

Minutes: Russell Township Board of Zoning Appeals
Russell Fire-Rescue Station
December 5, 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 #463 David Thorn, 15172 Hemlock Point Road

Request to locate a screened porch 23 ft. 10 5/8 ins. from the north side line in lieu of 30 ft. per Section 5.2.B for a pre-existing lot of record under 3 acres in an R-5 zone.

The secretary confirmed that the legal notice was published in the News Herald on 11/24/11 and in the Chagrin Valley Times on 11/25/11, and was sent by certified mail to the applicant and neighbors on 11/21/11. The applicant was sworn in by the Chairman. No neighbors were present.

David Thorn, 15172 Hemlock Point Road, confirmed he was sworn in and showed photos of the exterior of his residence and the surrounding landscaping. He said he had spent a lot of energy to make his property a private landscaping enclave. The first phase was in front of the house and he showed a drawing of this. Now his children are growing and he needs more space, so he is going to build an addition that will contain a family room and master bedroom, and would like a second addition that will be a screened porch to eat out on. The first addition is in compliance with zoning and is not a part of this request.

Mr. Thorn stated that the site is challenging as far as the required setbacks because of a small stream in the rear that must be avoided, and the terrace that he constructed with century stone taken from an old mansion in Rocky River. These limit his ability to place the porch at the back of the residence. Another factor is that he would like to take advantage of the ravine view seen as you look down the north side of the property. If the porch is permitted he will landscape around it to meld with the existing landscaping. To show how it will look Mr. Thorn showed the board drawings of the residence, trees and landscaping, and advised that he does not want the porch to be visible from Hemlock Point Road. Even now the existing porch is barely visible (he pointed to one of the submitted photos), but he will increase the plantings and evergreens to screen the porch from the road and from the neighboring property to the north. Mr. Thorn showed another visual representation of the proposed porch addition, and stated that less than 30 percent of the new addition would be located in the setback area. It is designed to be large enough for a table, with space to walk around the table, so anything smaller would not be usable. If he locates it on the back of the house it would interrupt views of the patio and would look boxy. He is aiming to keep the house looking like a charming, rambling cottage, and to look small and quaint from the road, so he designed it to be a surprise when people come around to the back yard with the terrace, landscaping and views.

Mr. Thorn said that the house interior was rundown when he bought it, so he gutted and restored it, and he now hopes to bring it to the next level with this improvement. He is asking for the variance in order to provide functional space that captures the natural beauty of the property. He has worked with an architect to accomplish this throughout the process.

Mr. Gokorsch asked how far the porch is located from Hemlock Point Road. Mr. Thorn replied that the existing porch is more than 164 feet, since the front of the house is 164 1/8 feet from the road. The proposed porch addition is another 30 feet back, so will be over 190 feet from Hemlock Point Road. He

also stated that because of the house's interior layout it would not make sense to add the porch at the front of the residence. It needs to work with the kitchen.

Mr. Johns asked if the north side property line is along the ravine. Mr. Thorn replied yes, and that he and his neighbor to the north have discussed that they cannot see each other except a light in the winter.

Due to the angle of the property line, Mr. Cuffari said the requested variance is six feet on the east side of the porch, and asked what it is on the west side of the porch. Mr. Thorn stated that it is less than two feet. Asked by Mr. Cuffari what he estimated to be the distance between his residence and his neighbor's residence, Mr. Thorn stated 300 feet. Mr. Machnics confirmed that it is at least 300 feet. Mr. Thorn confirmed that there is a ravine between the two residences. Mr. Machnics stated that the elevations actually turn and wrap around the rear of Mr. Thorn's residence, and that the ravine would not be buildable.

Mr. Thorn mentioned that the structure will be all above ground with only posts in the ground, and since it will not be heated it will be a three-season or even a two-season space.

Mr. Downing asked if the porch will be tangent to the back of the residence. Mr. Thorn said the existing porch is under the roof and the new porch will extend out, but will be in line at the back.

Mr. Cuffari asked Mr. Machnics if the character of the neighborhood in general has a number of tight side yards similar to the applicant's. Mr. Machnics said yes, as shown on the aerial photo of the area, and those properties are limited when planning similar projects due to the hilly terrain, ravines and required riparian setbacks. Mr. Gokorsch asked if other properties in the neighborhood have been upgraded, and if this project is in keeping with the neighborhood. Mr. Machnics said yes, he had visited the property to inspect the location of the proposed addition and porch and they are definitely in keeping, or even an improvement to the neighborhood.

There were no further comments from the board.

Mr. Johns made the motion to close the public hearing for Appeal #463, 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: No facts were presented to indicate whether the property would be impacted from a return standpoint with or without the variance.
- b) Whether the variance is substantial: It is a six-foot variance from the 30 feet required, so is a 20% variance. It ranges from 7% on the west side of the proposed structure to 20% on the east side. The applicant testified he plans to install significant landscaping as a buffer. The board heard testimony from the Zoning Inspector that the proposed structure will be more than 300 feet from the residence to the north, even though the side yard is close. The residence is 164 feet from the road and the applicant testified the proposed porch will not be visible from the road. The board agreed the variance is not substantial.
- 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 Zoning Inspector had stated that the location of the structure would be in keeping with the neighborhood, and the board agreed it would be an improvement.
- d) Whether the variance would adversely affect the delivery of governmental services: No testimony was provided 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, the only other option would be not to construct the porch. Also, there is already an existing porch, and this is simply an addition on to it.
- g) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance: Since there are no neighbors present tonight no testimony was presented to indicate otherwise.
- h) Such other criteria which relate to determining whether the zoning regulation is equitable: None.

Mr. Downing asked Mr. Thorn for a drawing or photo that shows the proposed landscape buffer that will screen the porch from the road. Mr. Thorn removed a drawing from his display and gave it to the Board.

Mr. Downing made the motion to accept Applicant's Exhibit #1, a rendering of the front of the house showing the screened-in porch with the appropriate landscaping, as indicated by the applicant, to shield it from the street, Mr. Johns seconded and the motion passed unanimously.

Mr. Cuffari made the motion to approve Application #463 as submitted, Mr. Downing 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 #463 was granted.

2012 MEETING SCHEDULE – The board reviewed the schedule drafted by the secretary, and due to either holidays or other conflicts, scheduled four meetings for the second Mondays of the month – January, February, August and September. The board approved the revised schedule.

MINUTES OF OCTOBER 3, 2011 – *Mr. Rybak moved to accept the minutes as submitted, Mr. Downing seconded and the motion passed unanimously by 4-0. Mr. Cuffari abstained due to his absence from that meeting.*

OTHER BUSINESS – Mr. Johns reported on the dam safety meeting he had attended recently. He learned that the owners of a pond in a development are responsible for its maintenance, whether the pond is owned by one homeowner or by the homeowners association or a combination of both. This means they are also liable if there is a problem.

Mrs. Steffen said she received a phone call from Kathy Jankowski on behalf of Laurel School. The school asked if it could submit the Environmental Management Plan update digitally on a CD. The board agreed to this. The board also agreed to receive copies of other Township boards' minutes and the monthly Zoning Report by email in order to cut the amount of paper being used.

There being no other business, Mr. Cuffari moved to adjourn, Mr. Downing seconded and the meeting adjourned at 7:46 p.m.

Respectfully submitted,

Diana Steffen
Secretary

Date

Steve Gokorsch
Chairman

Date

bza minutes 12-05-11