



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

**August 21, 2024 - 7:00 p.m.**

**Members Present:** Andy Hitchcock, Chairman, Lindsey Self, John Buda, Martin O'Toole, Cindy Matejcik

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

**Visitors:** Wendy and Mark Pace, 807 Bell Rd; Scott and Tiffany Perry, 104 Laurel Rd; Gerry Byrne, 99 Laurel Rd; Derek Eversmann and Becky Pantuso for 104 Laurel Rd

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

Mr. Hitchcock said in order to allow time for the architect for agenda Item 1 to arrive, they will switch the order of agenda items and review Item 2 first.

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 June 18, 2024. There were none. Ms. Matejcik made a motion to accept the meeting minutes as is. Mr. Buda seconded. On roll call vote, Andy Hitchcock-Yes; Lindsey Self-Abstain; John Buda-Yes; Martin O'Toole-Yes; Cindy Matejcik-Yes. Motion carried.**

**Agenda Item 1: BZA Case #24-05:** Mark Pace, applicant and owner of the property located at **807 Bell Road**, is seeking an area variance of 2.5', as applicant shows proposed fence to be 6" from property line, and per Section 4.01(a) of the South Russell Village Zoning Code, fences must be set back at least 3' from the actual boundary line.

Mr. Hitchcock welcomed the applicants and asked them to share a little bit about what they are trying to accomplish. Mr. Pace thanked the board for hearing their appeal and thanked the board members who stopped by their house beforehand. He said the two-and-a-half-foot variance is being requested due to personal and practical considerations. From the personal point of view, they would like to enjoy as much of their yard as possible in a private setting. On the practical side, particularly on the west side of the property, there is a drainage swale that they would like to avoid. Mr. Pace said they have created a nice deck and patio area and would like to enjoy the view and preserve their privacy when out in the yard. He said on the east side, their bedroom window is exposed to both the side street and the neighbor on Laurel, and the fence would provide more privacy on that side as well. His original proposal was to have the fence go right on the property line, but there are some trees, shrubbery and stumps that preclude that, for the most part, from being an option.

Mr. Hitchcock asked Gerri Byrne of 99 Laurel Road if she would like to say anything. Ms. Byrne asked how high the fence would be. Mr. Pace said it would be 6' high. Ms. Byrne said her only concern is not having the fence installed until she has been able to eliminate the ponding issue that was created on her property when they built the new house. She does not want to have the drainage work done after the fence goes in.

Mr. Hitchcock asked board members if they had any questions. Mr. O'Toole said he was happy to get the tour of their property, and he totally understands the project. Ms. Matejcik said she has been to the property a number of times before, and she is familiar with the site. She asked if they did not get board approval, what would they do as an alternative to the rear portion. She asked if they would have the stumps removed or have the fence come further into the property. Mr. Pace said they would have the fence brought further into the property. He said there are additional trees across the rear of the property, but they shouldn't interfere with fence placement. Where there are existing trees, the fence may end up being 3' off the property line, but they would like the option to be up to 6" off the line in the areas that would allow it.

Ms. Self said of course, everyone wants more of their property to be available to them, and asked if there was any physical reason why the fence couldn't be installed 3' off the line and be within code. Mr. Pace said on the west property line, the fence would be in the middle of the drainage swale.

Mr. Hitchcock asked if there would be a gap between the bottom of the fence and the ground. Mr. Pace said there would be a small gap. Mr. Hitchcock said, as a follow-up to Ms. Self's question, have they thought about alternatives, such as natural screening, that would serve the same purpose without requiring a variance. Mr. Pace said his highlighted areas on the plan he submitted indicate where the fence would go without disrupting shrubbery. The fence would be intermittent around the yard to preserve the natural privacy barriers. The fence would line up with those natural barriers and look very nice.

Mr. O'Toole said he feels the request would be more accurately described as have sections of privacy barrier made up of fencing, rather than a fence around the yard. Mr. Hocevar said even a short section of fencing is still considered a fence.

Ms. Matejcik asked if a natural barrier, such as a hedge, could be used by the swale. Mr. Pace said the photos he presented of the view that they currently have indicate it is not the most attractive view. The privacy issue makes the installation of the fence the most practical solution.

Ms. Self said they have been before the board two previous times, once for the build of their new home and again for the shed placement. She asked if they were aware, at the time, that a fence would need to be 3' from their property line. Ms. Pace nodded yes. Ms. Self asked if they had a plan then, or did they just plan to apply for a variance. Ms. Pace said there were a lot of dead trees and shrubs on the property, and at that time, they weren't sure what was going to be kept or not. The property was in need of being cleared out, and they are nearing the end of that.

Ms. Self said to Mr. Hitchcock that she has a little bit of a concern approving a variance based on convenience, or the preference of having more access to areas in the yard. She said everyone in South Russell wants as much access to their property as possible, and asked if the board has approved these types of variance requests in the past. Mr. Hitchcock said he recalls a few fence variance requests over the last few years. He said having walked the property, he does feel there is a practical challenge due to the location of the swale on the west side. Where he is struggling a little bit, and perhaps this is where Lindsey was going, on the north and east property lines, the variance request would be more for convenience. His other concern is that it is not a contiguous fence, but he wouldn't expect them to go that route either. He can't picture how sections of fencing around the yard would look, and he wants to make sure it conforms to the neighborhood. Mr. Pace said there is a gray house on Bell Road, across from Daisy Lane, where they have installed intermittent fencing around the yard, and this is where he got his inspiration from. He said it is beautiful the way they integrated the fence with the natural elements. He doesn't see any downside regarding the neighbors, in fact, they will also have the added benefit of privacy and a nice cedarwood fence that will enhance their property as well.

Mr. O'Toole said while visiting the applicant's property, he noticed some problematic eyesores, such as the busted down rusty fence behind them. He said that is a gross violation of the standards of the community. There is another fence to the west of their property that should be removed as well. He thinks it is appropriate that a Village employee visit the site and have the responsible parties tend to those issues. Mr. O'Toole said, having seen the previous projects submitted by the applicants, he believes everything they have done has made the neighborhood much nicer and added to the value of the community, and nothing seems like overreach to him. They have tastefully made good decisions to have a nice piece of property, especially relative to some of the eyesores surrounding them.

Ms. Matejick asked the applicants and Ms. Byrne if they were part of an HOA. Neither resident belongs to an HOA. Ms. Byrne said in the past when the home at 807 Bell was a rental, she has had to pay for their trees damaging her property. She said her husband is now in a wheelchair and she can't find anyone to do small jobs like cleaning up the eyesores on her property.

Mr. Buda asked the applicants for photos of the intended fence. Mr. Pace distributed new photos to the board. Mr. Buda said the images provided originally appeared to be of fencing that was about 3' tall, which didn't seem to afford the privacy mentioned, although maintenance would be within easier reach. When Mr. Pace said it would be 6', he wanted to see an actual photo of such. He understands the value of shared privacy but asked how 6" off the property would enable maintenance to be done on the neighbors' sides, and asked if they plan to get permission from the neighbors to go on their property. Mr. Pace said they would do just that. In terms of any maintenance, they have been told the fence would be maintenance free for 30 years. He said if there were vegetation that need addressing on the other side, they would clear it out. They have good

relations with their neighbors, and he doesn't see an issue. Mr. Buda said having more room to work with would make it easier. Mr. Pace said it would be more contentious if the neighbors didn't feel they were properly maintaining the fence. He appreciates that the Village must consider these ongoing issues, but he doesn't see any real advantage of maintaining 3' or 6". Mr. Buda said he understands his opinion, but it seems to him that it would be a challenge to provide fence maintenance 6" from the property line, if you had to go onto the neighbor's property, and maintenance issues arise. Mr. Pace said the practical need for a variance on the west side of his property is reinforced due to the drainage swale. Mr. Buda said from his perspective, the top of the berm is about 3' from the property line, and the bottom of the swale is more like 4'. He's not necessarily saying he is an advocate for 3', but it doesn't look like the berm is further than 3' from the west line. Mr. Pace said the existing chain link fence in the northwest part of the property is right on the line, as is the wire fence. Both property owners have maintained these fences. Mr. Buda recalled during his visit that Mr. Pace wasn't sure whose fence it was. Mr. Pace said that is correct, and it's still not clear, but he can say for sure it is on the property line, so it's either/or. Mr. Buda said from the site visit, and what Mr. Pace had shown him, it didn't look like 6" was necessary, and that the fence could be in further than that from the property line. His only hesitation on the west side is that the berm might reduce the capability of installing the fence further from the property line.

Ms. Self asked if there was a variance ever granted to have the chain link fences on the line. Ms. Griswold said she could check on that, but it was unlikely. Discussion followed regarding the age of the fences, and they were thought to be about 40-50 years old.

Mr. Hitchcock asked the applicant to confirm that the chain link fencing on the west side and on the north side are on the property line. Mr. Pace said the existing chain link fence on the west side is on the property line, but the existing chain link fence on the north, or rear, lot line is about 3' off the property line.

Ms. Self asked if they had a surveyor, or anyone, come out to talk about how far in they could install the fence on the west side of the property without impacting the water flow. Mr. Pace said no, they had to have the swale dug four different times, and they really don't want to go through that again. When the silt barrier was up, they thought it would be good to have the fence installed where it had been, but it wouldn't be 3' off the property line.

Mr. Hitchcock asked Ms. Byrne, being the neighbor to the east, if she had any objection to the fence. Ms. Byrne said she does not have any objection, but she would like to remedy the water drainage problem.

Mr. Hitchcock asked Ms. Matheny if the board could approve portions of the fence that are being requested. Ms. Matheny said yes, they could. Mr. Hitchcock said he thinks there is a practical challenge on the west side of the property to putting a fence in a swale. He has concerns about creating water problems there. Also, since there is already an existing fence there, in need of replacement, the new fence would relieve an eyesore. The neighbor to the east has no objection, and that property would be afforded privacy as well. At the rear lot line, it would be practical to put the fence 3' from that property line. Mr. Hitchcock said the homeowners may not want fencing on two sides and not in the back, but they could choose to build or not build. He said the existing fence at the rear lot line is 3' off the property line, and could be replaced as is, since there doesn't seem to

be any practical use of that extra 3' of their yard. The practical need is not as great as the needs on both the west and east sides of the property.

Mr. Hitchcock said he is content to create three different motions, to be voted on independently. He asked board members if anyone had different thoughts.

Mr. Buda said there a lot of positives presented by the applicants. He wished he had known of the property on Bell that Mr. Pace had mentioned, that had intermittent fencing. He would have liked to view that installation. He believes they gave thoughtful consideration to the placement for the most privacy. His biggest challenge is having only 6" from the property line, and not providing more space on their own property to have access to the other side of their fence. He does respect the berm that is above the swale, from both an engineering and aesthetic viewpoint. He is more willing to have it closer to the property line than required by code on the west side, and not as close on the north and east sides.

Mr. O'Toole told Mr. Hitchcock that his comments regarding the rear property line makes sense. On the west side of the lot, the issue with the swale is a very good reason for not having the fence 3' from the lot line. On the east side, as he understood it, they have hedges, trees and other landscaping, and the fence sections would be placed aesthetically within the flow of the natural barrier, as opposed to trying to grab more land for the yard. He would be supportive of following the natural flow of the existing barrier elements on the east side, and do whatever is appropriate on the west side, and to have the fence 3' off the rear lot line.

Mr. Hitchcock asked the applicants, to the best of their knowledge, where the natural barrier is in relation to the east property line. Mr. Pace said they believe it to be right on the property line. There is a Rose of Sharon hedge and four or five trees that are, for all intents and purposes, all on the property line. There is also some wire fencing that is right on the property line. Mr. Pace said from a practical standpoint, most of the fence will most likely be more than 6" off the property line. Their variance request is in case there is an area, even on the north side, that has a tree or hedge that would preclude them from installing the fence on the property line. He said they would like to put it as close to the area as they can, since they want to enhance the area. They would be responsible for maintaining the fence, as well as the property around the fence. As previously stated, they would like to take full advantage of the natural barrier.

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

Mr. Hitchcock said he will make three separate motions, one for the west, one for the north and a third for the east side of the property.

**Mr. Hitchcock said for BZA Case #24-05 for the property located at 807 Bell Road, he will make a motion to approve an area variance of 2.5' to allow a proposed fence to be no closer than 6" from the west property line. Mr. Buda seconded. Mr. Hitchcock asked for any questions or comments on the motion. Hearing none, he asked for roll call. On roll call vote, the motion passed unanimously.**

**Mr. Hitchcock said for BZA Case #24-05 for the property located at 807 Bell Road, he will make a motion to approve an area variance of 2.5' to allow a proposed fence to be no closer**

than 6" from the northern property line. Mr. O'Toole seconded. Mr. Hitchcock asked for any questions or comments on the motion. Mr. Buda said he does not see the need for this, and he feels the code of 3' from the property line would suffice. Mr. Hitchcock asked for roll call. On roll call vote, Mr. Hitchcock said, for the reasons Mr. Buda enumerated, he doesn't think a variance is needed and he is voting No. Lindsey Self-No; John Buda-No; Martin O'Toole-No; Cindy Matejcik-No. Motion denied unanimously.

Mr. Hitchcock said for BZA Case #24-05 for the property located at 807 Bell Road, he will make a motion to approve an area variance of 2.5' to allow a proposed fence to be no closer than 6" from the eastern property line. Mr. O'Toole seconded. Mr. Hitchcock asked for any questions or comments on the motion. Mr. Buda said he still thinks 6" is unwarranted, but based on the argument of the proximity of where the non-fencing material is to the property lien, it sounds like something he can support. Mr. Hitchcock asked for roll call. On roll call vote, Andy Hitchcock-Yes; Lindsey Self said based on the conversation today, she doesn't think it's been demonstrated that literal enforcement of the provision is impossible, and for those reasons, she is voting No. John Buda-Yes; Martin O'Toole-Yes; Cindy Matejcik-No. Motion passed.

Mr. Hitchcock advised the applicants that they have 2/3 of their variance request approved.

Mr. Pace thanked board members for their thoughtful discussion.

**Agenda Item 2: BZA Case #24-04:** Rebecca Pantuso, AIA, applicant for the property located at 104 Laurel Road, owned by Tiffany and Scott Perry, is seeking side and rear setback area variances of 10' for an accessory structure, as applicant shows the proposed structure to be located 10' from the side and rear lot lines, and per Section 4.02 of the South Russell Village Zoning Code, the side and rear setbacks for an accessory structure must be at least 20'.

Ms. Matheney swore in Rebecca Pantuso and Derek Eversmann.

Mr. Hitchcock welcomed the applicants and asked for some background on the proposed project. Ms. Pantuso said they are seeking approval to place a shed closer than 20' to the side and rear lot lines. If they were to place the shed to code, it would be in the middle of their backyard. She named numerous properties in the immediate area that also have their shed closer than 20' from the lot lines. Ms. Pantuso said she believes the current Zoning Code was written well after the sheds went up. She said this request is being sought for practical difficulties, one being is that she feels it devalues the property to have a shed in the middle of the backyard. The other issue is the way the water runs off the property, and for that reason they would like it placed at the high point. Ms. Pantuso said the builder who is doing the project for the Perrys happens to live right next door. He also has a non-conforming shed, and he is in full support of this request.

Ms. Matejcik said she visited the property and asked the applicant if the back portion of the shed would be about where the ivy is. Ms. Pantuso confirmed the general location of the proposed shed and said that it would be no closer than 10' to the property line. Ms. Matejcik said she did notice a lot of uneven areas back there. Mr. Perry said they had to dig an actual swale to divert water from the house.

Mr. Hitchcock said he drove past the location but did not get out of the car. He asked the applicants what was behind their property. Mr. Perry said their property backs up to Countryside Drive. Mr. Hitchcock asked if there was a wooded area between the back of their property and the neighbors behind them. Ms. Perry said the neighbors behind them put a fence on their rear property line, and they have a wooded area between their fence and their yard. Mr. Hitchcock said there seems to be significant natural screening between the properties.

Mr. Buda asked if the rendering of the shed that was submitted with their paperwork is accurate. Ms. Perry said yes, that is the shed style, but it won't be that color. Mr. Buda asked what color it would be. Ms. Perry said it would be natural wood. Mr. Perry said what they would like to do, if it's not aesthetically displeasing, would be to keep the natural wood and have the top be green. He read something that said this technique has been successfully used to have certain accessory structures disappear into the landscaping. Mr. Buda said when he stopped by, he happened to meet with the next-door neighbor who is also the builder and understands his perspective and acceptance of the proposed shed location. He asked if there was any input from other surrounding neighbors. The applicants indicated they have not had any feedback from others.

Ms. Matejick advised the Perrys that the house behind them on Countryside recently sold, and the current fence is not in compliance. She said she wanted the Perrys to know that in the future, the fence at their rear lot line may have to be replaced with one that conforms with the code.

Ms. Self asked Ms. Griswold if all the required neighbors had been notified. Ms. Griswold said yes, and there have been no responses from any recipients of the notice.

Ms. Self said, just so she understands, the reason why they are requesting the shed to be in this particular location is because the only other options are to put it where water runs, which would be a problem, or in the middle of the yard, which would also be a problem. Ms. Pantuso and the Perrys said yes, that is correct.

Mr. Buda said it would be situated on higher ground than the rest of the property, and it would be relatively hidden from the street. He asked Ms. Pantuso why they requested a variance of 10'. Ms. Pantuso said she would like to have the shed 2' off the lot line, but she also likes to keep her variance requests at a minimum, and she would hesitate to ask for more than a 50% area variance. Mr. Eversmann said the shed's location would also be roughly equivalent to neighbor's shed.

Mr. O'Toole said when he visited the property, he noticed two of the neighboring sheds, and thinks this shed's proposed location falls in with the natural flow of the other structures.

Mr. Hitchcock said he also spoke with Brad Cain, and he voiced his support, so there are no concerns there. He asked board members for any further comments, questions or concerns. There were none.

**Mr. Hitchcock said he would like to make a motion for BZA Case #24-04, for the property located at 104 Laurel Road, to approve an area variance for an accessory structure to be located no closer than 10' to the rear and side yard setbacks. Mr. Buda seconded. Mr. Hitchcock asked for comments or questions on the motion. Mr. Buda asked if it could be specified as northern and eastern property lines. Mr. Hitchcock amended the motion for BZA**

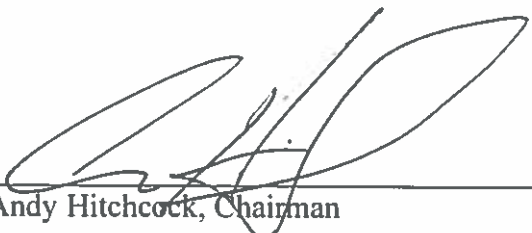
Case #24-04, for the property located at 104 Laurel Road, to approve an area variance for an accessory structure to be located no closer than 10' to the northern and eastern property lines. Mr. Buda seconded. On roll call vote, the motion passed unanimously.

The applicants thanked board members.

**Old Business:** None

**New Business:** None

There being no further business, Mr. Hitchcock adjourned the meeting at 7:54pm.

  
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Andy Hitchcock, Chairman

9/18/2024  
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Date

  
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Ruth Griswold, Board Secretary

9-18-2024  
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Date