



**Village of South Russell
5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700
BOARD OF ZONING APPEALS
MEETING MINUTES**

September 15, 2021 7:00 p.m.

Members Present: David Maistros, Chairman, Laura LaChapelle, Chris Bell

Members Absent: Andy Hitchcock, Mike Mulloy

Other Officials: Bridey Matheney, Solicitor; Mayor Bill Koons,
Ruth Griswold, Board Secretary

Visitors: None

David Maistros called the meeting to order at 7:00p.m. Board Secretary Ruth Griswold conducted roll call.

Mr. Maistros welcomed Chris Bell as a new Board of Zoning Appeals member.

Mr. Maistros motioned to approve the minutes of the BZA meeting on May 19, 2021. Ms. LaChapelle seconded. On roll call vote, Mr. Maistros-Yes; Ms. LaChapelle-Yes; Mr. Bell-Abstain.

Ms. Matheney swore in both applicants in attendance, Mr. Patrick Holtz and Ms. Carlene Holtz.

AGENDA ITEM 1: CASE #BZA 21-05: Ms. Carlene Holtz of MC Art Studio, representative for owners of 1208 Bell Road (PPN 29-029100) and Chillicothe Road (PPN 29-705200) is seeking a variance from Chapter 4.01.1(4) of the Zoning Code which requires all fencing to be set back a minimum of 3' from the property line. The proposed fencing, at its furthest point, would be 14' from the property line, requiring a variance of 17'.

Mr. Maistros asked the applicants to begin their presentation.

Ms. Holtz said she is operating a State licensed pre-school, which requires her to provide an outdoor play area in order for her to have any type of extended programs. She said because she does not have an outdoor play area, she is currently limited to three-hour programs.

Ms. Holtz said that a portion of her building is on Village property, therefore some of the play area would also be on Village property. The State requires 60 square feet of play area, and they would like to take advantage of as much property as possible. She said the fence she is proposing to install would not be a permanent structure because the posts would be set into piping so the fence could be pulled out and the post holes capped off, which is the same installation method used for the park benches at the South Russell Village Park. She said if the Village ever needed their portion of the property for an activity or an event, the fence could be easily removed. She initially thought that only the portion of the fence on Village property should be removable, but she may have the entire fence installed that way so she could also temporarily remove her portion for practical purposes.

Ms. Holtz showed the board a drawing of the proposed fence and explained how the fence would be modified with natural wood for the top rail and matching wood posts. She said she feels this would achieve an open look for the garden and play area while still keeping the children safe.

Ms. LaChapelle referred to the site plans and asked for clarification on the 17' variance request and how those numbers were achieved. Ms. Holtz said that she's not sure how that was determined, but at least 6' of her building is on Village property. Discussion followed regarding the placement of the proposed fence in relation to the lot boundaries shown on the map.

Mr. Bell asked if a variance was needed because the installation is a temporary structure. Ms. Matheney said the variance is needed since part of the fence is going to be permanent, and the other part would be semi-permanent since the post holes in the ground would always remain even when capped off.

Mr. Bell noted that the application for the Zoning permit refers to Section 4.01, which is under the Residential Code, but the property seeking a variance is a business, which would fall under Chapter 5, and he was wondering if that made a difference. Mr. Bell said he didn't want the applicant to get caught up on a technicality. Ms. Matheney said he was correct in pointing that out, it should be cited per Section 5.02, although the verbiage is the same.

Mr. Maistros asked about the separate written agreement between the Village and the property owners regarding this submittal. Ms. Matheney said there is an agreement between the Village and Dr. and Mrs. Holtz, the owners of the property, and the tenant, Carlene Holtz of MC Art Studio. She said in 1978 there was also an easement granted to the previous owner, and it ran with the land, for the portion of the building that encroaches Village property. She said the recent agreement dated August 6, 2021, allows MC Art to use the portion of land that is owned by the Village. She went on to say that any structures, improvements or change of use must still receive zoning approval.

Mr. Maistros reviewed the signed agreement with attached maps.

Mr. Holtz said his father, Dr. Gary Holtz, is in agreement with the proposal per the documents signed by him. Ms. Matheney said the Village Council has also agreed to allow MC Art to submit

plans for the proposed fence. Mr. Holtz noted that if there was no need for a variance, their permission from Council would have been sufficient to allow the fence.

Mr. Maistros said he does not dispute the need for a variance, but he is struggling with the actual number of feet needed per the submitted drawing. Discussion followed regarding the actual variance needed per code.

Mr. Holtz said the need for the variance also takes into account the requirements of JFS as to what Carlene must do to maintain the property as a licensed facility for children. Ms. Holtz said JFS has the requirement of 60 square feet per child, which limits the number of children she can have. She said without the variance, she couldn't have all the children outside, which means she would have to pay for two teachers for a group of kids that could be with one teacher.

Ms. LaChapelle said she is not interested in changing the dimensions at all, she is just trying to understand the scope of the variance request.

Mr. Bell referred to the drawing and asked if the corner that sticks out the furthest on South Russell property is 6' from the line. Ms. Holtz said it may not even be 6', because at the time of the drawing they were thinking of using 3' fence sections. She said on the original zoning permit application she had indicated they would be installing about 2200 feet of fencing, but now they are down to approximately 1700 feet, after crunching corners and realizing how to best utilize the space and be respectful to the Village. She said one of the questions from Council was regarding the maintenance of the property. She said they already maintain the grass, and they have a good relationship with Tim (Alder) and the Service Department.

Ms. Holtz said before the agreement was signed, she worked with Village officials regarding the pick-up and drop-off of children at her facility. She said it is scary because it can be really dangerous, and due to the graciousness of the Village, the parents are now permitted to come in off Bell Road, come around the corner of the property and drop children off right by the area of the proposed gate. She said this is very safe and maintains traffic flow. She went on to say that this makes for a much shorter walk for them to get into the playground, where they would be met by a teacher and parents would not even have to exit their vehicle. Mr. Holtz noted that with the fence in place, they could better utilize the improved ingress and egress from Bell Road, which was initiated at the request of the Police Chief.

Mr. Maistros asked how far away the fence would be from the driveway. Ms. Holtz said she did not know the exact measurement, but there would still be quite a bit of grass.

Mr. Bell asked, should the variance be granted, would it transfer to the next property owner. Mr. Maistros said he would feel more comfortable if any variance is conditioned to the existing agreement, which has a life span with a renewal provision. He said it is a significant variance and he would not want a blanket variance to go with the property. Mr. Maistros asked Ms. Matheney if there would be an issue if the board attached the life of the variance to the existing agreement. Ms. Matheney said that would not be a problem, and she said one other condition that should be considered is that the applicant be responsible for the maintenance inside the fence and perhaps a foot outside of the fence, in the event of damage being done to the fence or the capped posts by Village equipment. Mr. Maistros asked if there was a current understanding with the Village

regarding fence and lawn maintenance. Ms. Matheney said it is a verbal understanding. Ms. Holtz said in the past, the service department has cut her portion of the lawn and they, in turn, have done the same to the Village's portion.

Mayor Koons said the equipment used by the Village could damage the fence, therefore it would be best if their mowers are kept away from the fencing at MC Art.

Mr. Maistros asked board members if they had any further questions. They did not.

Mr. Maistros made a motion to grant a variance as it relates to the property located at 1208 Bell Road, PPN# 29-029100. A 3' setback is required for a fence, and the motion is to grant a 14' variance from the property line as depicted in the site plan date stamped received August 27, 2021 and incorporate that exhibit into our motion. He said this motion for the variance is conditioned upon the following: That, if approved, the variance shall run with the agreement between South Russell Village, the property owners, and the tenant, dated August 6, 2021. Should that agreement lapse, either under its own terms or for any reasons therein, that the variance shall also lapse. Another condition being that the applicant maintain the property within the fenced area and within 1' outside of the fenced area as it relates to the Village property. Mr. Bell seconded.

Mr. Maistros asked for any discussion on the motion. There was none.

On roll call vote, the motion passed unanimously.

Ms. Holtz thanked the board and said the artist who is creating the fence should have it completed and installed by the end of October.

Mr. Maistros addressed the item under New Business, which was to discuss the option of future BZA meetings being broadcast live on YouTube. Mr. Maistros said he feels it would be beneficial to get the information out to the residents. Ms. LaChapelle said she had no objections, and Mr. Bell said he felt it was the right thing to do.

There being no further business, Mr. Maistros motioned to adjourn the meeting at 7:36pm. Ms. LaChapelle seconded.



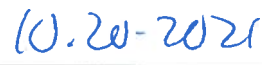
David Maistros, Chairman



Date



Ruth Griswold, Board Secretary



Date