

ZONING AMENDMENT

VILLAGE OF SOUTH RUSSELL, OHIO

APPLICANT hereby certifies that this application and all data submitted herewith is true and correct.

Location & Lot Number: _____

Lot Width: _____ Lot Depth: _____ Lot Area: _____

Existing Use: _____ Existing Zoning: _____

Application For: _____

Applicant's Name _____ Phone: _____

Applicant's Address _____

Signature _____ Date: _____

SECRETARY having taken the following action:

Filed Application Date: _____

Advertised in Newspaper Date: _____

Notified Adjacent Property Owners Date: _____

Recorded Public Hearing Date: _____

Hereby certifies the following Commission action on _____, _____:
Date Year

- _____ Approval
- _____ Conditional Approval
- _____ Disapproval
- _____ Conditions or reasons for disapproval attached.

Signature: Ruth M. Growald Date: 3.15.24

APPLICATION FOR

ZONING AMENDMENT

FORM Z-5
Page 2 of 2

APPLICATION # _____

VILLAGE OF SOUTH RUSSELL, OHIO

CLERK having taken the following action:

Filed Application	Date: _____
Advertised in Newspaper	Date: _____
Notified Adjacent Property Owners	Date: _____
Recorded Public Hearing	Date: _____

Hereby certifies the following Commission action on _____, _____:
 Date Year

- _____ Approval
- _____ Conditional Approval
- _____ Disapproval
- _____ Conditions or reasons for disapproval attached.

Signature: Ruth M. Groszold Date: 3-15-24

REQUIRED DATA:

1. Vicinity Map drawn to scale showing property lines, streets and existing and proposed zoning.
2. Certified statement by the applicant that:
 - a. The existing Zoning Code is unreasonable with respect to the property or provision in question.
 - b. The existing Zoning Code deprives the owners of the property in question of their lawful and reasonable use of the land.
 - c. The proposed amendment will cause to materialize in an equal or better Zoning Code than now exists.
3. List of property owners and addresses contiguous to and across the street from the property involved.



Village of South Russell

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

PLANNING COMMISSION MEETING OUTCOME ON OLD BUSINESS

March 14, 2024 at 7:30PM

Members Present: James Flaiz, Chairman, Mayor William Koons, Elisa Budoff,
Greg Bruhn, Phyllis Marino

Other Officials: Bridey Matheney, Solicitor; Dave Hocevar, Building Official, Ruth Griswold, Board
Secretary

Visitors: Brad Camposo, 1576 Bell Road; Jason Yanesh, 576 Industrial Pkwy; Christopher Woofter,
400 East Washington; Ryan Schmit, 4230 River, Willoughby 44094; Lorraine Sevich, 11
Ridgecrest Dr; Nick & Melissa Nykulak, 1580 Bell Road

Meeting called to order by Mr. Flaiz at 7:30p.m.

Ruth Griswold conducted roll call.

Mr. Bruhn motioned to approve the two sets of minutes from the Public Hearing and Planning Commission meetings held on November 16, 2023. Ms. Budoff seconded. On roll call vote, James Flaiz, Yes; Mayor Koons, Abstained; Elisa Budoff, Yes; Phyllis Marino, Yes; Greg Bruhn, Yes. Motion carried.


Old Business: Review of the Solicitor's Zoning Code Recommendations

After review, discussion, and clarification of procedures with Ms. Matheney, Ms. Budoff made a motion to approve all of the changes proposed by the solicitor, which include Items I, II and III in the attachments, and to also change the 15 (fifteen) days after the hearings to be 35 days, and to have all sections reflect 5 (five) business days instead of 3 (three), for action to be certified by the Secretary. Mr. Bruhn seconded.

Mr. Flaiz noted the proposed changes would now have to go before Council for their approval. He asked for any discussion on the motion. There was none. On roll call vote, the motion carried unanimously.


This concluded the discussion of Old Business.

James Flaiz, Chairman



Ruth Griswold, Board Secretary

Date



Date

I. Planning Commission Recommends for Approval New Section 3.11 of the South Russell Village Zoning Code to Council:

3.11 EFFECTIVE APPROVAL - Except for administrative appeals or variances granted by the Board of Zoning Appeals, approvals from the Board or Commission granted under Chapter 3 of the Zoning Code shall expire within twelve (12) months if the use authorized by the approval is not established or the work authorized by the approval has not materially commenced unless otherwise provided by the Board or Commission. Upon a reasonable request for an extension accompanied by an additional fee of twenty-five dollars (\$25.00), the Board or Commission, may, in its respective discretion, extend the date of its effective approval.

II.

A. **Current Section 3.01(d) of the South Russell Village Zoning Code**

3.01 **ZONING PERMITS**

- (d) Permit Issued: The Zoning Permit shall be issued by the Zoning Inspector immediately after his approval of the application. Such permit shall become void if work is not started within one hundred eighty (180) days and completed within twelve (12) months after the date of issuance unless an extension of an additional six (6) months period is obtained by applicant from the Commission if completion is not possible within twelve (12) months. Any such request for an extension shall be accompanied by an additional fee of twenty-five dollars (\$25.00) and shall be deemed to be a request for a zoning permit under Schedule 1.

B. **Planning Commission recommends approval of the following amendment to Section 3.01(d) of the Zoning Code to Council:**

3.01 **ZONING PERMITS**

- (d) Permit Issued: The Zoning Permit shall be issued by the Zoning Inspector immediately after his approval of the application. Such permit shall become void if **use is not established or work has not materially commenced** ~~work is not started within one hundred eighty (180) days and completed~~ within twelve (12) months after the date of issuance unless an extension of ~~an additional six (6) months period~~ is obtained by applicant from the **Board or Commission, as the case may be,** if completion is not possible within twelve (12) months. Any such request for an extension shall be accompanied by an additional fee of twenty-five dollars (\$25.00) and shall be deemed to be a request for a zoning permit under Schedule 1.

III.

A. Current Section 3.04(c) of the Zoning Code

Action: Following a review of the application and reports thereon, the Commission shall within the time limit as set forth in paragraph (b) approve, conditionally approve or disapprove the application. Commission action, including any conditions thereto shall be certified by the Secretary on Form Z-1 to the applicant and the Zoning Inspector.

B. Planning Commission Recommends Approval of the Following Amendment to Section 3.04(c) of the Zoning Code

Action: Following a review of the application and reports thereon, the Commission shall within the time limit as set forth in paragraph (b) approve, conditionally approve or disapprove the application. **Within five (5) business days of the Commission action, Commission action, including any conditions thereto the Secretary shall shall be certified such Commission action, including any conditions thereto by the Secretary** on Form Z-1 to the applicant and the Zoning Inspector.

III.

A. Current Section 3.05(c) of the Zoning Code

Action: Within 15 days after the public hearing, or continuations thereof, the Commission shall approve, conditionally approve or disapprove the application. Commission action including any conditions thereto shall be certified by the Secretary on Form Z-3 or Z-3-A and one (1) copy shall be returned to the applicant and one (1) copy forwarded to the Zoning Inspector.

B. Planning Commission Recommends Approval of the Following Amendment to Section 3.05(c) of the Zoning Code

Action: Within ~~15~~ 35 days after the public hearing, or continuations thereof, the Commission shall approve, conditionally approve or disapprove the application. **Within five (5) business days of the Commission action, the Secretary shall certify such Commission action,** including any conditions thereto, ~~shall be certified by the Secretary~~ on Form Z-3 or Z-3-A and one (1) copy shall be returned to the applicant and one (1) copy forwarded to the Zoning Inspector.

III.

A. Current Section 3.06(c) of the Zoning Code

Recommendation: The Commission may hold a public hearing within thirty days after the filing date of the proposed amendment by giving notice on Form Z-4 and at least one publication in a newspaper of general circulation in the municipality at least ten days before such hearing. Form Z-4 shall also be mailed by the Secretary at least ten days before the hearing to the applicant and property owners within, contiguous to, and across the street from any lot of record involved in an amendment to this Code. The proponent of the amendment may require the Commission to recommend approval or disapproval of the amendment exactly as proposed or may consent to modifications of the amendment recommended by the Commission or may request the Commission to recommend approval of an amendment with modifications agreed to and those not consented to by the proponent. Within fifteen days after the hearing or forty-five days after the filing date if no hearing is held, the Commission shall recommend approval, disapproval, or modification of the amendment. Commission action including any conditions thereto shall be certified by the Secretary on Form Z-5 and shall return one to the property owner and forward one to the Clerk.

B. Planning Commission Recommends Approval of the Following Amendment to Section 3.06(c) of the Zoning Code

Recommendation: The Commission may hold a public hearing within thirty days after the filing date of the proposed amendment by giving notice on Form Z-4 and at least one publication in a newspaper of general circulation in the municipality at least ten days before such hearing. Form Z-4 shall also be mailed by the Secretary at least ten days before the hearing to the applicant and property owners within, contiguous to, and across the street from any lot of record involved in an amendment to this Code. The proponent of the amendment may require the Commission to recommend approval or disapproval of the amendment exactly as proposed or may consent to modifications of the amendment recommended by the Commission or may request the Commission to recommend approval of an amendment with modifications agreed to and those not consented to by the proponent. Within ~~fifteen~~ **thirty-five (35)** (~~15~~) days after the hearing or forty-five (45) days after the filing date if no hearing is held, the Commission shall recommend approval, disapproval, or modification of the amendment. Commission action including any conditions thereto shall be certified by the Secretary on Form Z-5 **within five (5) business days of such Commission action** and **the Secretary** shall return one (1) to the property owner and forward one (1) to the Clerk.

III.

A. Current Section 3.07(c) of the Zoning Code

Action: Within fifteen days after the public hearing, the Board, or the Commission, as the case may be, shall approve, conditionally approve or disapprove the application. Board or Commission action, including any conditions thereto, shall be certified by the Secretary on Form Z-6 and one copy shall be returned to the applicant and one forwarded to the Zoning Inspector. Any rights obtained by variance and any permit issued shall become void if such permit would become void under Section 3.01(d). In determining whether or not an application for a height variance should be approved, the Commission shall be guided by the provisions of Section 4.02 and divisions (c)(1), (c)(2), (c)(3) and (c)(4) of this section. In determining whether or not the application should be approved, conditionally approved, or disapproved, the action of the Board shall be based on the following standards and criteria:

1. Variances to use regulations may be granted only to the following extent:
 - (a) The property cannot be used for any permitted use within the district;
 - (b) The variance would not be detrimental to the public welfare or injurious to the property or improvements in the neighborhood in which the property is located; and
 - (c) The variance shall be the minimum necessary in order to provide adequate relief to the property owner.
2. Where the appellant seeks a variance pertaining to an area requirement otherwise applicable to the property, no variance may be granted unless the appellant has demonstrated the literal enforcement of the provisions or requirements of the Zoning Code pertaining to area requirements would cause the appellant practical difficulties. The factors to be considered and weighed in determining whether an appellant seeking an area variance has encountered practical difficulties in the proposed use of his property include, but are not limited to:
 - (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;
 - (b) Whether the variance is 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;
 - (d) Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage);

- (e) Whether the appellant purchased the property with knowledge of the zoning restrictions;
 - (f) Whether the appellant's predicament feasibly can be obviated through some method other than a variance;
 - (g) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.
3. Where the Board has determined that literal enforcement of the requirements of the Zoning Code would involve practical difficulties or would cause undue hardship, unnecessary to carry out the spirit and purpose of the Zoning Code, the Board shall have power to authorize a variance from such strict application so as to relieve such hardship or practical difficulties so that the spirit and purpose of the Zoning Code shall be observed and substantial justice done. In authorizing a variance the Board may attach thereto such conditions regarding the location, character and other features of the proposed structure or use as it deems necessary in the interest of the furtherance of the purpose of the Zoning Code and in the public interest. In authorizing a variance with attached conditions the Board shall require such evidence and guaranty or bond as it may deem to be necessary to ensure that the conditions attached are being and will be complied with.
4. No such variance in the provisions or requirements of the Zoning Code shall be authorized by the Board unless the Board finds that the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of the Zoning Code or the public interest.
5. Variances to area regulations may be granted only to the following extent:
- (a) A lot of record held in single and separate ownership on the effective date of this Code may be used as a site for a single-family dwelling as provided for in the Code, provided the owner cannot acquire at a reasonable cost additional vacant land adjoining the lot.
 - (b) The Board may vary minimum floor area regulations of dwellings, but by no more than ten percent, if by reason of conformance to lot frontage, area or yards specified in the Code, or by exceptionally skillful arrangement of site design, the result of such a variance would be in harmony with the character of the neighborhood.
6. Variances to yard regulations may be granted only to the following extent:
- (a) The Board may permit as may be necessary for the appropriate development of a lot, or because of peculiar shape or topographical reasons, variances to the required yards, provided light and ventilation will be adequate, and privacy will not be impaired, and

provided the owner cannot acquire at a reasonable cost additional vacant land adjoining the lot.

- (b) The Board may permit a modification of required side yard so as to allow a garage to be attached to a one-family dwelling constructed before the effective date of this Code to project into a required side yard, providing the resulting side yard is not less than five feet and further providing that the distance to a building or structure on the adjoining lot is greater than ten feet.
- 7. The Board may permit an increase in height of a proposed or existing structure or part thereof to the same height as adjacent structures, except the Board may not grant any increases in height to any residential dwellings permitted in Chapter 4.
- 8. Nothing in this Code shall be deemed to prohibit any municipal official from appealing to the appropriate court from any Board decision.
- 9. In the event the Board grants a variance, in so doing the Board shall in writing specify the findings of facts in support of such a variance.

B. Planning Commission Recommends Approval of the Following Amendment to Section 3.07(c) of the Zoning Code

Action: Within ~~fifteen (15)~~ **thirty-five (35)** days after the public hearing, the Board, or the Commission, as the case may be, shall approve, conditionally approve or disapprove the application. Board or Commission action, including any conditions thereto, shall be certified by the Secretary on Form Z-6 **within five (5) business days of the approval of the meeting minutes of the Board or Commission action** and one (1) copy shall be returned to the applicant and one (1) forwarded to the Zoning Inspector. Any rights obtained by variance and any permit issued shall become void if such permit would become void under Section 3.01(d). In determining whether or not an application for a height variance should be approved, the Commission shall be guided by the provisions of Section 4.02 and divisions (c)(1), (c)(2), (c)(3) and (c)(4) of this section. In determining whether or not the application should be approved, conditionally approved, or disapproved, the action of the Board shall be based on the following standards and criteria:

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 - (b) Whether the variance is 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;
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 - (e) Whether the appellant purchased the property with knowledge of the zoning restrictions;
 - (f) Whether the appellant's predicament feasibly can be obviated through some method other than a variance;
 - (g) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.
3. Where the Board has determined that literal enforcement of the requirements of the Zoning Code would involve practical difficulties or would cause undue hardship, unnecessary to carry out the spirit and purpose of the Zoning Code, the Board shall have power to authorize a variance from such strict application so as to relieve such hardship or practical difficulties so that the spirit and purpose of the Zoning Code shall be observed and substantial justice done. In authorizing a variance the Board may attach thereto such conditions regarding the location, character and other features of the proposed structure or use as it deems necessary in the interest of the furtherance of the purpose of the Zoning Code and in the public interest. In authorizing a variance with attached conditions the Board shall require such evidence and guaranty or bond as it may deem to be necessary to ensure that the conditions attached are being and will be complied with.

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8. Nothing in this Code shall be deemed to prohibit any municipal official from appealing to the appropriate court from any Board decision.
9. In the event the Board grants a variance, in so doing the Board shall in writing specify the findings of facts in support of such a variance.

IV.

A. Current Section 1.05 of the Zoning Code provides:

1.05 ESTABLISHMENT OF ZONING MAP - The aforesaid districts are designated by symbols and the location and boundaries of said districts are established on the map entitled "Zoning Map of the Village of South Russell Ohio". The Zoning Map, certified by the Commission Chairman and Secretary, shall be on file with the Zoning Inspector and no change thereon shall be made without legislative authority.

B. Planning Commission recommends approval of amending Section 1.05 of the Zoning Code:

1.05 ESTABLISHMENT OF ZONING MAP - The aforesaid districts are designated by symbols and the location and boundaries of said districts are established on the map entitled "Zoning Map of the Village of South Russell Ohio". The Zoning Map, certified by the Commission Chairman and Secretary, shall be on file **in the Village Building Department and/or with the Village records** ~~with the Zoning Inspector~~ and no change thereon shall be made without legislative authority.