



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

**February 16, 2022 - 7:00 p.m.**

- Members Present:** Andy Hitchcock, Chairman, Mike Mulloy, John Buda, Martin O'Toole
- Other Officials:** Bridey Matheney, Solicitor; Mayor Bill Koons, Dave Hocesvar, Building Official, Ruth Griswold, Board Secretary
- Visitors:** Lazaro Lopez, 1429 Bell Road; Ken Badalamenti, 34055 Country View, Solon OH 44139; Dwight Milko, 1417 Bell Road; Geraldine Byrne, 99 Laurel Road; Robert O'Brien, 62 Paw Paw Lake Drive

Mr. Hitchcock called the meeting to order at 7:01pm. Ruth Griswold conducted roll call.

Mr. Hitchcock welcomed the new board members, John Buda and Martin O'Toole.

**Mr. Hitchcock asked the board members if they had any questions or comments after reviewing the minutes from December 15, 2021. Hearing none, he made a motion to approve the minutes. Mr. Mulloy seconded. On roll call vote, the motion carried.**

Mr. Hitchcock asked the solicitor to swear in anyone who may speak. Ms. Matheney swore in both applicants and visitors.

**AGENDA ITEM 1: CASE #BZA 22-01: Mr. Ken Badalamenti of Alair Homes Solon, applicant for the property owned by Mark and Wendy Price, located at 807 Bell Road, South Russell Ohio 44022, is seeking an area variance to allow an addition to be 10.20' from the right-side yard. Article 3, Section 7 of the 1947 South Russell Zoning Code requires this side yard setback to be 1/6 of their frontage of 97.50', which would be 16.25'. An area variance of 6.05' is required for the right-side yard setback.**

Mr. Hitchcock asked Ken Badalamenti to begin his presentation. Mr. Badalamenti said his clients, Mark and Wendy Price, are requesting a side yard setback variance of approximately 6', which would allow them to best utilize the rear of the property for their family. He said the parcel is a very tight piece of property. He said without the variance, they would have to build further into the rear yard which would take away from the use of the rear yard. He said the house is only 1100 square feet, and the addition will be approximately 1100 square feet, and that his clients are viewing this as their forever home. He said the finished product will be very beautiful.

Mr. Mulloy asked if the addition would be a single story. Mr. Badalamenti said yes, just a single-story addition, as his clients would like to age in place. He mentioned that the site plan he submitted has the incorrect address of 805 Bell, but that it is the correct site plan for 807 Bell. He has corrected that error and printed new plans.

Mr. Hitchcock asked board members if they had any questions or comments.

Mr. Buda asked if Mr. Hocevar or Ms. Matheney could provide some historical or legal background as to why there are setbacks, and how the distance of code setbacks is established. Mr. Hocevar said this particular lot goes back to the 1947 Zoning, as it was platted around that time and does not conform to today's zoning. He said there is a separate 1947 Zoning Code book which stipulates that side yard setbacks must be 1/6th width of the lot, and not less than 10', which is why the applicant needs a variance.

Mr. Buda read from the application for appeal which states that, "To align the Master suite with the existing garage would severely encumber the usable rear yard area." He asked by how much would that alignment encumber the usable rear yard. Mr. Badalamenti referred to the architectural footprint drawings on the large screen. Using that visual, he noted the addition would encumber most of the rear yard. Mr. Buda asked where the pizza oven, which was mentioned on the application, would be located. Mr. Badalamenti again referred to the large screen and indicated the area of the proposed patio where the pizza oven would be located and added that the area has not been officially decided as of yet. Mr. Buda said his concern is that the left side of the property is already close to the property line and pushing the right side closer to the property line would restrict access for emergency services to the back of the yard.

Mr. Hitchcock asked board members for further comments. There were none at the time.

Mr. Hitchcock asked if anyone in attendance would like to address the board. Geraldine Byrne introduced herself as the neighbor who resides at 99 Laurel. She said they have been in the house for 38 years and have had a lot of issues with water drainage from the road. She said someone has recently put stakes up around the area and they were not informed of what they were for or of what was being planned. Mrs. Byrne said she is very concerned about losing her mature plants and shrubbery along the lot line.

Mr. Badalamenti apologized for any trespassing onto her property without her knowledge, and said he was not aware of that being done. He said they will do their best to not disturb the hydrangeas and trees that are on the lot line, and they will address her drainage concern with their civil engineer. Mrs. Byrne said she does not want anything to drain onto her property. Mr. Badalamenti

said they will address the drainage issues in relation to the surrounding properties to the best of their abilities. Mrs. Byrne asked if the stakes indicate how far they are coming out. Mr. Badalamenti said the stakes indicate the property line location, and they will be pinning the four corners to accurately determine the property lines. Mrs. Byrne said they would like to be notified before anything is done. Mr. Badalamenti said their company has a history of taking good care of the neighborhood and having projects go smoothly. He said he will be in constant contact with Mrs. Byrne. Mrs. Byrne said she just wants to know what their intentions are.

Mr. Mulloy said he thinks it would be helpful to specifically explain to Mrs. Byrne what the contractor is doing and explain what the setback means. Mr. Badalamenti said the Zoning Code requires the structure to be 16.25 from the side lot line, but they are requesting a variance to allow them to build only 10.20' from the lot line. Mrs. Byrne asked if they would be taking 6' of her property. Mr. Badalamenti said absolutely not, they will be over 10' away from her property, but that they may want a fence in the future, which would be located closer than that to her property.

Mr. O'Toole asked if similar variances have been granted in the area and if this distance to the property line is consistent with how the neighborhood has evolved. Mr. Badalamenti said he did not do research into any past precedents regarding other variances in the area. Mr. Hocevar said in the west end of the Village, there have been other similar area variances granted.

Mr. Badalamenti said Dave Hocevar's assistance has helped him greatly through the process.

Mr. Hitchcock said for the benefit of new board members, the Board of Zoning Appeals considers each application as a stand-alone case, in BZA Case#22-01 and they do not necessarily consider precedents. He went on to say, as Dave pointed out, that particular area of the Village is unique, having smaller lots and houses are closer together. This presents different challenges than what the board sees from properties that are east of 306.

Mr. Hitchcock asked the audience for any further questions or comments. There were none.

**Mr. Hitchcock made a motion to approve a 6.05' right side yard setback regarding BZA Case #22-01, for the property located at 807 Bell Road. Mr. Mulloy seconded. Mr. Hitchcock asked for discussion on the motion. There was none. On roll call vote, the motion passed unanimously.**

Mr. Hitchcock thanked Mr. Badalamenti for his attendance and asked that he keeps considering the neighbors throughout the project.

**AGENDA ITEM 2: BZA CASE # 22-02: Mr. Dwight Milko, applicant and owner of 1417 Bell Road, South Russell Ohio 44022, is seeking the following: (a) an area variance to allow an accessory structure (a barn) in the front setback because accessory structures are not permitted in the front yard in the residential districts pursuant to Section 4.02 of the South Russell Zoning Code and (b) an area variance for the accessory structure's height as applicant shows the proposed barn's height at approximately 27'7" with a cupola of 3' added to the finished structure and Section 4.02 of the South Russell Zoning Code provides that the maximum height of accessory structures is 15', requiring a total height variance of 15' 7" for the accessory structure.**

Mr. Hitchcock asked Mr. Milko to begin his presentation. Mr. Milko thanked the board for hearing his case and thanked the administration for their assistance with the process. He said he was a 30-year resident of Chagrin Falls, which he loved, but he and his family are very happy with their move to Geauga County. He said he also served on Council and various boards in Chagrin Falls and respects and appreciates what the job entails.

Mr. Milko said they purchased the property on Bell Road three years ago and have considered options as to what to do with it. He said his daughters, aged 8 and 10, are very involved in 4-H, and are very excited about the upcoming Geauga County Fair. He said he is happy that the developers who wanted to build many houses on the property were denied, and he is very happy they were able to purchase the property, where they are building one house, a barn and a chicken coop, and will raise some crops.

Mr. Milko gave the board a history of the sheep they will be raising. He said the house is situated well to the back of the 11-acre property. He said he understands the reasoning behind the code that only allows accessory structures in the rear of the dwelling, but in this instance, the land behind their house slopes and is not conducive to building a barn. He said they have a lot of acreage in the front of the house and therefore would like to have the barn situated there.

Mr. Milko handed out photos of a topographical view of the property where he had indicated the different elevations and pointed out that the proposed barn would be 15' lower than the road itself. He referred to the woods around the area and said the barn would not be seen very much in the winter months, and not at all in the summer.

Mr. Mulloy asked Mr. Milko how they selected the location on the parcel for the proposed barn. Mr. Milko said he would like the new barn to be close to the house for ease of walking there to tend the sheep.

Mr. O'Toole said he was able to visit the property and see the area that had been staked out for the proposed barn, and he had no questions.

Mr. Buda said he did visit the property but did not venture far enough up the driveway to be able to see the stakes. He asked Mr. Milko where the planned grazing would be. Mr. Milko said the grazing area would be between the barn and the house, and they will install approved fencing. Mr. Buda asked what the applicant intended to do with the woodland area to the south. Mr. Milko said a number of deer are currently living there, and they are not going to touch that area. Mr. Buda said without a rendering as to how the barn will look from Bell Road, he is trying to use his imagination. Mr. Milko said the woods provide privacy when they are on the front porch of the house which is very nice. Mr. Buda said the proposed barn is actually higher up on the hill than he thought it would be, and asked Mr. Milko which elevation would be facing Bell Road. Mr. Milko referred to the plans and said the front elevation would be facing the driveway and the left elevation, which is in the upper left-hand corner of the drawing, would be facing Bell Road.

Mr. Buda asked what factors determined the proposed size of the barn. Mr. Milko said a portion of the barn will be dedicated to his antique tractor collection, and they will have an area for hay and for general household storage. Mr. Buda asked what determined the barn would be two stories. Mr.

Milko said the second story is the hay loft, and for that they will have an old school winch that takes hay bales up into the second story.

Mr. Hitchcock asked if they intended any portion of the barn to be used for living space. Mr. Milko said no, they would not be using it for that purpose, and he is aware that it is not an allowed use.

Mr. Buda asked if board approval of the area variance would allow the barn to be built larger than shown. Ms. Matheney said no, the approval would be for the plans presented, unless there is an amended plan submitted. Mr. Hitchcock said the applicant must also appear before the Architectural Review Board. Mr. Milko said he has no intention of changing the plans, and that he has a crew ready and plans to start construction once he has obtained all the necessary approvals from the Village.

Mr. Buda asked what color Mr. Milko has in mind for the barn. Mr. Milko said he plans to use a darker stain, as he prefers the look of wood as seen on an old school barn.

Mr. Hitchcock asked board members for any further questions or comments. There were none.

Mr. Hitchcock referred to an overhead view of the site and asked Mr. Milko to confirm that all the existing forestry will remain. Mr. Milko said that is correct.

Mr. Hitchcock asked board members if they had any questions regarding the height variance. Mr. Buda said the height is the biggest factor for him. Mr. Hitchcock said South Russell Code does not allow any buildings over 30', and the applicant shows the barn at 30'7". He asked Mr. Milko if it were to be approved at 30', would he be amenable to that. Mr. Milko said absolutely, they could eliminate the cupolas. Mr. Hitchcock said one of the points the board must consider is if the variance is substantial, and for a 30' accessory structure, it is substantial, although not necessarily out of character for the location. Mr. Buda said he thought the maximum height was 15'; Mr. Hocevar said that is true, for a detached accessory structure.

Mr. Hitchcock asked Mr. Milko if they have thought about a lighting plan, as with a tall structure in the front setback, there is the concern of a visual distraction to neighboring properties. Mr. Milko said they do not have a lighting plan as of yet, but they would keep it soft with low-key up-lighting. Mr. Hitchcock asked if the ARB would approve the lighting plan. Ms. Griswold said they do ask about lighting. Mr. Hitchcock said he does not want to put a lot of unnecessary stipulations on the submittal, but the lighting is a concern, for nuisance and safety reasons. Mr. Milko said they would not want to create issues with the Village or the neighbors, and that he is very willing to present a lighting plan.

Mr. Buda said he appreciates the lighting being brought up, because in his experience with farms, he has seen very large lamps that are set up high. Mr. Milko said he believes that is done because of cost factors, that being the least expensive way to go. He said he has no interest in having that type of lighting.

Mr. Hitchcock then called on the residents in attendance and asked them to begin by introducing themselves. Robert O'Brien of 62 Paw Paw Lake said he was present to speak on behalf of the Paw Paw Lake residents. He said there was a survey of the neighborhood and he read a signed statement,

“We do not object to the variance to have the building in the front, or the height variance, but the neighborhood does object to the request of the stated purpose of housing sheep, due to the risk of contamination and runoff to Paw Paw Lake.” He said that is the neighborhood concern, but his personal concern is the chemical runoff associated with farming, and what that would entail.

Mr. Hitchcock said Agricultural Use is a permitted use in that area, and the board cannot distinguish between horses, sheep, chicken or farming of crops. Mr. Hocevar said that is correct, and the only farm animal not permitted is swine.

Mr. Milko said they have consultants assisting them, and their crops will be 100% organic and they will be very focused on permaculture, so their food will be pesticide-free. He said everything will be self-contained, and when they do clear out the barns, it will be sold to two greenhouses they are in conversation with. Mr. Milko said he does not see where there will be any associated runoff.

Mr. O’Toole asked if it was the business of the board to discuss the use of the land and the questions raised by such use. Ms. Matheney said the board can discuss it, as one of the Duncan factors speaks to the spirit and intent of the Zoning Code, and that can go to the use of the property, even though the request is for an area variance. She said in the board’s determination of an area variance, the use of the land can be considered.

Mr. O’Brien said since the board considers each applicant on a case-by-case basis, he is asking the board to consider the fact of the watershed that Paw Paw Lake is at the bottom of, and that they are already dealing with other drainage issues.

Mr. Hitchcock asked if Mr. O’Brien’s concern regarding runoff would be more from crops. Mr. O’Brien said the neighborhood concern is the fecal matter from the sheep getting into the lake, which increases phosphorous levels, which in turn promotes algae growth. He said Paw Paw Lake is having issues with silt building up, and the depth of the lake has shrunk dramatically in the last five years. He said they are having a difficult time keeping their lake clean.

Mr. Milko said he wants to be a good neighbor to the residents of Paw Paw Lake. He said sheep regenerate crop growth and are healthy for the soil, as the droppings, soil and rain are all beneficial. He said his plan is to move them around to get better soil in the long run.

Mr. O’Brien said he is concerned that it will exacerbate the Paw Paw Lake issues. Ms. Matheney said that may come along the lines of a nuisance complaint if problems occur, rather than this board determining whether or not runoff would be an issue, since they don’t necessarily know if it would be. She said another thing to consider is that this is an agricultural use, which is a permitted use, and she is unsure if the Board of Zoning Appeals has full authority over agricultural uses in Ohio. She went on to say that the board may not be able to opine on the agricultural aspect, unlike the stormwater runoff, which would be a nuisance issue. Mr. O’Brien said there is no question the lake will be affected, since it is the lowest point.

Mr. Hitchcock asked Mr. Milko, to be clear, if his intent was to ship anything off to another location. Mr. Milko said no, it would all be self-contained.

Mr. Hitchcock asked the other resident to speak. Lazaro Lopez of 1429 Bell Road introduced himself as a new resident who is active-duty military personnel. He said he and his wife do not oppose anything that has been presented tonight, they were just interested in hearing the proposal. He said he can confirm that during the summertime, Mr. Milko's property is not visible, and the only way the property can be seen in the winter is if you were to look down his driveway. Mr. Mulloy referred to the large screen with an overhead view of the area and asked Mr. Lopez to point out his property in relation to Mr. Milko's. Mr. Lopez indicated his house to be the first house east of Mr. Milko's.

Mr. Hitchcock asked board members if they had any other questions or concerns. Mr. O'Toole asked for confirmation that the board would only be voting on the two area variances, and not on the other important issues that were brought up. Mr. Hitchcock said that is correct, and the two issues would be voted on separately.

Mr. Hitchcock said he does have a concern about the overall height of the barn not exceeding 30', and he will make his motion accordingly. He told Mr. Milko he would have to submit plans to the building department to validate the height of the finished building.

Mr. Hitchcock made a motion, regarding the property at 1417 Bell Road, to approve a variance request for a barn in the front yard setback, as proposed from a square footage and size perspective, not to exceed what has been presented. Mr. Mulloy seconded. Mr. Hitchcock asked for any discussion on the motion. Mr. Buda said he would like to include a condition on retaining the woodland to help block the view. Mr. Hitchcock agreed to amend the motion.


**Mr. Hitchcock made a motion, regarding the property at 1417 Bell Road, BZA Case #22-02, to approve an area variance to allow a barn in the front yard setback, with the size not to exceed the plans presented to the board, with an additional stipulation that the existing wooded areas between the barn and Bell Road be left as they exist today.**

Mr. O'Brien said that Mr. Milko has been very respectful of the tree line throughout the entire project and has always reached out to them when necessary. He said much of the wooded area being discussed is Paw Paw Lake property, so it would not be an option to cut down without permission. Mr. Buda said he is not only thinking of the view from Bell Road, but having the woodlands kept as is may help prevent any drainage issues. Mr. O'Brien said it might slow it down a bit, but it will still drain to the lowest point.

**Mr. Hitchcock asked for any additional discussion on the motion and asked if everyone was clear on the motion. Board members had no questions and understood the motion. Mr. Hitchcock requested a second on the motion. Mr. Buda seconded. On roll call vote, motion passed unanimously.**

**Mr. Hitchcock then made a motion to approve a height variance for the accessory structure at 1417 Bell Road, not to exceed 30', with plans resubmitted to the Village that show the final structure to be no more than 30' high. Mr. Mulloy seconded. Mr. Hitchcock asked for questions or discussion on the motion. There was none. On roll call vote, Andy Hitchcock-Yes; Mike Mulloy-Yes; John Buda-No; Martin O'Toole-Yes. Motion passed.**

There being no further business, Mr. Hitchcock adjourned the meeting at 7:52pm.



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Andy Hitchcock, Chairman

March 16, 2022

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Date



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Ruth Griswold, Board Secretary

3-16-2022

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Date