



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

June 21, 2023 - 7:00 p.m.

Members Present: Andy Hitchcock, Chairman, Mike Mulloy, John Buda, Lindsey Self, Cindy Matejcik

Member Absent: Marty O'Toole

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

Visitors: Bill Thrush, 411 Reserve Trail; Jennifer Winter, 1560 Bell Road; John Epprecht, 1551 Bell Road; Patti Valencic, 1567 Bell Road

Mr. Hitchcock called the meeting to order at 7:00pm. Ms. Griswold conducted roll call.

Mr. Hitchcock asked the board members if they had any questions or comments after reviewing the minutes from May 17, 2023. Hearing none, he made a motion to approve the minutes. Mr. Buda seconded. On roll call vote, motion passed unanimously.

Mr. Hitchcock asked the solicitor to swear in anyone who may speak. Ms. Matheney swore in the applicants, guests, and Mr. Hocevar.

AGENDA ITEM 1: BZA CASE #23-03: Mr. William Thrush, applicant and owner of the property located at 411 Reserve Trail, South Russell Ohio 44022, is seeking an area variance for a proposed deck, as applicant shows the structure's side yard setback to be 21' 1". Section 4.02 of the South Russell Zoning Code provides that the minimum side yard setback of a structure is 25', requiring a total side yard area variance of 3' 11".

Mr. Hitchcock asked the applicant to begin his presentation. Bill Thrush said he appreciates and respects the time of board members, and his intention is to be brief and straightforward with his presentation. He said he is seeking a variance to construct a deck in the rear yard of the home they purchased two years ago. The existing deck is approaching the end of its useful life. He referred to the overhead view of the existing conditions on the large screen, and pointed out the area that requires a variance. He said they thought it would make sense to have the new deck encompass the doors which are currently not being utilized. They passed on their ideas to their designer who prepared the plans for the new deck. The designer had interpreted the Zoning Code to allow for a 20' side yard setback. He said they were notified by the Village that their plan would require a variance, since the side yard setback for this is actually 25'.

Mr. Thrush referred to the schematics that he submitted, showing the impact of the 25' setback vs the 20' setback. Without the variance, which is not significant, it would be very impactful on the design of the deck. He said both of the neighbors who would be affected have submitted letters in support of the variance. A very large, landscaped bed, filled with mature growth, would block the view of the deck entirely from other homes.

Mr. Hitchcock asked if board members had any questions for the applicant. There were none. He said, having seen it in person, he has no concerns and that the trees do block everything. He asked Dave Hocevar to explain why the deck would need a 25' setback per the Zoning Code. Mr. Hocevar said that because the deck is attached to the house, it is considered part of the structure, therefore requiring the 25' setback. Mr. Hitchcock asked if the steps leading off the deck would be considered part of the structure. Mr. Hocevar said yes, they are considered part of the structure. Mr. Hitchcock said he doesn't want to have it be an issue in the future, but also doesn't want to get hung up on it. He said by including the steps, the variance would need to be greater than the requested 3'11", and asked Ms. Matheney what procedures could be followed. Ms. Matheney said the applicant could amend the request and ask for the steps to be included in the variance. Mr. Thrush asked if he could verbally amend the request, and Ms. Matheney said yes, he could. It was determined that, although an exact measurement of the steps was not available, it would be no greater than the 20' setback.

Mr. Buda asked Mr. Hocevar if the measurement from the property line was supposed to be perpendicular to the property line. Mr. Hocevar said yes. Mr. Buda said the 21'1" is not perpendicular, since first it's going to get shorter because it goes to the corner of the step, then it's going to get shorter if it's perpendicular off the property line. He said as long as it's noted in the motion that the setback remains greater than 20'. Mr. Hitchcock agreed.

There were no additional comments or questions from board members or audience members.

Mr. Hitchcock said in reference to BZA Case #23-03, for the property located at 411 Reserve Trail, he is making a motion to approve an area variance of 5' on the western property line, to allow a deck to be built no closer than 20' to the property line. Ms. Self seconded. On roll call vote, motion passed unanimously.

AGENDA ITEM 2: BZA CASE #23-04: Ms. Jennifer Winter, applicant, tenant, and agent for the property located at 1560 Bell Road, South Russell Ohio 44022, owned by Mr. James D. Crawford, is seeking an area variance for a fence, as applicant shows a 4' high fence to be in the front yard, but

not split rail. Section 4.01(b)(4)(A) and (B) of the South Russell Zoning Code provides that fencing in the front yard must be split rail.

Mr. Hitchcock asked the applicant to begin her presentation. Jennifer Winter greeted the board and said she would first like to apologize for not realizing that a permit was needed for the fence, as she had seen these types of fences throughout Geauga County. She said it was a complete oversight on her part, and she did not intend to violate any codes.

She said the purpose of her fence is for her two Vizsla dogs. This breed is high energy, and they require a large area to run and remain healthy. She has owned the dogs for about four years. She recently moved into the house, knowing there was a large front yard area that could be utilized as a safe space for her dogs. Her former house in Chagrin Falls did not have enough yard area for the dogs.

She said the reason the fence has to be in the front yard is partly because they had to install a large driveway with a turn-around, since it is very treacherous exiting the driveway due to traffic speeding over the crest of a hill. This limited the grass in the rear yard area, which is also mostly wooded with a creek running through it.

Mr. Hitchcock asked board members for questions or comments. Ms. Matejcik asked if the owner of the property had given her any direction as to how to proceed before installing the fence. Ms. Winter said the owner approved the installation of the fence, and also provided her with a letter stating such. She said the owner did not advise her to check with the Village before installing the fence. She has worked for the owner of the house, Mr. Crawford, for about thirty years. He is retired, is not from this area, and has homes in both Pepper Pike and Florida. Ms. Matejcik said she has driven past the property often, and noticed the gate is usually open. She asked Ms. Winter if the dogs were out at a specific time, and if that is when the gate is closed. Ms. Winter said for the safety of both drivers and the dogs, the gate is always closed when they are out, and those times are in the morning, around lunch and in the evening. The dogs are out more often on the weekends.

Mr. Buda asked if the Village provides new residents and property owners with a list of improvements that require a permit. Ms. Griswold said the Village does not have a "Welcome" type of pamphlet with pertinent information, although some things are addressed periodically in the newsletter.

Ms. Self asked Ms. Matheney if there was any specification as to what relationship an applicant has to have to the property in order to apply for a variance. Ms. Matheney said the owner, James Crawford, did sign off on the application for the variance as well as the zoning application, essentially giving consent to the proceedings.

Ms. Self asked to view photos of the fence on the large screen. Discussion followed regarding the materials and construction of the fence. Ms. Winter said she liked the fence because visually it does not take away from the natural surroundings. Ms. Self asked if the variance requesting a fence that is not split rail is being requested, in essence, because the fence is already up. Ms. Winters said that is correct.

Mr. Hitchcock asked Mr. Hocevar if the fence had been built as a split rail with wire screening, would this have been an issue. Mr. Hocevar said no, it would not be an issue.

Mr. Mulloy asked the applicant if she hired a contractor to install the fence. Ms. Winter said she had a friend of hers install the fence. Mr. Mulloy asked if he had inquired about the need for a permit. Ms. Winter said no, he did not. Mr. Mulloy asked Mr. Hocevar if the fence were a split rail design but had the agricultural type of mesh, would it be permitted. Mr. Hocevar said he has never seen fencing with that agricultural mesh, since the split rails that he has seen have all had the lighter weight wire behind them. Mr. Mulloy asked if a permit would be required for a split rail fence; Mr. Hocevar said yes it would.

Mr. Hitchcock asked if any guests were present who would like to speak on the matter. Patty Valencic of 1567 Bell Road introduced herself. She said she is an animal lover and greatly values keeping pets safe, and applauds the applicant for thinking of their welfare. However, as a property owner and a taxpayer, she is put off by the rural appearance of the fence and feels it is not in keeping with the community. She feels the property values of the surrounding homes could be affected. She is hoping that since the fence was installed by Ms. Winter's friend, that they could convert it into a split rail type fence, which would have a much nicer appearance. She said as a tenant, Ms. Winter might not be there very long, but they are in their forever home and would like the fence to appear less agricultural.

Ms. Winter thanked Ms. Valencic for her comments and went on to say that she will eventually be purchasing the home from the current owner. She said she does have letters from two of the neighbors in the area that are supportive of the fence as it is.

Discussion followed regarding driveway gates and various materials used for fencing. Ms. Winter said she doesn't know if the chicken wire type of netting would be sufficient to hold her two dogs, since they are very strong animals. Ms. Self asked Mr. Hocevar if the gate would also need to be split rail style, in order to not need a variance. Mr. Hocevar said that is correct.

Mr. Mulloy asked if horizontal timbers were added to the current fence, would it, by definition, become a split rail fence. Mr. Hocevar said the agricultural material might still be an issue.

Mr. Hitchcock understands Ms. Valencic's concerns regarding the aesthetics of the fence, and he understands also that there has been a considerable expense put forth to install the fence. He is hoping to try and find a happy medium, by having neighbors not being upset and having a safe enclosure for the dogs.

Mr. Buda said while this is considered a residential area, the board also approved a barn to be built at the farm 1/8 of a mile to the west, and a few properties to the east is a very large open field, which, in his opinion, seems fairly agricultural.

Ms. Self said the home at 1560 Bell Road is very close to the road in comparison to other houses, including the farm, in the area. She does agree the area is fairly rural.

Mr. Mulloy said he agrees with Mr. Hitchcock's statement about balancing the neighbor's concerns and also recognizing the applicant's efforts to make this right. He hopes there is a compromise to be

found somewhere, perhaps by modifying the fence to appear more like a split rail and allowing some time for the applicant to make that change.

John Epprecht of 1551 Bell Road introduced himself and complimented the applicant for the recent major improvements to the home. Ms. Winter said she cannot take credit for the transformation; it was rehabbed when Mr. Crawford purchased the house. She has had the new driveway installed since she has been there.

Mr. Epprecht said he is not happy with the aesthetics of the fence, and he recognizes Ms. Winter's difficult position with the appeals board. If the South Russell zoning code mandates that fencing must be split rail in the front setback, then he would stand by that. He said the house next door at 1548 Bell Road planted some landscaping many years ago that sufficiently shields the area from the animal activity in the backyard. He said it looks fine and suggested that Ms. Winter plant a hedge in front of the fence, starting at 5', which would eventually grow to hide the fence completely. He said he understands the responsibility of caring for dogs, and also knows that the house does not have a back yard to utilize for this purpose. He was happy to hear that Ms. Winter is in the process of buying the house.

Mr. Buda asked if the property owner would be able to assist with any modification to the fence. Ms. Winter said he had already helped her very much and she would not want to ask him for assistance with the cost of any modifications.

Ms. Self asked the applicant if it was evident that the backyard area was not usable for her dogs when she first moved in. Ms. Winter said she was not fully aware of that, but she also did not realize that there would be a problem with a front yard fence. Ms. Self asked if she had an idea of the cost it would take to modify the fence into a split rail style. Ms. Winter said she did not know but thinks that split rail fencing runs about twice the cost, and they also tend to deteriorate over time.

Ms. Self asked the neighbors if a modified fence that looked more like a split rail would be acceptable, or if the problem is having a fence at all. Ms. Valencic said she has no problem with a fence in the front yard, but she feels this particular fence is an eyesore. She said a split rail with wire is a very attractive looking fence. With the fence so close to the road, if vegetation were to be planted, it may have difficulty flourishing due to road salt.

Mr. Hitchcock said he does not want to force a decision tonight that may not be appropriate in the long term. He asked Ms. Matheney if there were precedents that would allow neighbors to explore options. Ms. Matheney said there could be a continuance which would allow for more time for discussions.

Mr. Hitchcock asked board members if they feel it would be an acceptable approach to allow 60 days to discuss the situation and possibly reach a workable solution. He said they may not come up with a workable solution, but given the expense that has been put forth, and the possibility of future expense, he would like to give this option. There were no objections from the board.

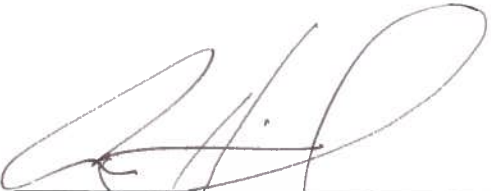
Mr. Hitchcock made a motion to table the agenda item for 1560 Bell Road until the Board of Zoning Appeals meeting on August 16, 2023. Mr. Buda seconded. On roll call vote, motion passed unanimously.

Mr. Hitchcock thanked the applicant and the neighbors and asked them to please update the Building Department with any relevant information as the conversations unfold.

Old Business: None

New Business: None

There being no further business, Mr. Hitchcock adjourned the meeting at 7:49pm.



Andy Hitchcock, Chairman

8/16/2023

Date



Ruth Griswold, Board Secretary

8-16-2023

Date