



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

**BOARD OF ZONING APPEALS
MEETING MINUTES**

June 18, 2024 - 7:00 p.m.

Members Present: Andy Hitchcock, Chairman, Mike Mulloy, John Buda, Martin O'Toole, Cindy Matejcik

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

Visitors: Kyle Dingfelder, 49 Cascades; Nelson Axelrod, 61 Cascades; Kevin and Mary Ann Keesler, 37 Cascades; Peter Asmar, 42 Ridgecrest Drive

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

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

Mr. Hitchcock asked the board members if they had any questions or comments after reviewing the minutes from May 15, 2024. There were none. Mr. Hitchcock motioned to approve the minutes. Mr. Buda seconded. On roll call vote, the motion passed unanimously.

AGENDA ITEM 1: BZA CASE #24-03: Kyle Dingfelder, applicant for and owner of the property located at **49 Cascades Drive**, is seeking the following: (a) an area variance of 1,220 square feet for an accessory structure, as applicant shows the proposed structure to be 1,920 square feet and Section 4.01(b)(1) of the South Russell Village Zoning Code allows a maximum of 500 square feet per acre; this property's acreage would allow a maximum of 700 square feet and (b) an area variance of 2.4' for the height of the accessory structure, as applicant shows the height to be 17.4' and Section 4.02 allows a maximum height of 15' for accessory structures.

Mr. Hitchcock told Mr. Dingfelder that the board members have seen his plans for the proposed structure, and asked him for some background, and to let the board know in his own words, what he's trying to do.

Mr. Dingfelder began his presentation by referring to the color rendering of his house and the proposed structure. He said the color of his house is incorrectly depicted, as it is not white, but the same color as the proposed building. The view depicted is what would be seen by people as they travel down the street and the property comes into view.

He went over the table of contents to his presentation, and then referred to the photos of the items he created from his woodworking hobby, which he has been doing his whole life. He said this is a big part of his life, and he does not do it professionally. He also owns an interior remodeling company, but he only creates woodworking items for himself or family and friends.

Mr. Dingfelder referred to photos of an existing woodshop, which is actually his dad's, and is located in his parent's basement. It is only 435 square feet, and every bit of space is used by materials, and they are maxed out of space. His parents live not too far away in Solon, but it is still a 20-minute drive. They have a lot of large tools, and every conceivable woodworking tool necessary is in what is essentially a one car garage. His proposed woodworking shop would be 961 square feet, which would be more than double what he has now. The new space would have a dual purpose; it would also be a garage for his fairly large truck. In the winter he would like to be able to park his truck in the garage, and it will not fit in his existing garage.

Mr. Dingfelder said his uncle used to own a sawmill. He recently retired and has given him approximately 3100 board feet of lumber. He currently has it stored in three separate locations, two of which are rented units. In order to do woodworking, he must first go to the storage area and get lumber, then bring it back to his parent's house. Many trips are sometimes necessary, and it can become very time consuming. He said if he were to have the lumber at the ready on his property, in his workshop, it would be a tremendous benefit. The other use of the room would be tool storage. He reiterated that everything seen in the photos are for hobby use only.

The next photo shows a proposed bathroom. He said it would be very convenient to be able to have this facility in the workshop. It would allow him to clean up after woodworking and he wouldn't have to track dust and debris into the house. The next photo shows a proposed computer room. He said his first child is 3 ½ months old, and by dedicating office space in the proposed new structure, his current office in the house could then become a playroom for his daughter.

Mr. Dingfelder said a portion of the proposed new structure would be used as a shed. He said his former shed was 144 square feet, and the proposed shed area would be 294 square feet. Their yard area is almost an acre and a half, which necessitated the purchase of a bigger mower. He referred to photos of his current garage, which at 300 square feet, is jam-packed with items that would go in the new shed area.

He said his presentation thus far explained his need for the additional square footage of the structure. The second variance that he is seeking is for the height of the building. The main factor in requesting a height variance is because of a cargo trailer that is owned by his business. The height

of the trailer, including a vent, is 9'7" at its highest point. In the event of inclement weather, he would like the ability to park the trailer in the garage portion of the shop.

Mr. Dingfelder said the next few photos indicate views of the proposed structure from different vantage points. He said he has two letters of support from his direct neighbors. Although the building will be visible driving by, no one would see the structure while sitting in their house. He said there was some confusion regarding the HOA. Three weeks after providing them with plans, as he was directed to do, he received a letter of denial, although no one ever reached out to him with any comments or questions. The reasons for the HOA denial of the structure are the square footage, height and the intent to store business related materials. He said after receiving the letter, he asked for a meeting with Pete Asmar, the HOA president, to go over in detail the reasons for denial. When they met and discussed the reasons, it was indicated that the main concern among the board, and the neighborhood, was his intent to store business related materials. Mr. Dingfelder said he was able to clear up the confusion regarding the materials, reiterated that all the materials are for hobby use only and that he never intended to run a business out of the structure. Mr. Asmar had the letter corrected accordingly, but he still feels the damage had already been done.

Mr. Dingfelder relayed information regarding his conversations with his real estate agent prior to purchasing the house. He had asked if an outbuilding would be permitted, as they did not want to even see or consider this house unless they knew they could build an accessory structure with a woodshop. Their agent researched this and received an email from the HOA which included the deed restrictions from the 1950s and the code of regulations that are followed today. He said he read through the document five or six times, and there is no language in the document that would restrict the square footage or height of outbuildings. The only restriction to outbuildings is that they are limited to one per parcel, which is the reason he is trying to combine his needs into this large of a structure. When he received the letter of denial from the HOA, he was quite sure that they couldn't deny him on the grounds of the size of the structure. Mr. Asmar was unable to back up the decision with any written language in the regulations. Therefore, he feels that their reasons for the denial of his building are not valid.

Mr. Hitchcock asked if anyone in the audience would like to speak on this matter. Nelson Axelrod of 61 Cascades Drive said from his perspective, the building just does not comply with Village ordinances. If this structure is allowed, what's to say that his neighbor won't also want to erect a large building such as this. He said he wouldn't want to look at it, and although the proposed building may look nice, the structure he is trying to build is larger than his house. Mr. Axelrod said he is concerned that anyone in the Village would then be able to build something similar. He went on to say that if Mr. Dingfelder wanted to build a regular sized garage, he would not have an issue with that at all.

Mr. Hitchcock said the board appreciates his comments. He asked if anyone else would like to speak. Peter Asmar of 42 Ridgcrest Drive and HOA President, said he would like to make a point of clarification. The two objections are the reason he is in attendance tonight.

Mr. Buda told the Mr. Dingfelder that the photo of his woodworking looks beautiful, and he's sure that a lot of time goes into creating the items. He asked the applicant how much time he intended to spend doing the woodworking. Mr. Dingfelder said it is a weekend hobby, although he has less free time since his daughter was born. He would like to spend about four hours, give or take, every

weekend at his hobby. Mr. Buda said the attached garage is about 560 square feet. He asked him if he had plans to use that area for storage as well. Mr. Dingfelder said that would be the area where his wife parks. She is a schoolteacher in Solon. She has a condition that affects her hands in cold weather, so she needs a place to park, especially in the winter. He went on to say that if he gets permission to building this structure, the attached garage would essentially be a one-car garage and for storage of household tools that are used more often. Mr. Buda said he described the image of his current workshop as roughly the size of a one-car garage. He asked if the attached garage is a two-car. Mr. Dingfelder said it is a two-car garage, with a little side wing. He may have misspoke when he described the size of his current workshop; it is 29x15, or 435 square feet, which is larger than a one-car garage. Mr. Buda said he is trying to understand how much other space could be used for storage in the current garage with just one car parked in it. He said if the woodshop would be used on the weekends, would he be parking the truck in there. Mr. Dingfelder said no, he would only park his vehicle in there if a snowstorm was forecast. Mr. Buda said effectively, the structure is a woodshop with occasional use as a garage. Mr. Dingfelder said that is correct, and his workbench would have to be moved out of the way in order to park his truck. Mr. Buda asked him what the minimum square footage is that he would need in order to perform his woodwork and have a functional accessory building. Mr. Dingfelder said honestly it is 1,920 square feet. He would love to have a 4,000 square foot building, and he reached that 1,920 number by minimizing everything possible. Mr. Buda asked what the realtor meant in her letter, saying that the house has a non-functional basement. Mr. Dingfelder said the realtor did some homework and discovered his house is one of the few in South Russell that have this type of basement, which is basically a mechanical room with a small, shelved area, and the rest is all crawl space. For him to have a workshop or wood storage in the basement of his home is not feasible. Mr. Buda thanked him for answering all the questions he had at this time.

Mr. O'Toole asked Ms. Matheney if it is correct that the board's decision would be based singularly from the zoning perspective, and anything with the HOA is between them and the homeowner. He asked if the board must consider this complicated situation with the HOA. Ms. Matheney said the board can consider any item, so they could consider the denial by the HOA. However, the Village does not enforce the HOA regulations, bylaws or approval or non-approval letters; they enforce the Zoning Code. It depends on the board as to what weight they give the denial by an HOA, but they can consider it. Mr. O'Toole said since the HOA proposes to represent the collective opinion of the community, that would be something for the board to consider. He addressed Mr. Dingfelder and said he appreciates his creative energy, entrepreneurship and the fact that he is a business owner. Having said that, he is really struggling with the ask. He used the example of someone moving into Kensington Green, which is his neighborhood. The individual has a hobby of collecting and restoring historical fire engines and would like to build a structure to house his historical fire engines, and have it be large enough to have his workshop in there too. He also has a boat that he wants to store. So, while this person's hobby and inventory of historical fire engines, as well as his boat, is very impressive, the neighborhood doesn't have those types of structures to store any large personal effects. Therefore, maybe this isn't the right property for someone who has all these cool things. Mr. O'Toole said he is wrestling as to what extent the community would be expected to accommodate this building that is not traditionally in line with the character of the community.

Mr. Buda said, for full transparency, he is resistant to the application based on the magnitude of the size of the structure. At 1,920 square feet, it is larger than the living space of the home, and almost three times larger than what the code permits for this size property. He told the applicant he

understands his desire for the structure, but his consideration is on the magnitude of the size. He sees the height issue as a direct function of the square footage, as it would be needed to maintain the angle. The larger the building, the higher the peaks. He said on a smaller structure it would be possible to reduce the height of the peak to code, or less than code. He said his primary consideration is the massiveness of the structure relative to the code.

Mr. Dingfelder said the reason they rotated the building to be perpendicular to the road was to limit the view of the structure, and to have the narrower 32' side be what is visible to the neighbors. Mr. O'Toole said he did view the property, and asked the applicant to confirm that the large outbuilding would be next to the house in the side yard. Mr. Dingfelder said yes, that is correct. Mr. O'Toole said, back to the intent of the building, and since he is a small business owner, would the computer workstation be used to manage his business. Mr. Dingfelder said yes, he would use the computer, which is owned by him personally, for business-related tasks such as invoicing, drawings and preparation of quotes. He asked how is that any different than someone who works from home in a spare bedroom. Mr. Mulloy said it's different because it is in their house, and if everyone chose to build an outdoor office, it would change the landscape of the community.

Mr. Dingfelder added that he would love to push the proposed location of the building back by 50', but at the edge of the woods there is a giant berm, a creek and a culvert. There are also underground sewers. To locate the structure further back would not be a smart move financially, due to the associated costs.

Mr. Mulloy asked Mr. Asmar if the HOA bylaws specifically restrict the square footage of accessory buildings. Mr. Asmar said there are no written restrictions, and they defer to the Village. Ms. Matejick said as she drove the neighborhood, she noticed very few sheds, and wondered whether they were just unable to be seen. Mr. Dingfelder said there are quite a lot of detached garages. Ms. Matejick said she did notice that as well. Mr. Dingfelder said his neighbor who will be most impacted has a detached garage.

Mr. Hitchcock said as a board, they are presented with situations asking for variances month in and month out. They have criteria they use to bring objectivity that is inherently subjective. Members may all have different perspectives and opinion. The items specifically called out in our Zoning Code when an applicant is seeking an area variance are, whether your property will yield a reasonable return, whether the variance is substantial, is this variance in keeping with the character of the neighborhood, would the adjoining properties suffer a detriment, whether a variance would adversely affect the delivery of governmental services, whether the applicant purchased the property knowing the zoning would be an issues, whether the applicant could feasibly obviate the issue by some other method, and whether the spirit and intent behind the zoning requirements would be observed if a variance was granted. He said as he reads through those, the one that really strikes him is the significance of the variance, seeing as through the applicant is asking for 275% over what is permitted by Village code, and the accessory structure is basically a second house. He said it is habitable, although he realizes the applicant won't be living in it. Mr. Hitchcock said as he drove through the neighborhood, he saw sheds and detached garages, but nothing like this proposed structure. It would be out of character in the neighborhood. He said that the applicant did say he knew this could possibly be an issue if he bought the house, and he could build a 700 square foot building. He said regarding the HOA's denial, their reasoning is their own, and the board has no say

in that. But as Mr. O'Toole pointed out, that is representative of the will of the neighborhood. He went on to say that he is really struggling with being able to approve this.

Mr. Dingfelder said he reached out to the HOA prior to purchasing the house and saw nothing in their restrictions that would prohibit him from building this structure, so he bought the property thinking it would not be a problem. Mr. Asmar asked Mr. Dingfelder who responded to him last November, as he was completely unaware of that. He said he did not know, but he may be able to look it up in an email.

Mr. Hitchcock asked board members if they had any other questions or comments. Mr. Mulloy said when he saw the plan he was envious, as he has an outbuilding that he uses for woodworking, but it doubles as a shed. He has to move his mower out of the way to do his woodworking. He thinks the plan is a beautiful design, and anyone who shares those hobbies would love to see something like this. He said when he considers this type of request, he puts a lot of weight into how it fits the neighborhood and how it is received by the neighbors. He is not against outbuildings, and he respects people putting money into their house. He does think that the applicant can find a way to get a space for his hobbies that isn't so large and find a compromise that would work with the neighborhood and still give him the space to do what he wants to do.

Mr. Dingfelder asked how he would know what size structure would be approved, without spending thousands of dollars and multiple appearances before the board. Mr. Mulloy said he cannot answer that, he would only be speculating. He said there is an opportunity to look at this and find a different way to achieve his goals, and that adding buffering in the way of landscaping may help as well.

Mr. Hitchcock said the board only considers what is before them, and even if the structure is redesigned, it sounds like he may still have an issue with his HOA. If Mr. Dingfelder redesigns his proposal, there is no magic number. He is sympathetic to the expense and time involved, but he cannot say that a structure of a specific size would be approved.

Mr. Dingfelder referred to his drawing and pointed out the proposed landscaping. He said they tried to do as much as possible to be complimentary to the neighborhood. They had considered building an addition to the house, but the price is much higher than an accessory building would be.

Mr. Axelrod said from his perspective, it isn't about the look of the building, which he knows would look beautiful, and the house and the lot is also gorgeous. To him it is simply the magnitude of the building, and it doesn't conform to code or to anything else in the neighborhood. If Mr. Dingfelder is given permission to do this, he is concerned that one could also be constructed next to him. Mr. Dingfelder asked him if he would object to the structure being an addition and look like an extension to the house. Mr. Axelrod said not at all, if it's part of the house then it's part of the house.

Mr. Hitchcock addressed the applicant and said the board can vote on the application as presented, and that will be that. He advised him that he also has the option of withdrawing his request, if he doesn't think it's going to pass. He said if the board denies this, he is welcome to come back with substantially different plans in the future. Mr. Dingfelder asked if he needed three votes. Mr. Hitchcock said that is correct. Mr. Dingfelder said he has come this far and would like the board to vote.

Mr. Hitchcock said he would like to make a motion for BZA Case #24-03, for the property located at 49 Cascades Drive, to approve an area variance of 1,220 square feet, for an accessory structure, allowing said structure to be no larger than 1,920 square feet, subject to HOA approval and Architectural Review Board approval that may be required. He asked if there were any questions on the motion. Mr. O'Toole clarified the square footage figures. Mr. Buda confirmed that a yea vote will approve the variance, and a nay vote will deny the variance. Mr. Hitchcock said that is correct. Ms. Matejcik seconded the motion. On roll call vote, Andy Hitchcock-No; Mike Mulloy-No; John Buda-No; Martin O'Toole-No; Cindy Matejcik-No. With unanimous vote, the motion was denied.

Mr. Hitchcock said he would like to make a motion for BZA Case #24-03, for the property located at 49 Cascades Drive, to approve a height variance of 2.4' for an accessory structure, allowing said structure to be no more than 17.4' subject to HOA approval and Architectural Review Board. On roll call vote, Andy Hitchcock-No; Mike Mulloy-No; John Buda-No; Martin O'Toole-No; Cindy Matejcik-No. With unanimous vote, the motion was denied.

Mr. Hitchcock told Mr. Dingfelder that they appreciated his presentation, and the feedback has been pretty consistent from the board, from members of the community, and members of the Homeowners Association. He would recommend connecting with them to discuss this in greater detail. If you are able to allay the concerns of the people who would be impacted by this, you may choose to submit another application for the board to consider, along with other testimony. Mr. Dingfelder asked if he made the structure 1,000 square feet, but the same width with the same peak, he would still need the height variance. How would that work since the height was denied this evening. Mr. Hitchcock said he can't guarantee that the height won't be an issue in the future, but as it was presented tonight, it was denied.

Board members complimented Mr. Dingfelder on his presentation and the nice appearance of his structure.

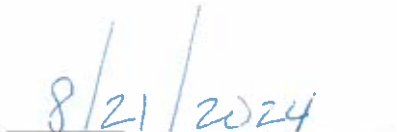
Old Business: None

New Business: Mayor Koons said Kevin Takacs has been sworn in as a Board of Zoning Appeals alternate, and Council now must officially appoint him.

There being no further business, Mr. Hitchcock adjourned the meeting at 8:09pm.



Andy Hitchcock, Chairman



Date



Ruth Griswold, Board Secretary



Date