



Village of South Russell  
5205 Chillicothe Road  
South Russell, Ohio 44022  
440-338-6700

**BOARD OF ZONING APPEALS MEETING**  
**Record of Proceedings**  
**December 9, 2020 7:00 p.m.**

**Members Present:** David Maistros, Chairman, Laura LaChapelle, Andy Hitchcock, Mike Mulloy, Bill Stone

**Other Officials:** Bridey Matheney, Solicitor; Mayor Bill Koons; Dave Hocesvar, CBO/Inspector, Ruth Griswold, Board Secretary

**Visitors:** Emilie Unkrich, Stephen Peplin, David Rust, Sarah Richard, Bob Darden, Valerie Mariola, Sue & Tom Bretsch, Mark Mikolanis, Richard Kondas, Mali Rini, Jami Phillips, Ray Schloss, Wayne, Katie

David Maistros called the meeting to order at 7:01p.m. Board Secretary Ruth Griswold conducted roll call.

Mr. Maistros asked Ms. LaChapelle if she would like to make a motion to approve the minutes from the meeting on November 18, 2020. After Ms. LaChapelle requested two typographical error corrections, Mr. Maistros made a motion to approve the minutes of November 18, 2020, as amended by Laura. Mr. Hitchcock seconded. On roll call vote, motion carried.

Mr. Maistros questioned why the minutes from September 16, 2020 were not approved at the last meeting. Ms. LaChapelle said she has not received a copy yet. Ruth Griswold indicated she had a copy of the minutes prepared by Carolyn Blake, and that they would be sent out to Ms. LaChapelle for review. Mr. Maistros tabled the minutes from September 16, 2020 until the next meeting.

Mr. Maistros asked Ms. Matheney to swear in anyone present at the meeting who may like to speak on either of the two agenda items, indicating if they later choose not to speak that is okay as well. Ms. Matheney swore in the members present.

**CASE # 20-BZA-08: 22 FOREST DRIVE – STEVE PEPLIN & ROBIN PEAVY**  
**APPLICANTS-SIDE YARD SETBACK REGARDING ROOF STRUCTURE OVER SIDE**  
**PORCH**

Mr. Maistros asked Ms. Peavy to please explain to the board what she is requesting, and why she needs the variance for this project. Ms. Peavy said she currently has a side deck on the side of the house and she wants to put a roof over it so she has a covered porch. She would like a roof over the existing deck, which is within the 25'. Mr. Maistros referred to the technical drawings submitted to the board. He asked if the proposed roof over the existing deck is the same footprint of the existing deck, or is it larger. Ms. Peavy said the footers will be right next to the deck, so the roof would overhang the deck a little bit. Mr. Maistros confirmed that the roof would be slightly larger; Ms. Peavy responded that she did not want to rip up the deck to put the posts in, so she would put the posts right next to the deck. Mr. Maistros indicated for the record an email received from Mr. David Rust, in favor of the roof, and recognized his presence at the meeting. Ms. Peavy said Mr. Rust is her neighbor on the side of the house right next her, the neighbor most affected. Mr. Rust said he is supportive of the proposal, indicating it goes toward his back yard, and that the porch area does not face his house, the porch faces toward a remote part of his lot. Mr. Rust said Ms. Peavy is making great upgrades to her house, and that he is in favor of this.

Mr. Maistros asked the board members for questions or comments, starting with Bill Stone. Mr. Stone asked if the house had an empty lot and some wooded land to the left of where the deck is. Ms. Peavy clarified that it would be on the other side of the house, next to David Rust. Mr. Stone acknowledged Mr. Rust's support and had no other questions.

Mr. Maistros called on Andy Hitchcock for questions or comments. Mr. Hitchcock asked if, relative to the roof going over an existing structure and not much further, he said it appears the existing structure already is encroaching into that setback, and whether it's been approved in the past or not is immaterial here, when you say you are putting the new roof over the existing structure, it's really nothing more than the small amount for the footers and the posts. Ms. Peavy said that is correct. Mr. Hitchcock said it is certainly not the whole 6' that she might need. Ms. Peavy said the existing deck does encroach on the 25', so whatever the architect drew in the plans, that is what the final measurement would be. Ms. Peavy went on to say that the deck was built by the previous owner and is in good shape. She wants a covered porch so she could sit outside when it's raining, and so she would not have to put away her cushions all the time. Mr. Hitchcock said he can appreciate that, and he had no further questions or comments.

Mr. Maistros said the point Andy was making was a good one; while it is a request for a variance of approximately 6', part of that 6' already exists, as far as an encroachment. He said the number of what the overhang would be is too small to read on his copy, but that it looks like it's an additional 1 ½' to 2' from what currently exists.

Mr. Maistros called on Laura LaChapelle for questions or comments. Ms. LaChapelle said she noticed, looking at the plans, that there is a significant existing tree line on that side of the house, although it is hard to tell at this time of year with no leaves on the trees. She asked Ms. Peavy to

speaking to the nature of the natural boundary that is there; the trees that exist between the structure and the property line. Ms. Peavy responded that it's a wooded area. Ms. LaChapelle asked if the trees provide a significant amount of privacy on that side when the leaves are on the trees, Ms. Peavy responded that they do, and they also provide a significant amount of leaves on the porch and furniture too. Ms. LaChapelle had no further questions or comments.

Mr. Maistros called on Mike Mulloy for questions or comments. Mr. Mulloy was having technical difficulties at the time.

Mr. Maistros then asked if any other residents that are present, other than Mr. Rust who already spoke, would like to speak on this project. No other residents came forward.

**Mr. Maistros then made a motion for case #20-BZA-08, property located at 22 Forest Drive, to grant a variance of 6' 1" to the side yard setback for the proposed roof structure, as submitted on the plans presented to the Board of Zoning Appeals. Mr. Stone seconded. With no other discussion on the motion, Mr. Maistros asked for roll call. On roll call vote, motion carried.**

**CASE # 20-BZA-09: 103 HAZELWOOD DRIVE-WILLIAM JOYCE OF JOYCE BUILDING COMPANY-APPLICANT- SIDE YARD VARIANCE AND LOT COVERAGE VARIANCE FOR PROPOSED NEW RESIDENTIAL HOUSE**

Mr. Maistros introduced the next case as a request from William Joyce. The application indicates he is requesting a side yard setback for a new house to be 6'11" which would require a variance of 3.89'. Per South Russell code, the side yard setback must be a minimum of 10'. The applicant also requests a lot coverage variance of 2%. The maximum lot coverage of 35% is required by code, and we are looking at a lot coverage of 37%. Mr. Maistros asked Bill Joyce to explain to the board what the nature of the variances are and why he needs those variances.

Mr. Joyce said he is proposing new construction of a single-family home, on a pre-existing, non-conforming lot, where the side yards are 10'. In order to get the house on the lot and not make it look like it's all garage, there is a front porch and a front door, as well as a staircase, that encroaches into the westerly side yard by 3.89'. He said they are holding the house 10' off the easterly property line because when he built the house to the east, the board had granted a variance on the westerly property line but asked that 10' be maintained from the existing home, and to do the same thing to the next home that would be proposed, because the existing home at 101 Hazelwood already has a 10' side yard on the driveway on their easterly line. That is why they are holding the east wall of the house at a minimum of 10', and it steps back to 11.34' as indicated on the site plan. Referring to the site plan, he pointed out that as soon as you get past the front foyer and staircase it immediately gets back to an access of 10' to create as much side yard as possible to the neighbors. He addressed the lot coverage request, saying that when they designed the home, they did not have an exact site plan at the time. When they did the calculations, they found that the shaded area of the driveway is the 2% overage on the lot coverage. It is a total of 240 sq ft.

Mr. Maistros asked Mr. Joyce to clarify the 2% on the driveway and asked him to confirm that it is both the driveway and the structure that compose the lot coverage. Mr. Joyce said that is correct. He said they had talked about perhaps doing a narrower curb cut at the road and swimming it out to the 16', but from the standpoint of the setback and the ease of exiting the driveway, they would like to use the 16' driveway to the road. Mr. Maistros clarified with Mr. Joyce that he also built the house to the east; Mr. Joyce confirmed that as correct. Mr. Maistros acknowledged the inclusion of the minutes from the BZA meeting on December 5, 2013 and clarified with Mr. Joyce that the reason he wanted it presented at this meeting was because that was when they discussed 105 Hazelwood. Mr. Joyce said that is correct. Mr. Maistros confirmed that Mr. Joyce's understanding of the impact of that variance request for 105 Hazelwood was that we wanted, when this current lot was developed, for 10' be maintained on that side. Mr. Joyce agreed, and went on to say that he had a lot to do with the design of this house, so he was able to narrow it down. He has a proposed buyer for the home, and she added on a screened in porch on the back, and also made some changes inside the foundation while maintaining the foundation to minimize the variance request and to maximize side yards for the neighbors. The house to the east, 105 Hazelwood, was custom designed with the customer. It is at least 3' and up to 11' wider than this home. This was all taken into account, and they made it as narrow as possible to try and fit it on there without any variances.

Mr. Maistros then turned to the board members for questions and comments, starting with Bill Stone. Mr. Stone asked Mr. Joyce for the foundation-to-foundation and then overhang-to-overhang measurements with the house to the southeast. Mr. Joyce said the foundation-to-foundation measurement is 16.73', and gutter-to-gutter is 14.73'. Mr. Stone also asked if South Russell had any drawings for 105 Hazelwood. Mr. Joyce responded yes that he had stopped into the building department and viewed the file. Mr. Stone asked where the driveway at 101 Hazelwood is in relation to the property line. Mr. Joyce said the driveway at 101 Hazelwood is on the property line. It was originally encroaching on 103 Hazelwood, but it was replaced and put back 100% onto the property. Mr. Stone clarified that the foundation would be 6'9" at the closest part, and the overhang would probably bring that a little closer. Mr. Joyce said that would be correct. Mr. Stone likened the proposal to fitting a size 13 foot into a size 5 shoe. Mr. Stone indicated that he lives in the neighborhood and spoke to the last time Mr. Joyce was before the board, how his proposal was voted down due to concerns over the emergency services being able to put ladders up. He recalled the Fire Chief in Russel Township speaking extensively on the situation, and he was wondering if the board would look into having the Fire Chief from Chagrin Falls comment on this before moving. Mr. Joyce said he proposed this lot in 2015, but pulled it off, and it was never voted on. Mr. Stone said he does have concerns, and that the board often consults with the Police Chief regarding sign placement within the Village for safety reasons, and that zoning pertains a lot to safety and not just aesthetics. He is interested in what they would think about that. Mr. Stone then asked about the placement of the air conditioner condenser, indicating that with these houses so close together, it should not be placed under someone's window. Mr. Joyce said the unit would be placed in the back, within the foundation area, and does not encroach into the side yard. Mr. Stone clarified that it would not be seen from the street, Mr. Joyce said that is correct. Mr. Stone said, for now, those are his only questions.

Mr. Maistros then called on board member Andy Hitchcock for questions and comments. Mr. Hitchcock asked if Mr. Joyce was anticipating any sort of issue with the property being located within two different townships, from a zoning or a construction perspective. Mr. Joyce said the front yard determines which building department a submittal goes through for permitting, and that a project such as this must meet the zoning for both municipalities. There are no variances needed in Russell Township, and Dave Hocevar would be permitting and inspecting the house because it fronts in South Russell and is mostly in South Russell. He went on to say that 105 Hazelwood also had Russell and South Russell ownership on parcels, but the house itself was entirely in South Russell. A house two doors down is the opposite, where the house is in Russell. Although the frontage is in South Russell, the foundation was 100% in Russell, so zoning was through Russell and permitted through Geauga County. Mr. Hitchcock asked if Russell Township has the same side yard setback requirements as South Russell. Mr. Joyce said that they do, but that he is not encroaching on any of those. Mr. Hitchcock clarified that his focus is the part of the house that is in Russell conforming with that portion of the Township Code; Mr. Joyce said that is correct. Mr. Hitchcock asked, relative to the lot coverage, has Mr. Joyce considered getting a variance from Russell Township on the rear setback, and putting square footage back there, eliminating the need for a side yard variance through South Russell. Mr. Joyce responded that it is a consideration, but South Russell looks at it as a whole, and he is presently meeting South Russell's rear yard requirement. Therefore, it would be an additional variance, if he pushed the house back or added square footage. It would be the lesser of two evils, to put the foundation closer to the rear lot line. Mr. Hitchcock said with a 25' setback, and some open space in the back, he feels the potential impact to that neighbor is a lot less than encroaching another 3' towards 101 Hazelwood. Mr. Joyce said he totally understands that and went on to say that 105 Hazelwood owns the half acre green space behind this lot; never to be built on, so there is a lot of green space to be built on back there. But from an architectural standpoint, if he were to narrow the house down that 3', it would basically be a garage and a front door, with no curb appeal to the neighbors.

Mr. Maistros then called on board member Laura LaChapelle for questions and comments. Ms. LaChapelle said that since Andy already got the clarification regarding the split between the Township and the Village, she has nothing else at the moment.

Mr. Maistros then called on board member Mike Mulloy for questions and comments. Mr. Mulloy questioned if the house to the west, 101 Hazelwood, is a resident of South Russell or Russell; and if we had heard from them. Sarah Richard of 101 Hazelwood then spoke, and said she is the owner and as far as she knows, she is considered a resident of South Russell. Mr. Mulloy asked her if she was aware of this plan and if she was okay with it. Ms. Richard said she is aware of it, but she is not okay with it. Mr. Maistros redirected, saying they have not gotten to that part yet. Mr. Mulloy then said he agreed with the safety issues raised by Mr. Stone, and that that angle should be considered as well. He stated he has no further questions at this time.

Mr. Maistros then recognized the large number of residents at the meeting and began calling on them in the order they appear on his screen. He began with Emilie Unkrich. Ms. Unkrich said she is presently just interested in listening regarding the use of this lot and will raise her hand if she would like to comment.

Mr. Maistros then called on Wayne's iPad, but the resident was having technical difficulties and did not speak. Mr. Maistros said he would circle back later and check with Wayne, which he did several times throughout the meeting.

Mr. Maistros then called on Richard Kondas. Mr. Kondas said he lives at 139 Fairview, directly across the street from Sarah Richard and the lot being proposed for the new home. He said he agrees on the importance of the need for safety issues being flushed out, due to the distances between the homes as well as the Fire Department's comment about water availability and their hydrant. He recalled that the same issue had come up the last two times homes were getting ready to be built here.

Mr. Maistros then called on Mark Mikolanis. Mr. Mikolanis, of 7570 Hazelwood, said he is new in the neighborhood, on the other side of 101 Hazelwood, in the most recent new house built by Joyce Construction. He said he is in favor of it, as much as he can be, being a newcomer to the neighborhood. He said several variances, at least the side yard one, were required to construct his home, but all of that had been settled before he became engaged in the project. He said that consideration was evident throughout the process in making sure that the neighbors on either side were satisfied with what was going on and making sure there were no problems with either side as far as scraping the land out. He said he speaks with absolute certainty and experience in working with Bill Joyce, that those prime considerations were evident. He said they were not allowed to do anything that would negatively impact the neighborhood. He went on to say that having been there a few months now, they have had several comments from folks who have stopped by to say hello, as to how well the house seems to fit in the neighborhood aesthetically. He said from a safety perspective, the issue has not come up. He said he would encourage any board member to stop by and see what Bill is able to do when he receives the zoning consideration he asks for.

Mr. Maistros then called on Sarah Richard. Ms. Richard said she lives at 101 Hazelwood, the house directly next to the proposed new build. She said she is against this variance on the side yard setback; she would prefer the 10' setback be maintained. She went on to say that she did not have any input on the house right next to her, which was constructed before she moved in, and that house is 9' or less from her house. She said that to now have another house that close to her is something that she is definitely against. Mr. Maistros asked her if there is any natural screening or vegetation on the east side of her house, between her house and the proposed new house. Ms. Richard said there is nothing. Ms. Richard then introduced a neighbor sitting with her, Bob Darden. Mr. Darden said that he lives at 120 Fairview, and he is there to support Sarah in this matter. He said they have not yet looked at the plans for the new house, but that the neighbor's house to the west is 9' away from her house. He feels that it is way too close. He mentioned Mr. Joyce's comment about homes being aesthetically pleasing. Having lived in the neighborhood several years he has driven around the entire Chagrin/old Chagrin Heights area. He said Sarah's house and the house to her west are by far the houses closest to each other in the entire area, and it is not aesthetically pleasing. Then to have another house squeezed in between these two houses on the east side, it's just not acceptable. The variance previously granted to 105 Hazelwood has no bearing on this variance they are going for, from his understanding. Mr. Darden went on to say that they have not seen the plans, and he has concerns if the grading plan will show the shedding of all the rainwater that will come off the new

house. Mr. Darden also said there needs to be a correction on the document, in that the 3.89' is actually 3'10 ½" so they would actually have the house sitting 6'2" off the property line, not 6'9", so it will be actually closer than is being thought. There is no screening on her property line right now. He went on to say that there is concern about what Mr. Joyce is doing; Sarah bought this house from him a few years ago, and there are still some things that have not been completed per their signed agreement. While building the house to the west, they accessed and got permission from Sarah to utilize her back yard to cut into the neighbor's yards, and they said they would restore the landscaping, which is still a mess and not acceptable. Mr. Darden says he is questioning everything that is going on around here as a neighbor and a friend. He said he is also a commercial builder, and that he is actually building a house on Bell street right now, following all the rules that they can. Someone else brought up the point of making the house a little longer so as to not need the variance requested on the side yard, and he feels that would be a more agreeable alternative.

Mr. Maistros then called on Ray Schloss. Mr. Schloss was having technical difficulties and did not respond.

Mr. Maistros then called on Valerie Mariola. Ms. Mariola said she resides at 15911 Hemlock, which is three houses to the west of the proposed house, and next door to Mark Mikolanis. She said she is not going to speak to the side lot variance request because that is not in her area of expertise, and she is aware that it affects Sarah a lot more than it does her. She went on to say that she is strongly against the proposed 37% lot coverage being requested. She is concerned with protecting green space, and securing snow, sleet and rain falling from the sky. Water from the sky has two options; it can either be absorbed by the grass, or it can hit a non-permeable surface, i.e., asphalt, roofs, concrete, and it runs off. It runs off into green space and it is absorbed, or it is funneled into storm water, drain tiles, or storm drains. She said this community is sitting on storm sewers that were put in probably in the 1950s. She went on to say that the storm drains are not big enough to handle any of the run-off, and that many neighborhoods in South Russell have flooding issues. She said the zoning board has the capability to stop overcrowding and avoid additional stress on storm water by insisting that properties stay within the 35% land coverage requirement. She named several areas that have issues as a result of overpopulating in the area so that storm water cannot be absorbed. She ended by saying she does not care what or where Mr. Joyce builds, as long as it stays within the 35% maximum lot coverage per code. She said there are flooding issues now, and unless South Russell is putting larger storm sewers in, there is cause for concern. She went on to list four items of consideration when talking about area variances: 1. *Whether there is still a rate of fair return on his property without a variance.* Bill Joyce can build a house on this property; he doesn't need the variance for a fair rate of return; 2. *Whether the property owner knew of the restrictions.* Mr. Joyce has owned four properties in this community in the last six years; he knew what the requirements were before he bought the property. He also developed two other houses further down the street. He knew what the restrictions were. 3. *Whether a predicament can be handled by some other means.* This absolutely can be handled by some other means. Build a smaller house. 4. *The spirit and intent of zoning would be observed by granting the variance.* The land coverage restriction is to protect storm water and its ability to be absorbed back into the community, and she asked that the board continue to protect that by not granting this land coverage variance.

Mr. Maistros then called on Jami Phillips. Ms. Phillips said she lives at 114 Hazelwood, and she is here to listen to the pros and cons. She referred to the issue just brought up regarding storm sewers. She said she recently had to repair crushed pipes on her property, in her driveway, and get everything repaved. She had never thought about the overflow aspect being a factor. She said she doesn't know what that means as far as building more homes, but she thought a good point had been made. She is interested in hearing what everyone has to say, and thanked everyone for their input.

Mr. Maistros then called on Katie, who lives at 137 Fairview. Katie said she is just here to listen and has no comment.

Mr. Maistros then called on Sue Bretsch. Tom Bretsch said she is out of the room at this time. He went on to say that he agrees with what Valerie said. They live on Countryside Drive, which is downhill from that area. As a result, a lot of the water that drops there ends up in their neighborhood and said that it was an excellent comment from Valerie.

Mr. Maistros then called on Mali Rini. Ms. Rini said she is the proposed buyer of this lot. She extended her appreciation to everyone who is attending the meeting tonight. She completely understands and respects everybody's concerns and she want to work together to create the best house and meet all those requirements. She said at the beginning of the process, the neighbor who has the half acre lot in the back had offered to maybe sell her more of the land. She thought maybe that would be an option to be able to meet the 35% lot coverage requirement. She went on to say that the staircase is the reason for the encroachment onto Sarah's property. She is open to any ideas and suggestions as to how to resolve the issue. She thanked everyone for their comments and time.

Mr. Maistros again checked with Wayne, who was still on mute, but was able to indicate that he did not have anything to say. Mr. Maistros asked if there was anyone he had missed and did not get any response. Dave Hocevar said he wanted to comment on the lot coverage variance that was requested by the applicant. He referred to the 1947 zoning code and said the Village did not institute the current lot coverage limitations until 1993. Mr. Maistros asked Mr. Hocevar if he is saying that the lot coverage should not be part of the variance request, since we must revert to the 1947 code. Mr. Hocevar said yes, that is correct. Mr. Maistros then clarified with Mr. Hocevar that the only issue needing consideration tonight for a variance is the side yard setback. Mr. Hocevar said that is correct.

Mr. Maistros then asked the board members if they had anything additional to add. Ms. LaChapelle did not have anything to add. Mr. Stone said he likes the idea of pushing the house back; he knows it is a little forward of the house to the right, 105 Hazelwood. He said the house to the right of 105 is also considerably further of the house to its right, kind of starting this trend of moving forward. He said he thinks pushing it back would help. He said he didn't know if it would alleviate the issue of how close it is to the house at 101 Hazelwood. He also expressed concern about excavation next to the driveway, which is on the property line. If there is just 6'9" clearance, and a basement foundation has to be dug, excavating will be happening just feet from that driveway. He went on to say that he knows it happened to 101 Hazelwood on the other side; the excavation was probably about 3' from the foundation. This would possibly undermine the driveway at 101 Hazelwood. He



then talked about screening requirements. He said if something like this were to happen, he thinks there should be some screening requirements. The board spent a considerable amount of time last month talking about screening a treehouse that was in a back yard. If there is opposition from the neighbors and residents here, he feels screening should be a part of the consideration. He said the most important thing is that he feels the board needs to hear from the Fire Department. Having not seen the plans, he can only assume the proposal is for a two-story house. That being the case, he wants to know what the Fire Department thinks about possibly having ladder issues on the sides. Mr. Maistros asked Mr. Stone to clarify what his particular safety concerns are if the side yard setback variance is granted. Mr. Stone said he recalls when the case was in Russell Township, there were equipment set-up issues and manpower issues involved in the spread of fires when houses are this close together. It's like building in an old Cleveland neighborhood; fire spreads up under the eaves from side to side when the eaves overhang. The Russell Chief also made a point about the flow rates of the fire hydrants in the neighborhood, that they are 100 years old. Insurance rating issues were brought up as well. He ended by saying he is not an expert on those matters and he would defer to a member of the Fire Department, he just has questions. Mr. Maistros said he did not think the variance would impact the flow rate of the fire hydrants one way or another. Mr. Stone said he thinks it's a density issue, Mr. Maistros said yes, but a house could be built there without requesting any variances. Mr. Stone agreed.

Ms. Rini said she would like to comment. She referred to the house plans, indicating that the area they are requesting a variance for is the staircase going up to the second floor. The staircase is on the left, and all the bedrooms are on the right. That is where there would be a larger space between the homes. She thinks if emergency equipment needs to get in there, that is where all the bedrooms are. Mr. Stone said he is not sure if even that's enough, with the zoning laws that were laid down in the 1940s.

Mr. Maistros called on Andy Hitchcock. Mr. Hitchcock stated he was quite sympathetic to Mr. Joyce's commercial viability of the property and trying to put a house there. But he said he is struggling with how close it is to 101 Hazelwood and the owner's significant concern. He said he thinks a smaller house could be built, if lot coverage were an issue it could be mitigated somehow. He said moving the property back would address some of the other questions and concerns. His biggest concern right now is the side lot variance. He feels it is really close. Whether it's a safety, aesthetic or privacy concern, that is where he is really struggling to see this one making sense as is.

Mr. Maistros called on Mike Mulloy. Mr. Mulloy said he shares in Mr. Hitchcock's comments. He said as a real estate developer, he understands Mr. Joyce's position but that it is also important to take into consideration the concerns of the residents and how very close the houses would be to each other. Those are his major concerns. He went on to say that not knowing the run-off that the other neighbors would have to deal with, together with the close proximity to the neighbor to the west are his major considerations.

Ms. Mariola asked to address the board, Mr. Maistros agreed. Ms. Mariola referred to Dave Hocevar's comment regarding the 35% land coverage not being an issue, due to the 1947 Zoning Code. She then quoted a section of the zoning code regarding non-conforming lots, and non-

conforming lot of insufficient size. Mr. Maistros advised her that there is no indication that this is a non-conforming lot; it is a conforming lot. The issue is the house and the structure being placed on the lot, including the driveway, and whether that exceeds the lot coverage. Mr. Hocevar has indicated that that issue is no longer before us. He went on to say that he appreciates Ms. Mariola's comments and her knowledge of the code, and her excellent recitation of the criteria that he would have talked about shortly. He said he relies on Mr. Hocevar's expertise in this area that the land coverage is no longer an issue.

Mr. Maistros asked Mr. Joyce why he wouldn't build this new house closer to the house he built six to seven years ago at 105 Hazelwood and request the variance on that side, instead of asking for a variance next to 101 Hazelwood. Mr. Joyce responded that a much larger variance was granted for 105; they took into account the existing lot to the right. Because of Ms. Richard's driveway being 10', they said as you move down the road it would be practical and feasible to keep the 10' to the westerly side of each home. Therefore, the houses would look centered and the distances between the homes would be maximized. Mr. Joyce went on to say from the standpoint of fire safety, which really doesn't affect zoning, it is still considered it when they build. A 10' side yard is in excess of fire rating distance, which is why the code says 10'. When building in Cleveland, for example, they use fire rated drywall when homes are much closer together. As for undermining the driveway during excavation, Mr. Joyce said they go to great lengths to avoid having the neighbors suffer any damages to their property, since his company has to replace it anyway, and it also creates tension between neighbors. He then referred to the foundation on the plans and directed the board's attention to the front porch. He said the porch is 9.67' wide, and it consists of a front door, front hall closet, and a staircase. These elements are all minimized in order to minimize the width of the home. He said they immediately stepped it back to exceed the minimum side yard setbacks. The encroachment is for 20', and he said it is up against 101's property, and the foundation of that property is furthest away. Without the variance of 3.89', the house would become narrower in order to fit, variance-free. Basically, that would reduce the front of the house to a garage door and a front door. From a practical and design standpoint, the curb appeal is for the homeowner as well as the neighbors. He said he also must appear before the Architectural Review Board and get the project approved from a curb appeal standpoint. He spoke to the suggestion of acquiring some additional land, he said if he were to buy a strip of land, it would then become a non-conforming lot, and he would have to meet the 2-acre minimum. Ms. Rini can do that at a later date, but from a permitting standpoint, Mr. Joyce said he has to work within the bounds of the zoning as is. When he was designing a house to meet Ms. Rini's needs, she wanted a rear porch and that was why he put the front yard at the set-back point. He said to sliding the house back would not hurt any neighbors to get a rear yard variance in that respect. He said he understands Mr. Stone's idea of sliding the foundation back. He also wanted to note that the foundation steps back 8" to 1' in several areas where the rooms change. That was done not only for design reasons, but also for side yard reasons. The lot is a little wider at the front and pinches down as it goes back. He said the further the house gets pushed back, the closer it would get to Sarah Richard's driveway. This was another motivation as to why the foundation was set where it is. Ms. LaChapelle asked Mr. Joyce how far back would move he house. He said since 105 Hazelwood is 37' and 103 Hazelwood is at 40', they would put it between that to so as be gently stepped back. This way from the road it would look like they are lined up. He said it would probably be pushed back about 4' or so. Mr. Maistros said that would

then increase the need for a side yard variance, and Mr. Joyce agreed. Mr. Stone asked about the possibility of a single car garage. Mr. Joyce said a two-car garage meets the needs of today and while it could be a design consideration it is not a practical design at this point in home design. Mr. Maistros asked what the smallest two car garage would be. Mr. Joyce said 20' on the inside, with a 16' door. Mr. Maistros confirmed that Mr. Joyce needs 3'; either 3' with the variance requested, or you could get the 3' by narrowing the porch entryway as discussed, or obtain the 3' by reducing the garage. Mr. Joyce agreed that those are his options.

Mr. Mikolanis suggested an additional option of obtaining the 3', and that would be in moving the house eastward. He said perhaps requesting a variance of 1.5 feet on each side. Mr. Maistros agreed, and said that was where his thoughts began; that if there must be an encroachment, his preference would be to have the side yard encroachment be on the house that was built closer to the lot 6-7 years ago, versus on the house that Ms. Richards lives in, which has been there for a long time. He said personally, he would feel better if Mr. Joyce's new house was encroaching on the other house he built, versus giving them the full 10' and encroaching on Ms. Richard's property.

Mr. Maistros asked for any other comments or questions from board members. Mr. Stone asked if Mr. Joyce needed the 10' on the right for logistics, since excavating a house that is 6' off a driveway would present challenges. He said he knows that with the house to the west of 101 Hazelwood, that Mr. Joyce used the back lots, going through the lot being proposed for building now, to gain access and went through the back yard of 101. He asked Mr. Joyce if that was one of his considerations for trying to keep the 10' on the east side of the house. Mr. Joyce said that is correct; when the homeowners that live at 105 Hazelwood were in this same position years ago, the board said that 10' offers you access with a mini excavator or a bobcat, dragging a shed back there at a later date without interrupting the neighborhood. The lesser of two evils is digging 6' from a driveway, since it is a lot easier than digging 6' from a house, because you don't have the height next to you. He said he is just finishing up a house now where he is 3' off the neighbor's driveway and there was no underpinning, it sits on a sandy lot in downtown Cleveland in Ohio City and that Geauga County clay is a lot easier to work with. He said the way it stands right now, the foundation is almost dead centered in the lot, which works well for both neighbors. Mr. Maistros reiterated the situation created 7 years ago when Mr. Joyce built the house at 105 Hazelwood. He said the choices were set in stone to build the house at 103 a little smaller to fit on that compressed lot within the setback requirements, or to come before the board again asking for a variance for the next house. He recalls some discussion about that at the meeting 7 years ago. Mr. Joyce said that they have done a great job in answering that call, in that the house at 105 is 32' wide all the way back, and Mr. McClains's house is 34' all the way back, and the new foundation is at 26', then 24' and then 14', so the house has been narrowed dramatically over the other two foundations. It is just the foyer that comes back to haunt them.

Mr. Maistros went back to Mr. Stone about the safety issues he brought up, also acknowledged by other board members. He asked Mr. Stone if he was prepared to vote one way or another on a motion, without hearing from the Fire Chief, or would he rather have that prior to making any decision. Mr. Stone said it is preferable to have the information from the experts. Mr. Maistros asked the other board members if they agreed and they all did. Mr. Maistros said he also would like

to delay any decision and consideration until the safety concerns are addressed. Mr. Maistros said he does not want to delay the project for the homeowner or builder, and he would agree to a meeting earlier than the regularly scheduled one in January if all board members are available. Mayor Koons said the next regularly scheduled BZA meeting is January 20, 2021. Mr. Maistros indicated that if the response from the Fire Chief was available prior to that, he would be willing to move the meeting up to January 13, 2021. All board members agreed to the earlier date.

Mr. Maistros told Mr. Joyce he would be more than willing to make a conditional motion if Mr. Joyce preferred that. Mr. Joyce said he would prefer that the board have all the information available from the Fire Chief. He referred to a similar situation at subplot 51, two doors west, and that it was not an issue from a fire safety standpoint.

Mr. Maistros asked Mayor Koons about contacting the Fire Department, and Mayor Koons said he would get the information from the Chagrin Falls Fire Department.

He said with no objection from Mr. Joyce, they would continue this hearing and continue this specific appeal to the next available meeting date. All neighbors will be notified again. At the next meeting, new issues will be discussed; what the Fire Chief's presents, and if Mr. Joyce and Ms. Rini decide to propose any changes based upon what they heard tonight, in any regard, that would be presented as well. Mr. Maistros asked Mayor Koons to notify the board so they would be available for an earlier meeting date.

Mr. Maistros expressed appreciation and thanks to all the residents for their participation. He suggested keeping in touch with the Building Department as to the next meeting date, but that as of tonight the next meeting is January 20, 2021.

**OLD BUSINESS:**

Mr. Maistros asked for any old business to consider. Mayor Koons said there was none.

**NEW BUSINESS:**

Mr. Maistros asked for any new business to consider. Mayor Koons asked if the blueprints and/or the site plan for the proposed new house should be made available for viewing in the Building Department. Mr. Maistros agreed that would be a good idea; Mr. Koons said the blueprints and site plan would be available for review by interested parties by Monday, December 14, 2020.

There being no other business, Mr. Maistros motioned to adjourn the meeting at 8:28pm. Mr. Hitchcock seconded.

  
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David Maistros, Chairman

9/15/2021  
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Date

  
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Ruth Griswold, Board Secretary  
BZA MTG  
12-9-2020

9-15-2021  
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Date