an added expense.

- g) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance: Yes, since the new building allows the applicant to remove the temporary structure and the old dilapidated coop, one of which was not in conformance with the setback; the new building will be an improvement.
- h) Such other criteria which relate to determining whether the zoning regulation is equitable: None.

*Mr. Downing made the motion to accept Applicant's Exhibits: 1) Site plan depicting the location of the new structure, and 2) Series of photos delineating various side and back views of the new structure. Mr. Cuffari seconded and the motion passed unanimously.*

*Mr. Galemmo made the motion to grant Variance Request #442 as submitted, Mr. Cuffari seconded and upon roll call the vote was Mr. Cuffari – yes, Mr. Downing – yes, Mr. Galemmo – yes, Mr. Gokorsch – yes, and the motion passed unanimously.*

Variance request #442 was granted as submitted.

**MINUTES OF SEPTEMBER 22, 2008** – After asking for one change, *Mr. Downing made the motion to approve the minutes of September 22, 2008, as amended, Mr. Galemmo seconded and the motion passed unanimously by 3-0. Mr. Cuffari abstained due to his absence from that meeting.*

**FINDINGS OF FACT #440 Christopher Nook** – *Mr. Downing made the motion to approve the Findings of Fact for Variance Request #440 as submitted, Mr. Galemmo seconded and the motion passed unanimously. Mr. Cuffari abstained due to his absence from that meeting.*

There being no other business, Mr. Cuffari moved to adjourn, Mr. Downing seconded and the meeting adjourned at 8:00 p.m.

Respectfully submitted,

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Diana Steffen                      Date  
Secretary

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Steve Gokorsch                      Date  
Chairman

Attachment: Report by Ric Machnics dated 10/22/08 re. Inspection of Rivendell restoration area

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