



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

**January 17, 2024 - 7:00 p.m.**

**Members Present:** Mike Mulloy, Acting Chairman, John Buda, Martin O'Toole, Cindy Matejcik, Lindsey Self

**Member Absent:** Andy Hitchcock

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

**Visitors:** Kristin Reboul, 105 Southwyck Drive; Alec Singer, 1 Deerfield Drive; Suzy Dueberry, 4 Deerfield Drive, Rebecca Pantuso, AIA, 30 S Franklin St, Chagrin Falls 44022

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

**Mr. Mulloy asked the board members if they had any questions or comments after reviewing the minutes from November 15, 2023. There were none. Ms. Matejcik motioned to approve the minutes. Mr. Buda seconded. On roll call vote later in the meeting, the motion passed unanimously.**

Mr. Mulloy asked the solicitor to swear in anyone who may speak. Mr. Hicks swore in the applicants, guests and Mr. Hocevar.

**AGENDA ITEM 1: BZA CASE #24-01:** Rebecca Pantuso, AIA, applicant for the property located at 3 Deerfield Drive, owned by Robert & Kristin Reboul, is seeking a side yard setback variance of 5', as applicant shows front and rear additions to be 20' from the side property line, and per Section 4.02 the South Russell Village Zoning Code, the side yard setback must be at least 25'.

Mr. Mulloy welcomed the applicants and asked them to begin the presentation. Ms. Pantuso introduced herself and thanked the board for hearing their case. She said the goals of this project are to have Kristin and Rob Reboul's mom live in close proximity to them under the same roof, and to create an independent suite. The existing lot is tight, and the existing house is askew. She understood that no matter what was proposed, a variance would be needed for a house that is already in the setbacks by 4.3'. They are seeking an additional .7' in order to accommodate the proposed addition.

Mr. Mulloy said that since a variance wasn't granted in the past, it became necessary for the applicant to seek a variance for an existing condition, plus an additional minor amount, to bring it to a total of 5' along the east side yard. Ms. Pantuso said that is correct, and the neighbors on both sides of 3 Deerfield Drive are present at the meeting and support the project.

Mr. Mulloy said it is very well explained in the drawings, and confirmed with the applicant that the maximum encroachment would be 5'. Ms. Pantuso said yes, that is correct.

Mr. Mulloy asked board members if they had any questions. Ms. Matejcik asked how old the house is. Ms. Reboul said it was built in 1960. Ms. Matejcik noted the addition of more arborvitae for screening, and asked whose property those trees would be planted on. Ms. Pantuso said technically the arborvitae will be on the Dueberry's property, and they are working well with the Rebouls. She went on to say that she is also working for the Dueberrys on a future project, and she plans to have everything work in concert together.

Ms. Self asked Ms. Dueberry of 4 Deerfield Drive if she had any issues with the proposal. Ms. Dueberry said no, she did not. Ms. Self asked Mr. Singer of 1 Deerfield Drive if he had any issues with the proposal. Mr. Singer said it won't even affect him, since he is on the opposite side, but he would be supportive either way, since the Rebouls have been wonderful neighbors for many years. Ms. Self asked if the properties behind this house would be able to see anything. Ms. Pantuso said they may be able to see something, but not much. Ms. Dueberry said the area behind them is a forested area which is kept in a naturalized state.

Ms. Self said her understanding is that the variance is requested is because the house is already over that line and set at an askew angle, so from an architectural perspective it would look very strange if the addition was kept in the confines of the zoning code. Ms. Pantuso said that is correct.

Discussion followed regarding the original footprint of the house, which has not changed other than relocating an entry.

Mr. Buda wanted confirmation that if any variance were granted tonight, it would only apply to the additions as illustrated, and not the property. Mr. Hicks said if a variance were granted tonight, it would only be for this specific plan. If the property owners decided they wanted to build more additions, they would have to reappear for any additional variances required.

Ms. Self asked Mr. Hocevar if there were any other variances granted for this property. Mr. Hocevar said no, there was not.

Mr. Mulloy said the plan is very straightforward and has a beautiful design. He asked board members if they had any other questions. There were none.

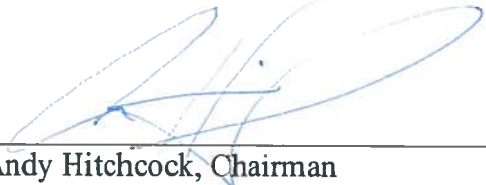
**Mr. Mulloy said regarding BZA Case #24-01, for the property located at 3 Deerfield Lane, he makes a motion to approve a variance of 5' along the east property line to allow a proposed home addition to be no less than 20' from the existing property line. Mr. Buda seconded. On roll call vote, the motion passed unanimously.**

Ms. Pantuso thanked the board.

**Old Business:** None

**New Business:** Mr. Mulloy said since the June Board of Zoning Appeals meeting would fall on June 19<sup>th</sup>, the board must discuss rescheduling the meeting due to the holiday. **After discussion, Mr. Mulloy made a motion to approve the rescheduling of the meeting to Tuesday, June 18, 2024, at 7:00pm. Mr. Buda seconded. On roll call vote, the motion passed unanimously.**

There being no further business, Mr. Mulloy adjourned the meeting at 7:16pm.

  
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Andy Hitchcock, Chairman

5/15/2024  
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Date

  
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Ruth Griswold, Board Secretary

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

**Mr. Mulloy asked the board members if they had any questions or comments after reviewing the minutes from November 15, 2023. There were none. Ms. Matejcik motioned to approve the minutes. Mr. Buda seconded. On roll call vote later in the meeting, the motion passed unanimously.**

Mr. Mulloy asked the solicitor to swear in anyone who may speak. Mr. Hicks swore in the applicants, guests and Mr. Hocevar.

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Mr. Mulloy said the plan is very straightforward and has a beautiful design. He asked board members if they had any other questions. There were none.

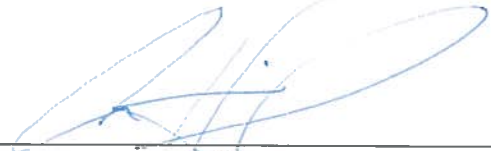
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Ms. Pantuso thanked the board.

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Ruth Griswold, Board Secretary

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**Village of South Russell  
5205 Chillicothe Road  
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BOARD OF ZONING APPEALS  
MEETING MINUTES**

**May 15, 2024 - 7:00 p.m.**

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

**Member Absent:** Mike Mulloy

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

**Visitors:** Frederick Ritt, 406 Hazelwood Drive; Kevin Takacs, 16250 Snyder Road

Mr. Hitchcock called the meeting to order at 7:04pm. Ms. Griswold conducted roll call.

**Mr. Hitchcock asked the board members if they had any questions or comments after reviewing the minutes from January 17, 2024. There were none. Mr. Hitchcock motioned to approve the minutes. Mr. Buda seconded. On roll call vote, the motion passed unanimously.**

Mr. Hitchcock asked the solicitor to swear in anyone who may speak. Mr. Hicks swore in the applicant and Mr. Hocevar.

**AGENDA ITEM 1: BZA CASE #24-02:** Frederick Ritt, applicant for and owner of the property located at 406 Hazelwood Drive, is seeking a front yard setback variance of 7', as applicant shows front porch and awning addition to be 28' from the front property line, and per the 1947 South Russell Village Zoning Code, Article 111, Section 6, the front yard setback must be at least 35'.

Mr. Hitchcock asked the applicant to begin his presentation. Mr. Ritt said he would like to add a front awning to his house, and replace the front walkway. The proposed awning would have a reverse gable with a shed slope on the front, roughly 21' in length, and extend from the driveway to the edge of the front door. He said the new walkway would be paved and pitched so as to eliminate

the current step into the house. Presently, there is nothing there to protect him from the elements, and there are times he can't use the front door. Mr. Ritt said he also feels that this improvement will enhance the look of the house.

Mr. Hitchcock asked board members if they had any questions for the applicant.

Mr. Buda said Mr. Ritt was kind enough to give him a tour while explaining his intended project. He referred to the plan on the media screen, and said the homeowner and he had discussed the intent to improve access to the home by making the height of the new walkway the same the level of his existing step to the door, while also being level at the driveway. Mr. Buda asked Mr. Hocevar if there was anything in the drawings that indicated the patio would be the same height as the driveway where they meet. Mr. Hocevar said he didn't think so, but the main concern of the board would be the encroachment of the overhang. Mr. Buda said since the main reason for the project is accessibility, and the step is being eliminated at the front door, it wouldn't make sense for a step to remain at the driveway. Mr. Hitchcock asked Mr. Buda if his concerns were that the drawings do not show the slope. Mr. Buda said yes, that is correct. Mr. Ritt said the length is 21' and 9' out, and it will be floated. It will be less than an inch every 2', so the slope won't even be noticeable.

Mr. Buda said as he drove through the neighborhood and looked at similar houses, he didn't see any properties that had close to a 9' sidewalk width, and most seemed to be about 3-4'. He said the proposed 9' makes it more of a patio with the awning. He would be amenable to a smaller distance, which would result in a smaller variance. He said he was thinking maybe 5' because the bay window comes out a foot, and the beautiful posts are roughly a foot, which would still allow about 3' of clear access.

Mr. Hitchcock asked the applicant how he decided on the 9' sidewalk width. Mr. Ritt said that is basically where his current walkway ends, and he just wanted to cover the existing walkway. He said some of his neighbors definitely have sidewalks wider than 3', and some people even have decks on the front of their house. If the sidewalk were only 3', there would be no room to walk past a chair. He said if there were an issue, he would consider going to 7', but anything less wouldn't make sense.

Ms. Matejcik asked Mr. Ritt if he was proposing to extend 7' out from the walkway. Mr. Ritt said yes, that is correct. Ms. Matejcik said she agrees with Mr. Buda, and that it would be very close to the road as opposed to some of the other houses in the area. In addition, it would not leave much yard area for his children. Mr. Ritt said his children are all grown, and that it should be taken into consideration that his proposal is for an open porch, and the walkway is still the same distance from the road, it would simply have a roof over it.

Mr. O'Toole said if he is understanding correctly, the current walkway is 9' from the house and the proposed replacement area would not go past the current walkway. Mr. Ritt said that is correct. Mr. Buda said the roof would come out. Mr. Ritt said correct, but no wall is being extended, just the roof. Mr. O'Toole said he feels like the space between the sidewalk and the house doesn't have much utility now. Mr. Ritt said that is true. Mr. Buda said he feels the size of the proposed roof is substantial and much bigger than what he saw in the rest of the neighborhood.



Mr. Hitchcock asked Mr. Ritt if he was part of the Country Estates HOA. Mr. Ritt said no, his property is the first house that is not in their HOA. Mr. Hitchcock asked Mr. Hocevar if that was why he referenced the 1947 Zoning Code. Mr. Hocevar said yes, that was part of the reason. Mr. Hitchcock said when driving up Hazelwood towards Country Estates, there is a noticeable difference, once you pass Laurel, when heading into Country Estates. He feels the proposed improvements to Mr. Ritt's house would bring it closer to the architectural styles in his neighborhood, even though he is on the border of Country Estates. He feels the proposed porch roof will be a welcome addition to the house, as well as conforming with the neighborhood. Mr. Ritt agreed and said it would definitely add to the curb appeal.

Mr. Hitchcock asked Mr. Hocevar if the Architectural Review Board would weigh in on this project. Mr. Hocevar said yes.

Mr. Hitchcock asked Mr. Ritt why he chose to add the covering to the front door and not the side. Mr. Ritt said there would not be enough room, since the side of his house is all driveway. The fence across his drive is only opened to cut the grass.

Mr. O'Toole asked if there was any reason to think any of the neighbors would be unhappy about this addition. Mr. Ritt said no, he talked to them and showed them the drawings. Ms. Griswold said neighboring properties were notified and no communication was received back.

Mr. Hitchcock asked board members and the applicant if they had any further comments or questions. There were none.

**Mr. Hitchcock said regarding BZA Case #24-02, for the property located at 406 Hazelwood Drive, he makes a motion to approve a front yard setback variance of 7' to allow an addition to be 28' from the front property line, subject to the South Russell Village Architectural Review Board approval. Mr. Hitchcock asked if there were any questions on the motion. Hearing none, he asked for a second. Mr. O'Toole seconded. On roll call vote, the motion passed unanimously.**

Ms. Ritt thanked the board.

**Old Business:** None

**New Business:** Mayor Koons introduced Kevin Takacs of Snyder Road as a potential future alternate for the Board of Zoning Appeals. Mr. Takacs said he is looking forward to the opportunity to serve his community.

There being no further business, Mr. Hitchcock adjourned the meeting at 7:22pm.

  
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Andy Hitchcock, Chairman

  
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Date

  
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Ruth Griswold, Board Secretary

  
\_\_\_\_\_  
Date



**Village of South Russell  
5205 Chillicothe Road  
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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.

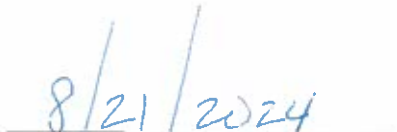
Board members complimented Mr. Dingfelder on his presentation and the nice appearance of his structure.

**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





**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. Matejcek 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**

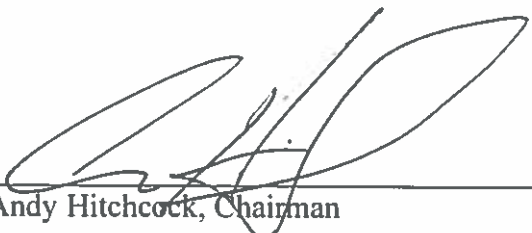
Case #24-04, for the property located at 104 Laurel Road, to approve an area variance for an accessory structure to be located no closer than 10' to the northern and eastern property lines. Mr. Buda seconded. On roll call vote, the motion passed unanimously.

The applicants thanked board members.

**Old Business:** None

**New Business:** None

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

  
\_\_\_\_\_  
Andy Hitchcock, Chairman

9/18/2024  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Ruth Griswold, Board Secretary

9-18-2024  
\_\_\_\_\_  
Date





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

**September 18, 2024 - 7:00 p.m.**

**Members Present:** Andy Hitchcock, Chairman, John Buda, Martin O'Toole, Cindy Matejcik  
**Other Officials:** Bridey Matheney, Solicitor; Dan D'Agostino, Building Official; Mayor William Koons; Ruth Griswold, Board Secretary  
**Visitors:** Patrick Dickinson of Miller's Sales and Rentals

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 and Mr. D'Agostino.

**Mr. Hitchcock asked the board members if they had any questions or comments after reviewing the minutes from August 21, 2024. There were none. Mr. Hitchcock made a motion to approve the meeting minutes as is. Mr. Buda seconded. On roll call vote, Andy Hitchcock-Yes; Mike Mulloy-Abstain; John Buda-Yes; Cindy Matejcik-Yes. Motion carried.**

**Agenda Item 1: BZA Case #24-06:** Patrick Dickinson of Miller's Rental and Sales, applicant for the property located at **102 Fairview Road**, owned by Helen and Walter Peckis, is seeking approval to allow the installation of an ADA wheelchair ramp in the front setback, and per Section 4.02 of the South Russell Village Zoning Code, no structures are permitted in the front yard.

Mr. Hitchcock asked the applicant to begin his presentation. Mr. Dickinson said they have installed an aluminum modular ramp at the front door and ending just before the driveway. There are two platforms, the first one being 5' x 10' and then it makes a turn with a stretch down to the driveway of approximately 20'.

Mr. Hitchcock said it seems pretty straightforward, and asked the applicant if there was anything else he would like to add. Mr. Dickinson said it is temporary modular ramping, installed close to the ground with the supports sitting on pavers. The slope is 1:12. Mr. Hitchcock asked him if the ramp was designed to ever be affixed permanently to the ground. Mr. Dickinson said it was designed by the manufacturer to be freestanding and temporary.

Mr. Hitchcock asked Mr. Dickinson when he learned about the need for the variance. Mr. Dickinson said he doesn't have exact dates with him. He got the lead from the Department of Aging, and he visited the house and met the family. The homeowners decided they wanted to move forward. Mr. Peckis called the city and was told there was a permit required for the ramp. Mr. Dickinson said he then filled out all the paperwork and brought it into the building department, at which time he was told they needed a variance prior to permit approval. Mr. Hitchcock asked if that was all done prior to construction of the ramp. Mr. Dickinson said yes. Mr. Hitchcock asked when the ramp was constructed. Mr. Dickson said he does not have the exact date, but it was roughly 7-8 weeks ago in late July. He had missed the deadline for the last meeting.

Mr. Hitchcock asked the applicant if they have paid all the applicable fees for permits and such. Mr. Dickinson said they still must pay the \$25 permit fee, once it is approved. He said his company must also register as a contractor, because since they do work all over northeast Ohio, their policy is to wait to register until they have permit approval.

Mr. Hitchcock asked Ms. Matheney if the board could grant a variance for a specific purpose, rather than an area. For example, in this case, could the board say the variance would be approved only for a wheelchair accessible ramp, rather than approving an area variance that could result in a different structure in the future. Ms. Matheney said the board would be approving an area variance with respect to this specific wheelchair accessible ramp. She said if there was a transfer of property, and the wheelchair ramp was either no longer needed or wanted, it would have to be removed and the variance would no longer carry with the land.

Mr. Hitchcock asked board members if they had any questions. Mr. Mulloy asked if there has been a precedent set for these types of situations. Mr. Hitchcock said each case is heard on an individual basis, and they don't set precedents. In his 5-6 years on the board, he does not recall seeing an application requesting a front yard variance request, other than for an unusual property where the front of the house faces the side yard, and the side yard is considered the front yard. Other than that, he does not recall seeing anything like this. Mr. Mulloy asked for confirmation that the permit has not been granted and must wait for variance approval. Ms. Griswold said that is correct. Mr. Mulloy asked if the variance is approved and a permit is issued, would an inspection be done on the ramp prior to issuing the permit. Ms. Griswold said the inspection would not be done prior to issuance, but after the ramp had been installed. Mr. D'Agostino said they have recently been to the house and inspected the ramp.

Mr. Mulloy asked the applicant if other property entrances were explored as far as access. Mr. Dickinson said yes, generally the front door is the widest in a home, being a full 36", and the rear doors are usually 32". Having a power wheelchair would necessitate widening the 32" door, and he actually thinks there is a step at the rear door as well.

Mr. Buda asked Ms. Griswold to remind them of the process of notifying the neighbors. Ms. Griswold said residents within 250' of the applicant receive letters approximately 15 days in advance of the meeting, notifying them of the requested variance. There is also a legal notice published in the newspapers at least 10 days in advance. Mr. Buda confirmed that, in response to the notifications, there was just the one email with commentary from a neighbor. Ms. Griswold said that is correct. Mr. Buda said, to the best of the board's knowledge, and since there are no residents in attendance, there is no neighbor who has a negative issue with the ramp. Mr. Hitchcock said that is correct.

Mr. Hitchcock said obviously the homeowner has a need for a wheelchair ramp. The way the email from Mr. Peckis read, it sounded like he may be mobile, and asked Mr. Dickinson if he is up and walking, and the wheelchair aids him, or is the wheelchair an absolute necessity to get in and out. Mr. Dickinson said the homeowner can stand and pivot only with assistance. He added that he wouldn't have been able to attend the meeting tonight because of the stairs. Mr. Dickinson was informed that Village Hall has elevator access on the east side of the building. Mr. Dickinson said Mr. Peckis's attendance tonight would have been pretty challenging in any event, which is why he offered to come on his behalf.

Ms. Matejcik asked the applicant if Geauga County generally reaches out to a contractor first or do they reach out to the city in which the ramp will be located. Mr. Dickinson said Geauga County contacts them, and they install this specific style of temporary and modular ramp. He said a lot of cities do not require a permit because it is a freestanding structure and not attached to the house. He said if asked, many cities will want a permit for it, but many times they just put them up. He went on to say that Geauga County has a lot of resources for people, and his company works all over Northeast Ohio. The Department of Aging has funds available for their residents. Ms. Matejcik said they actually put one in at her mom's house.

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

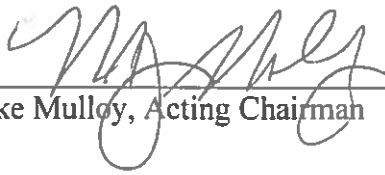
**Mr. Hitchcock said for BZA Case #24-06 for the property located at 102 Fairview Road, he makes a motion to approve an area variance to permit the installation of a temporary ADA wheelchair ramp in the front setback, in its existing location as of 9-18-2024, subject to the filing of an application and payment of all the applicable fees. He asked for any questions on the motion. There were none. Mr. Buda seconded. On roll call vote, the motion passed unanimously.**

Mr. Dickinson thanked the board.

**Old Business:** None

**New Business:** None

There being no further business, Mr. Hitchcock adjourned the meeting at 7:14pm.



Mike Mulloy, Acting Chairman

11/20/2024

Date



Ruth Griswold, Board Secretary

11-20-2024

Date



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

**November 20, 2024 - 7:00 p.m.**

**Members Present:** Mike Mulloy, Acting Chairman, Lindsey Self, John Buda, Martin O'Toole, Cindy Matejcik

**Member Absent:** Andy Hitchcock

**Other Officials:** Todd Hicks, Solicitor; Dave Hocevar, Building Official; Ruth Griswold, Board Secretary

**Visitors:** Colleen Woodbury, 124 Fairview Road; Ann Dunning, 129 Burlington Oval; Stephen Ciciretto, 270 Park Place; Barbara Blake, 26 Annandale Drive; Police Chief Mike Rizzo.

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

Mr. Mulloy asked the solicitor to swear in anyone who may speak. Mr. Hicks swore in the applicants, attendees and Mr. Hocevar.

**Mr. Mulloy asked the board members if they had any questions or comments after reviewing the minutes from September 18, 2024. There were none. Mr. Mulloy made a motion to approve the meeting minutes as is. Ms. Self seconded. On roll call vote, Mike Mulloy-Yes; Lindsey Self-Abstain; John Buda-Yes; Martin O'Toole-Yes; Cindy Matejcik-Yes. Motion carried.**

**Agenda Item 1: BZA Case #24-07:** Colleen Woodbury, applicant and owner of the property located at 124 Fairview Road, is seeking approval for a side yard setback area variance of 5', as applicant shows the garage addition to be 5' from the north property line, and per the 1947 South Russell Village Zoning Code, Section 7, the minimum side yard setback must be 10'.

Mr. Mulloy asked the applicant to explain her project and tell the board why she is asking for the variance. Ms. Woodbury thanked the board for hearing her case. She said she retired from nursing last year, and recently relocated from Michigan. She purchased the home to be closer to her daughter and assist with childcare. The home she purchased is small, and had been neglected, but is also only three miles from her daughter. Ms. Woodbury has been working on bringing everything up to code, and one of her goals is to also have an attached garage constructed. She said this is important to her, because some medical issues that make her prone to falling, and the ice and snow that is part of Ohio winters would be a safety hazard. The original detached garage was beyond repair, and it was also a good distance from the house.

Ms. Woodbury said she began researching her options by sketching out her ideas, talking to contractors and enlisting professional help. She did not want any addition to block her view and sacrifice the sanctuary feeling. She also did not want to curtail any alternatives for future homeowners. She said after learning she needed a 5' variance, they did try to redesign to comply with zoning, but the options were just not realistic or desirable. She also considered a detached garage, but was told that she would need to have the structure even further from the lot line.

Ms. Woodbury said she consulted with her neighbors, who suggested a side facing garage. She realized she would still need a 2' variance, and the amount of concrete she would need to add would be cost prohibitive. Her view would then be the side of the neighbor's garage, and their storage of three trailers in the southeast corner of their yard, as well as their third vehicle. She said she doesn't mind the neighbors parking the vehicles where they are, but she didn't want that to be her only view.

She said her and her architect, Ann Dunning, explored a few other options, but came back to the proposal before the board today as being the most practical and cost-effective. She said her addition would not be affecting her neighbor's privacy, as it would not be any closer to their living space, since their two driveways are next to each other.

Ms. Woodbury said she really enjoys the area; it's a great neighborhood with wonderful neighbors and she feels very safe. She said she has had to put quite a bit of money into the home, but she feels confident investing even more with the garage addition. She said she appreciates the board's kind consideration of her specific circumstances.

Ms. Dunning said she would like to add that there is about a 4' grade change between the existing driveway and the first floor of the house. They had to make that up by adding some steps. She said it's a good-sized garage addition in relation to the house, but she was able to make all the roof pitches the same, to make up that discrepancy.

Ms. Matejcik said she is a little confused because Ms. Woodbury indicated she has accessibility concerns, and she understands that. She asked her how she would enter the house from the garage. Ms. Dunning said the mudroom addition would provide accessibility to and from the garage. Ms. Woodbury said Ms. Matejcik is correct in that no matter what is done, she would still have to navigate steps. She has her laundry room in the basement, and she may have to eventually put in a chair lift. She said she should be able to manage the few steps from the garage. Ms. Dunning said that the new steps will be much wider and safer. The current back door is very unsafe, and when the deck is installed, it will be much safer all around.

Ms. Self asked if any neighbors were present. There were none. She asked Ms. Griswold if any neighbors inquired about the proposal after being notified. Ms. Griswold said she has had no inquiries or comments from neighboring properties.

Mr. Mulloy confirmed that Ms. Woodbury presented the plans to her neighbors to the north at 128 Fairview for their information. Ms. Woodbury said that is correct. Mr. Mulloy said the neighbors then suggested a modification that would relocate the garage to the far south lot line of the property, which would require her to install a driveway to the rear of the home. Ms. Woodbury said that is correct, and the proposal would also eliminate the pleasant view. Mr. Mulloy confirmed that those same neighbors were notified and did not respond. Ms. Griswold said that is correct.

Ms. Dunning explained the difficulty involved in providing the more accessible addition within the parameters permitted. The proposal, with the variance request, barely allows her to clear the steps. Mr. Mulloy noted that the variance would allow a straighter entry into the garage. Ms. Woodbury said when she talked with her neighbors, they didn't sound like they were objecting as much as just offering a different solution. She told them that either way, they would be looking at a garage.

Mr. O'Toole asked Mr. Hocevar if the neighbor's storage of trailers in their yard was a violation that caused an eyesore, or if it was permitted in that community. He said in Kensington Green it would never be permitted. Mr. Hocevar said he would investigate the situation if there was a complaint, because Council and the Building Committee do not want him driving around just looking for violations, apart from obvious eyesores, which are a different matter. Mr. O'Toole asked if there was a complaint, would it then be addressed. Mr. Hocevar said that is correct.

Mr. Mulloy asked on which property the trailers are located. Ms. Woodbury said they belong to her neighbors to the north, and the photo is of the southeast corner of their property. She took the photo looking northeast. She said they do have a double lot, but the area they park these vehicles is the most practical and accessible for them.

Mr. O'Toole said he is not against the proposal but asked if this variance request was necessary because the neighbor's property is not nice to look at. Ms. Dunning said this property is very tight and has a grade problem, which necessitates the variance request. Mr. O'Toole asked if the neighbor's messy yard was a primary reason for the variance request. Ms. Woodbury said no, many things played into the final decisions-making process, and the option of having a rear entry garage involved the cost of adding a concrete driveway, was much more than she would want to spend. She feels the proposal will allow her to gain the most benefit of her property, while addressing her safety concerns.

Mr. Mulloy referred to the photo depicting the view of the neighbor's property, and asked Ms. Woodbury to indicate where her new garage would be in relation to where the former one was. Ms. Woodbury pointed out bricks that she had set as markers.

Ms. Self asked Ms. Woodbury if her neighbors had a one-car garage. Ms. Woodbury said yes, they are one of the few. Ms. Self said she is struggling because there are a lot of similar small homes in South Russell that sit on small lots, and she would imagine everyone in those smaller homes would like to do something to make their homes bigger or would prefer a two-car garage. She is struggling

to set a precedence that a variance is necessary when there are alternatives. Ms. Self went on to say that the applicant explained two alternatives, that may not be preferred, but are alternatives, nonetheless. One would be to have a one-car garage, and the other would be to have a garage pushed further south, and face north. She said it sounds to her like the reason for the variance would be based on a preference. Ms. Woodbury said she would still need a variance of 2', and she couldn't afford the extra concrete required.

Ms. Dunning said the hardship is the grading, as the driveway would have to be dug deeper and deeper as they go towards the backyard. She said it is a small lot, and lots such as this will tend to need variances. She said the smaller lots have a bigger pinch, and it's also going to mean that when these houses turn over, they may want to improve their lot, and to do so they would need a variance. Ms. Self said that is her concern, as people are going to want to be improving their lots, and if they set a precedent that a substantial variance could be granted, it is a little concerning with the houses so close together. Ms. Dunning said she has done a lot of work in Chagrin Falls and has seen the houses getting bigger and bigger and lots getting smaller and smaller. She said this particular area of the Village is really tight, and over the years she has seen a number of variances given that allowed very large houses on small lots. Ms. Dunning said the extent of their request is not like that. Ms. Self said the board must decide based on what the zoning code is now, and given the factors they must consider, she is struggling with the necessity, although she does understand the preference.

Mr. O'Toole said he understands Ms. Self's point completely, and the home, as it stands today, was probably okay for someone in 1954. The life of a community member in the 1950's was probably very different than the life of a community member in 2024. He said at some point it comes to the vitality of the community. He is not inclined to hold this hostage to what was okay in 1954. Ms. Woodbury said for the resale of a home, a two-car garage is a must. Ms. Dunning said the sad part is that if homes aren't remodeled and brought up to speed, nobody is going to buy them, and right now they are going for a premium price. She said it takes a lot to upgrade these older homes, and it is a benefit to the community to have these houses kept up and allow some of the property dimensions to change a little bit.

Ms. Self said she understands completely, but it is not their role to determine if the current zoning code is right, but instead to determine if the variance is necessary.

Mr. Mulloy asked if the proposed garage would be closer to the lot line than the previous garage was. Ms. Dunning said yes, by about 5'.

Ms. Woodbury said she went around the neighborhood and took photos of a number of addresses and examples of variances they were given. Ms. Duning said she is familiar with the properties in question, as she was serving on the Architectural Review Board at the time. There was a lot of jockeying around to get the approvals for the new homes that were built.

Mr. Buda said regarding the size of the proposed addition in its totality, since it is not referenced as needing a variance, he is assuming that the new structure, from a square footage standpoint, meets the code. Ms. Dunning said the lot coverage is 14%, with the addition. Mr. Hocevar said that is correct, and there is only one variance needed.



Further discussion continued and options were discussed as board members viewed the plan on the media screens.

Mr. Mulloy asked board members for any further questions. There were none. He said he appreciates the efforts the applicant put forth by exploring many different options, and he does recognize some of the limitations and restrictions due to grading. He said Mr. Buda made a great point in terms of total square footage on the parcel. He also recognizes that what he thinks is the safest, is to have a straight shot up the driveway, in and out of the garage, and moving it in a different direction would create more of a challenge.

**Mr. Mulloy said for BZA Case #24-07 for 124 Fairview Road, he would like to make a motion to approve a side yard setback area variance of no greater than 5' from the north property line. Mr. Buda seconded. On roll call vote, Mike Mulloy-Yes; Lindsey Self-No; John Buda-Yes; Martin O'Toole-Yes; Cindy Matejcik-Yes. Motion carried.**

Mr. Mulloy congratulated the applicants on obtaining the variance. Ms. Woodbury and Ms. Dunning thanked the board.

**Agenda Item 2: BZA Case #24-08:** Stephen Ciciretto, architect and applicant for the property located at **539 East Washington Street**, owned by RTB Partners LTD, is seeking approval for the following: a) A side yard setback area variance of 5' from the northeast property line, as applicant shows a proposed addition to be 10' from the side yard and per Section 5.02 of the South Russell Village Zoning Code, the minimum side yard setback must be 15' and b) A front yard setback area variance of 36', as applicant also shows the proposed addition to be 64' from front yard and per Section 5.02 of the South Russell Village Zoning Code, the minimum front yard setback must be 100'.

Mr. Mulloy welcomed Mr. Ciciretto, thanked him for his patience and asked him to begin his presentation.

Mr. Ciciretto thanked the board for hearing his case. He referred to the site plan on the media screens, and said it is from the original conceptual drawings he did about 30 years ago for the Park Place office building. Tom Burns owned the property at **539 East Washington**, which is the front building, and has since purchased and merged with the Park Place office buildings, and the 539 building was originally two houses that were converted into offices. He said they have shared parking on the complex, and there is plenty of spaces for all the buildings.

Mr. Ciciretto passed out another site plan to the board members, which more clearly indicated the scope of the variance request. He said the current front setback that is required is 100'. The satellite view of the property indicated the actual current setbacks. The strange thing about it is that the existing building is not compliant to the current side yard setbacks. The variance request is for conditions that already exist. The relatively small additions of approximately 600 square feet would allow the accounting firm to stay in the building.

Mr. Mulloy said essentially Mr. Ciciretto is requesting these variances because the existing footprint is currently non-compliant at both the side yard and the front yard, and the proposed additions would be less non-compliant. Mr. Ciciretto said that is correct.

Ms. Self asked if the addition would be encroaching on the driveway on Park Place. Mr. Ciciretto said no, there would not be any encroachments.

Mr. Ciciretto referred to the letter sent to the board, detailing the square footage of each office building, along with the parking spaces. The code requires one space for every 300 square feet of office space. The total required spaces on the campus, with the additions, would be 120, and there are 120 parking spaces. They do not have any reserved parking on the site, but there have never been any issues, and since the engineering firm moved out of 300 Park Place, they have an abundance of available parking spaces. He said many times, the only two cars on the east side of the 539 building belong to his wife and him.

Ms. Matejcik said when she visited the property, going towards the Chagrin Valley Times, she noticed the drainage system in that area and was curious if that would be impacted at all by the additions. Mr. Ciciretto said that is a good question; the sanitary sewer on Washington is actually higher than the buildings. The pipes that are visible are for all the buildings on the campus, and they all drain into the sanitary lift station. The lift station is much further to the south, and neither of the additions will impact it.

Mr. Ciciretto referred to the proposed changes to the striping of the parking spaces by the street and said by reorienting the spaces and enabling cars pull straight in, should make it a little easier to maneuver.

Mr. Mulloy asked board members if they had any further questions. There were none.

**Mr. Mulloy said for BZA Case #24-08, Item A, regarding 539 East Washington Street, he would like to make a motion to approve a side yard setback area variance of no more than 5' from the northeast property line for the proposed addition. Ms. Self seconded. On roll call vote, motion passed unanimously.**

**Mr. Mulloy said for BZA Case #24-08, Item B, regarding 539 East Washington Street, he would like to make a motion to approve a front yard setback area variance of no more than 36' from the front yard right-of-way for the proposed addition.** Discussion on motion: Mr. Buda asked what distance the variance should be approved for and if approval should be for the whole building. Ms. Self said she didn't think they would need approval for the whole existing building. Mr. Hicks concurred. Mr. Buda thought the approval should only be for the specific addition. Mr. Mulloy said he understands what he is saying, but if there was another phase in the future, they would have to get another variance, and only the application before them is being reviewed. Mr. Ciciretto clarified that both phases of the project are being done at the same time. Mr. Mulloy said essentially, the board is reviewing both additions tonight, and any future additional work would need a new application. **Mr. Buda seconded. On roll call vote, the motion passed unanimously.**

Mr. Ciciretto thanked the board.

**Agenda Item 3: BZA Case #24-09:** Police Chief Mike Rizzo, applicant on behalf of the Village of South Russell, is seeking an area variance for an accessory structure to be located at **1228 Bell Road**, as applicant shows the proposed drone vehicle garage height to be at 18' 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 3' for the accessory structure.

Mr. Mulloy welcomed Chief Rizzo, and said he has reviewed the plans and understands the request but would like to give him the opportunity to explain his proposal. Chief Rizzo said they have been fortunate enough to receive a donation in order to obtain the drone vehicle, photos of which were provided to the board. This vehicle serves as the department's aviation unit. The department received another kind donation from the same donors for the garage, as they wanted their investment protected. The vehicle is just under 11' tall, and the garage door must be 12'. This is why they need a variance of no greater than 3' on the 15' height restriction.

Ms. Self said she was not aware the Village had a drone vehicle and asked if it was ever stored elsewhere. Chief Rizzo said they are part of a multi-jurisdictional unit called Valley Enforcement Group, and a number of departments share resources. He is in charge of the aviation unit, and they have about nine drones that are owned by the Valley Enforcement Group, along with tv monitors for streaming and satellite equipment. He said all this equipment used to be in the commander's personal vehicle before the drone vehicle was donated to them. The VEG had recently put a lot of funds towards their SWAT vehicles and couldn't afford another large vehicle. Before the drone vehicle was donated, the police department often used their personal vehicles to go out on the missions, such as searching for missing children and adults, and they would also accompany the SWAT team.

Ms. Self asked if the drones were launched from the vehicle. Chief Rizzo said the vehicle is only for transporting and storing the drones and other equipment, as well as the running of the command center. When they go on a call, the vehicle is parked, and the drones are launched outside of the vehicle.

Mr. Mulloy said as a point of discussion for the board members, the height of the drone vehicle is just under 11', which requires a 12' garage door, and due to headers and such, they are very close to the minimum height for clearance of the vehicle. Ms. Self said for the record, the police department was not able to choose the vehicle, since the vehicle was donated, so whether or not a different size vehicle was available, is irrelevant. Chief Rizzo said the vehicle was based on the plans and the research of the commander. This vehicle was the only one available at the time of the donation, and there was not a variety to choose from.

Mr. Mulloy asked board members if they had any further questions. There were none.

**Mr. Mulloy said regarding BZA Case #24-09 he makes a motion to approve a total height variance of no greater than 3' for the accessory structure located at 1228 Bell Road. Ms. Self seconded. On roll call vote, the motion passed unanimously.**

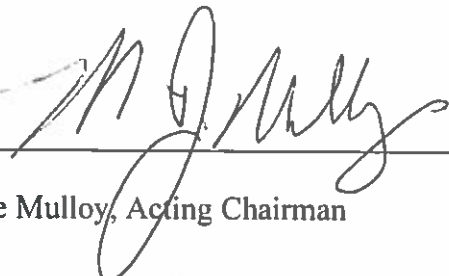
Chief Rizzo thanked the board.

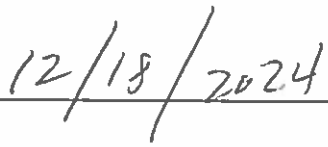
Mr. Mulloy asked if the donation was from a private donor. Chief Rizzo said the new commander of the drone team has family members who owns vehicle dealerships down south. They knew the department needed a vehicle and very generously donated this one.


**Old Business:** None

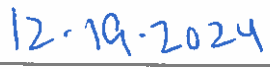
**New Business:** None

There being no further business, Mr. Mulloy adjourned the meeting at 8:00pm.

  
\_\_\_\_\_  
Mike Mulloy, Acting Chairman

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Ruth Griswold, Board Secretary

  
\_\_\_\_\_  
Date



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

**December 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; Ruth Griswold, Board Secretary

**Visitors:** Allison and Brian Kaas, 105 Waverly Lane; Angelo, Michelle, Ella, Cecelia and Ian Mascia, 50 Daisy Lane; Eileen and Mitchell Herman, 52 Daisy Lane

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 applicants, attendees and Mr. Hocevar.

**Mr. Hitchcock asked for a correction to the minutes from November 20, 2024, which had him voting when he was absent. He asked board members if they had any other questions or comments. Hearing none, Mr. Hitchcock made a motion to approve the minutes, subject to the one change. Mr. Mulloy seconded. On roll call vote, Andy Hitchcock-Abstain; Mike Mulloy-Yes; John Buda-Yes; Martin O'Toole-Yes; Cindy Matejcik-Yes. Motion carried.**

**Agenda Item 1: BZA Case #24-10:** Brian and Allison Kaas, applicants and owners of the property located at **804 Bell Road**, are seeking approval for two side yard area variances, as applicants show new house to be situated 15.76' from the west side lot line, and 15.37' from the east side lot line, and per South Russell Zoning Code Section 4.02, the minimum side yard setback must be 25'. Applicants require area variances of 9.24' from the west side yard and 9.63' from the east side yard for a new house construction.

Mr. Hitchcock asked the applicants to begin their presentation. Mr. Kaas said the property at 804 Bell Road is where he grew up. He said the footprint of the proposed new house is smaller than the house that has been demolished, and the side yards were actually closer to the lot lines than the proposed new house.

Mr. Hitchcock asked the applicants how close to the side yards the former house was. Ms. Kaas said although the setbacks weren't the same, she believes the house was approximately 8' from the side property lines on both sides.

Mr. Hitchcock asked Mr. Hocevar if the 1947 Zoning Code came into play. Mr. Hocevar said no, because the house was torn down, any new structure must comply to the current codes. Mr. Hitchcock asked if the current proposal requires any other variances. Mr. Hocevar said no, and the Village Engineer has approved the site plan.

Mr. Hitchcock asked if the previous house was a ranch or a multi-story. Mr. Kaas said it was a ranch, and it did have a two-story addition. Ms. Kaas said the addition was essentially a family room with a loft. Mr. Hitchcock asked if the applicants could comply with current zoning by keeping the proposed square footage but making the house narrower and longer. Ms. Kaas said if they met the side yard requirements it would be very narrow, and since they will have a front-facing garage, it would also negatively impact driveway access. She said the proposal is already a fairly long and narrow ranch.

Mr. Hitchcock asked board members for questions or comments. Mr. Buda asked who decided where to place the proposed house within the lot, relative to the lot lines. Ms. Kaas said that is a good question. She and her husband decided on the placement of the house to be primarily where the former house had been, in consideration of privacy for the neighbors and themselves. Mr. Kaas said the new garage is going to be in the same location as the former garage. Mr. Buda asked if the applicants were aware of the side setback code beforehand. Ms. Kaas said they were under the impression that since they were building within the previous home's setback, that they would be okay. Mr. Buda asked if they had assumed they would meet code. Ms. Kaas said yes, both they and the builder did. Mr. Buda said the builder did not advise them of the current code requirements. Ms. Kaas nodded. Mr. Kaas said they probably should have looked into it themselves. Mr. Buda asked how the code setback was investigated, but he said it seems to have been by not much, or none. Ms. Kaas said they truly thought that since it was inside the footprint of the previous home, that it would be within code. Mr. Buda asked when they learned what the setback code required. Ms. Kaas said when they got the call from the Building and Zoning department advising them of such. Ms. Griswold said the plans were received and the owners were notified on November 19<sup>th</sup>. Mr. Buda asked the applicants if the design of the house had already been laid out when they were advised of the code. Ms. Kaas said yes. Mr. Buda asked if there was anything physical that would prevent a design from fitting within the required setbacks. Mr. Kaas said it would have to be a 50' wide house, since the lot is 102' wide. That would be a very narrow house, and it would only accommodate a one-car garage. Mr. Buda referred to the zoning permit application which indicated that the lot width was 107.17', and at the rear was 104.69'. He said it would be physically possible but agreed that it would be a very narrow house. Mr. Buda asked if the former California ranch house was similar or identical in size and height to the neighboring houses. Mr. Kaas said the old house was probably taller, with the second-story addition. Mr. Buda asked if the new house would be the same approximate height as the previous one. Mr. Kaas said it would be less than what was

there. Mr. Buda referred to the proposed elevations on the media screen, and said he was trying to understand how the new house would fit into the character of the neighborhood, or if it would be significantly taller and therefore appear closer to the neighbors. He asked for verification that the very top of the new house roof would be lower than the former house. Mr. Kaas said that is correct.

Mr. Hitchcock said during his research on the Geauga County website, he found that the new house will be approximately 50-60% larger, but the fact that the roof line will be lower helped him see it a little differently. Ms. Kaas said the way the roof line looks in the top image is deceiving because of the angle. Mr. Hitchcock asked if the dormer up front was the high point. Ms. Kaas said that is correct.

Mr. Hitchcock asked board members if they had any further questions. Mr. Buda said, as a discussion point to the board, his thought was relative to the percentage of the side setback and trying to be in the spirit of the code, his thought process goes to how much is being requested.

Mr. Hitchcock asked the applicants if they had anything they wanted to add. They did not.

Mr. Hitchcock said the board must follow certain criteria to help with the decision-making process when considering any requests for variances. He said board members may weigh things slightly differently, and there are some subjective criteria such as whether the property would yield a reasonable return, and if the variance request very significant. He asked for any other comments from the board.

Ms. Matejcik asked the applicants if the existing driveway would be staying in the same location. Ms. Kaas said the existing driveway will most likely be damaged from the construction, but it will be replaced in the same location. Mr. O'Toole asked what year the demolished house had been built. Mr. Kaas said it was 1958. Mr. Mulloy asked how much further back the new house would be going as compared to the former house. Ms. Kaas said it will not go as far back as the old house was. Mr. Mulloy asked Mr. Hitchcock if his point regarding the square footage was a 50% increase as to what was there, or as compared to the neighbors. Mr. Hitchcock said from what was there previously, which it seems relatively close to the previous home, and the square footage of the houses in that area are generally consistent.

Mr. Hitchcock said, for clarity, the new house will not be moved closer to the street, it would be coming in from both sides and moving back slightly. Ms. Kaas asked if Mr. Hitchcock was saying that the new house will be 50% larger than the former one. Mr. Hitchcock said yes, but that is according to Geauga Real Link, which may not always be accurate. Mr. Mulloy said they may not have recognized the addition on the old house.

Mr. Hitchcock asked if there were any guests present who would like to speak. There was not.

**Mr. Hitchcock said in BZA Case #24-10 for the property located at 804 Bell Road, he would like to make a motion to approve an area variance of 9.24' from the west lot line, so a structure can be built no closer than 15' from the property line. Ms. Matejcik seconded. Mr. Hitchcock asked for any discussion on the motion. After clarification with Mr. Buda regarding the numbers, he asked for roll call. On roll call vote, the motion carried unanimously.**

**Mr. Hitchcock said in BZA Case #24-10 for 804 Bell Road, he would like to make a motion to approve an area variance of 9.63' from the east lot line, so a structure can be built no closer than 15' from that property line. Ms. Matejcik seconded. Mr. Hitchcock asked for any questions or discussion on the motion. Mr. Kaas said he wants to make sure he's understanding the requested variance. Mr. Hitchcock said they have 15' on either side of the house, assuming the second motion passes. After further discussion and clarifications, Mr. Hitchcock asked for roll call. On roll call vote, the motion carried unanimously.**

Mr. Hitchcock congratulated the applicants and wished them luck in their new house. The applicants thanked the board.

**Agenda Item 2: BZA Case #24-11:** Eileen and Mitchell Herman, applicants and owners of the property located at **52 Daisy Lane**, are seeking approval to allow a fence to be 1'4" from the south lot line and per South Russell Zoning Code Section 4.01(4)(a), fencing must be a minimum of 3' from the property line. Applicants require area variance of 1'8" for fence on south property line.

Mr. Hitchcock asked the applicants to begin their presentation. Mr. Herman began by saying their fence extends to the back eastern/southern side of the house by about 6', then extends 95' towards the pond. He said they had a survey when they initially built the addition onto their house, and the side yards had survey stakes. Prior to constructing the fence, they had tried to gain some privacy by planting approximately thirty buckthorns along their side yard. He said unfortunately they all died due to excessive water. When they pulled them out, the holes were filled with water. They then tried a trellis with a lilac bush, but that also died.

Mr. Herman said he noticed that their neighbors, the Udelsons, had erected a fence on the north side of their house, which is the Mascia's side yard. Mr. Mulloy interjected that he needs some context as to where these properties that Mr. Herman is referring to are located. He referred to the overhead view of the area on the large screen and asked Mr. Herman to clarify. Mr. Herman indicated where his house was, the fence, and the Mascia's house. The Udelsons house, south of the Mascia's, was not visible.

Mr. Herman said he talked to Steve Udelson and asked him about the process he followed prior to installing the fence. Mr. Udelson said they had talked to their neighbor about what they wanted to do, and that was it. Mr. Herman said when they put their fence in, they were careful to stay on their own property, but unfortunately, they did not stay 3' off the lot line. He said the gentleman who put the fence in for them is, unfortunately, no longer alive. He said the original stakes are still in the ground, and indicate the fence is entirely on their property. He does not want to get another survey. They don't even go on the other side of the fence, as there is no need to do so. Mr. Herman said the privacy that the fence provides benefits both him and their neighbors. He said they also have two large Great Danes. At the end of the day, they are requesting the variance so the fence can remain where it is, they can maintain the fence on their side, and all parties can continue to enjoy their privacy. Mr. Herman said he did share what they were going to do before they did it, and it's been four years. This summer things just boiled over.

Mr. Mulloy asked the applicant to describe the material and design of the fence. Mr. Herman said the fence is board on board, and they actually cut the pickets off on top so it is not 6' and would be



linear to the house. He referred to the photo and said the Mascias planted the large grasses that are seen on the other side of the fence. Mr. Herman said he also installed a drainage pipe and directed it to their pond to try and eliminate the water on that side of the house in an attempt to ensure healthier plantings.

Mr. Hitchcock asked if any guests would like to speak. Angelo Mascia of 50 Daisy Lane introduced himself, his wife Michelle, and their three children, Ella, Cecelia and Ian and said they are present tonight to voice their concerns. Mr. Mascia said they live next door and the grasses in the photo were actually planted by them prior to the installation of the fence. He said much of what Mr. Herman said is true, with one misstatement. His wife has witnessed Eileen Herman on their property and in their driveway. He said he doesn't know if Ms. Herman maybe thought they weren't home. Both he and his wife have witnessed the Hermans on our property at different times. Mr. Hitchcock said just to be clear, Mr. Mascia is not saying the fence itself is on his property. Mr. Mascia said no, the Hermans have been walking onto their property in order to maintain their fence, or other things they are not entitled to, and they have not been granted permission to do so. He said he has told Mr. Herman to not walk on their property anymore, when he was adjusting some rocks, that he feels was his to attempt to stop the flow of water. The pond is basically part of the water runoff for the entire neighborhood. Mr. Mascia went on to describe in detail the various water issues as they relate to the natural topography of the area.

Mr. Hitchcock said he needs to interrupt Mr. Mascia, as he wants to make sure they stay on topic. He said clearly there are more issues at play here than the board is willing to address; they must address the variance request that is before the board. Mr. Mascia apologized. Mr. Herman said he just wants to say that he has not brought up the water issue, he realizes it is a problem and does not want to make anyone spend money on mitigation. Mr. Hitchcock said the water is not the issue, and they are here to talk about the fence. Mr. Mascia said this is kind of the collaboration piece, because there used to be a significant swale, and if you look at overhead views from prior years on the County website, you can see a huge rock and a lot of vegetation that Mr. Herman removed when he installed the fence. He said at the BZA meeting held in November of 2019, when the Hermans needed a variance for their addition, a board member was basically very concerned about a tree that they agreed to allow the Hermans to have taken down. Mr. Mascia said at that meeting, and reflected in the minutes, they asked specifically that the Hermans would not be permitted to erect any other structure into the 7' allowed side yard setback, since they had significant concerns about any more building being done close to the property line. Mr. Mascia said Mr. Hocevar told him that would not apply to fencing.

Mr. Mascia said now the Hermans are asking for a 1'9" variance for the placement of a fence that they did not get a permit for, nor did they get a permit for the trellis that was there. He feels they are running roughshod over their property, and he is having a difficult time controlling it. Whenever Mr. Herman sees him, he is very angry, and has said to him "What are you looking at? Turn around.", when I had my back turned to him until I heard a pop. My wife witnessed this. The Hermans are very aggressive, and he does not understand why.

Mr. Hitchcock asked Mr. Mascia if he would prefer to have something in between the houses, because it seems like this would be a situation for "good fences make good neighbors", given the acrimony that there seems to be between both parties. Would he prefer to have something in the way. Mr. Mascia said honestly, they are not fence people, and they did not want their tree to come

down. That would be no, we do not want that fence. He said the purpose of the 3' offset rule is for fence maintenance, and the Hermans are behaving in a way that that doesn't matter to them. He honestly has to object to this; he can't continue this.

Mr. Mulloy asked what type of maintenance is being done on the fence. Mr. Herman said they do not go on the other side of the fence. Mr. Herman and Mr. Mascia began arguing and Mr. Mulloy interrupted out of necessity and asked again what type of material the fence is made of. Mr. Herman said it is treated, and it is not stained. Mr. Mulloy asked if it's safe to say that on the other side of that fence is the neighbor's property. Mr. Herman said yes, for about 16". Mr. Mulloy said there's not much space on the other side of the fence to access it anyway, is that correct. Mr. Mascia said the grasses were planted before the fence. Mr. Mulloy said then it is correct, and there is no reason for Mr. Herman to be over there. Mr. Herman said he is under oath, and he will stay off their property. Mr. Mascia asked how trespassing is enforced and what the penalties would be. Mr. Hitchcock said it would be a matter for the South Russell Police Department. Mr. Mascia said if the board okays this, they will be walking around on his property, and he gave more examples of the vitriol between them. Mr. Herman talked about issues with leaves, water runoff and a silt fence, and ended up saying he just wants to talk about the fence.

Mr. Hitchcock said he can't speak for the other four board members, but he doesn't want to see the fence come down as some sort of punitive measure. He feels a better solution would be some sort of compromise. He can't say that Mr. Herman and Mr. Mascia are willing to compromise, but he would suggest that the better solutions for situations such as this, when people just fundamentally disagree on what they want to see, do involve some sort of compromise. He asked both Mr. Herman and Mr. Mascia if, from their individual perspectives, would there be a solution so that the fence doesn't have to come down, and they could live with one another, or are they both at opposite ends of one another.

Mr. Herman said he told Mr. Mascia that the water problems he was having were directly related to Mr. Mascia's gutters, and since Mr. Mascia told him it would be expensive for him to fix, he backed down and has not mentioned it again. That was years ago, and he has never said anything to them about the water again. He said he will agree not to bug Mr. Mascia about the water coming off his house, and he will not come onto their property. He apologized if they think they are mean or whatever, but the reality is that they just want to live in peace like the Mascias do. That is a compromise he could agree to, and he thinks it is fair, because it is not asking for them to do anything that would cost them a lot of money.

Mr. Hitchcock asked Mr. Mascia how he feels about a compromise. Mr. Mascia said he is really struggling with this. They put up the trellis without permission. This was after they didn't oppose them building their addition 3' closer to the line, they let them cut the tree down, and they allowed the Hermans to use their property for delivery of materials. The trellis was the thing they asked the Village to look into, and then all this came out. His concern is that the Hermans behave in a way (unintelligible) and he's going to deny those facts. They may now regret hanging the Grinch sign on their fence to only face them, and he's not trying to get back at them, but the trellis bothers them a lot.

Mr. Mulloy asked if the trellis was something that needed a permit. Mr. Hocevar said yes, and they did obtain the permit. Mr. Mascia said they got the permit after they were caught. Mr. Herman said

the reality is that when the landscaper planted those plants, they were told to plant three on each side. They did not follow the instructions because of a catch basin. When Lowe's called him to say there was an issue with the neighbor, he told them to just move the plants. The plants were moved the next day. He feels Mr. Masica is trying to make them look dastardly and dirty.

Mr. Mulloy said he just wanted to determine if the trellis needed a permit. Ms. Griswold said it did, and the site plan given to the building department for the trellis permit indicated it would be situated 3' off the property line. Mr. Masica said it is not 3' off the property line, and that is why they are here tonight. Ms. Mascia corrected him and said they are here regarding the fence. Mr. Mascia went on to talk about the property stakes, and how he determined that the western south post is essentially 4" from the property line. He said the Hermans refused to do another survey. Mr. Herman has put a fence and a trellis in the area where he received a variance. He is doing these things without doing it the correct way. He was hoping they could get all of this stuff fixed, which would require them to do a lot of work and spend a lot of money.

Mr. Mulloy asked Mr. Mascia what he is asking for when he says, "get all of this stuff fixed", and what exactly is he referring to. Mr. Mascia said he has put up a trellis and a fence without following the rules. Discussion followed as board members viewed the photo on the media screen and indicated where the trellis is in relation to the fence. Mr. Mulloy asked if the trellis was in the ground. Mr. Herman said yes, it is set in the ground.

Mr. Hitchcock asked Mr. Hocesvar and Ms. Griswold if the Village has received an application for a permit for the trellis. Ms. Griswold said yes. Mr. Mascia said not prior to it going up. Mr. Hitchcock asked if the trellis meets code. Ms. Griswold said yes, according to the survey submitted by Mr. Herman, the trellis is 3' off the property line. Mr. Mulloy asked if the survey was completed by a surveyor. Mr. Herman said yes, it was surveyed when they put the addition up. Mr. Mulloy asked if that was what Mr. Herman was operating with when he made the application for the permit. Mr. Herman said yes.

Mr. O'Toole said there is obviously a lot in the air. The reason they are here is that Mr. Mascia and his family are asserting that if the fence were to be 16 more inches in one direction, it would make a big difference in the situation. If it had those 16 more inches, in the event the Hermans felt the need to go do some maintenance over there, they could operate in a 3' no man's land where they would not step on anyone else's property. So, if the fence was moved 16", there would be a 3' area that they could use to maintain their own fence. He said the story about the Grinch sign is interesting but maybe not pertinent. The challenge here is the fence is in the wrong place by 16", and that is the topic on the table. Mr. Buda told Mr. O'Toole that they get his point, but it is actually 20". Mr. O'Toole thanked him for pointing that out. He said all the other topics between the neighbors must be distilled down to what is pertinent. So, the question is, does the fence need to be moved because it is 20" in the wrong direction, acknowledging that that would probably have no outcome on all the other energies in the air. That is what the board must vote on, and he proposed a vote be taken.

Mr. Mascia asked if there is an appeals process if the variance is granted. Ms. Matheney said the appeal must be filed with the Court of Common Pleas because you are aggrieved by the decision and are a contiguous property owner. Ms. Mascia said he hopes the board understands the impact of this. If people just go about doing things without following the rules, the Village is putting it on their homeowners to basically sue their neighbor. Why have the permitting process, when people

with the means to get what they want do so at the expense of the neighbors. He said there is also no enforcement against trespassing. He said we cannot function in this without some way of stopping this nonsense. He said he feels like he and his family are being harassed. There must be something in the permitting process that requires compliance.

Mr. Mulloy said you never answered his previous question, which was "What are you asking for?". Mr. Mascia said he thinks the Hermans should have to do what everyone else does and follow the rules. Mr. O'Toole asked him if he wants the fence moved or removed. Mr. Mascia said yes, he wants the fence either removed or moved. Mr. O'Toole said the fence went in about four years ago, and after four years it has reached the point where it is not acceptable. Mr. Mascia said they are continuing, and doing constant construction, work and changes, and what's next, which loophole will they find next. Mr. Mulloy said they are expected to go through the permitting process. Mr. Mascia said they ignored it twice. Mr. Mulloy said that is not what we are here to discuss. Mr. Mascia continued to talk about past instances between them and the Hermans. He said he feels like he needs to get a surveyor and a lawyer, and he hasn't done anything wrong.

Mr. Hitchcock asked Mr. Mascia and Mr. Herman if they agree on where the lot lines are. Mr. Herman said yes. Mr. Mascia said he agrees in certain areas but feels some of the stakes are incorrectly placed. Mr. Hitchcock said fundamentally, if we all walked over there today, both parties would point to the lot line and agree on something. Mr. Hitchcock said this is a single point of agreement here, and a good place to start.

Mr. Hitchcock asked Mr. Buda for his questions or comments. Mr. Buda said a lot of his questions have been answered, so he won't have to go through the majority of them, but he does have a few. He asked Mr. Herman who decided the distance of the fence in relation to the property line. Mr. Herman said it was the gentleman who put the fence in. Mr. Buda referred to the photo of the fence which showed ornamental grass behind it, and asked approximately what percentage of the year the grasses are there. Mr. Mascia said they cut them down after summer, so less than half. Mr. Buda asked if the grasses extend the full 95' length of the fence. Mr. Mascia said yes. Mr. Buda asked Mr. Herman what would happen if the fence was removed. Mr. Herman said it would be a hardship, they spent a lot of money to have the fence put in, and they would lose their privacy, which would be a big deal for them. They put a lot of money into their yard and sit out there a lot. He said he and the neighbors both enjoy their privacy. Mr. Buda asked Mr. Mascia what would happen if the fence was removed. Mr. Mascia said the installation of the fence significantly diminished the way their property functions. Their entire fan shaped patio is now pointed toward the fence instead of the pond. He understands that Mr. Herman bought the property and can put up a fence if he wants to, but he asks that the rules are followed. Mr. Buda said it's not just the fence for Mr. Mascia, even if the fence was removed, relevant to his question, he still has some concerns about water runoff and grading. Mr. Mascia said he would love to get a solution to that problem. Mr. Buda asked him if he was agreeing with his statement, that even if the fence were to be removed, there would still be a non-fence issue. Mr. Mascia said he loved that six-month period of time when they enjoyed privacy and were not having to chase people off their property. Mr. Buda said if the fence were still there, but within code, would that be satisfactory. Mr. Mascia said it would not be a win in any case. A win for them would be to have the arbor taken down, two pieces of the fence on the right-hand side taken down and have Mr. Herman work together with them to address the water problem. He said right now anything Mr. Herman does is always working towards their property line, and he doesn't want them trespassing onto their property.

Mr. Buda asked Mr. Herman to correct him if he is wrong, but he wants to keep the fence, is that correct? Mr. Herman said yes. Mr. Buda told Mr. Mascia that he is unclear as to if he wants the fence or not. Mr. Mascia said if it was their choice, there would be no fence.

Mr. Hitchcock asked Ms. Matejcik if she had questions or comments. Ms. Matejcik said she visited the property and spoke to some of the neighbors, much of what was said tonight, she had already heard and has had the chance to process it all. She had no further comments or questions.

Mr. Hitchcock said when he had asked earlier about a compromise, it was not forthcoming. Since then, he has heard that both parties have a water problem that could be obviated by addressing the fence situation somewhere. He suggested taking a 30 to 60 day pause and having the two of them have some sort of conversation to figure things out, then come back before the board. Mr. Herman said he has already given them his conversation, and that is to just leave the water alone. In reality that is the fairest thing, he's not going to say anymore, that's his compromise and they just want to put this to bed. Mr. Hitchcock said, to be clear, Mr. Herman has a fence that is not in compliance with the code, but he is unwilling to try and reach a compromise. Mr. Herman said in reality, variances are being given all over South Russell for fences that are not far enough away from the lot line. And on the other side of the Mascias, their fence is on the property line, does that mean she has to go and get a variance or have the fence taken down also. You can't target one neighbor and not the other. It would be extremely expensive if he had to have the fence moved, probably \$5,000-\$6,000, and it would also be expensive for the Mascias to have the water issue resolved. He'll let the board decide; if they want to attack him, that's fine, he knows who he and his wife are. The reality is, they just want to live in peace, and he's sure the Mascias do as well.

Mr. Mulloy said he doesn't want anyone to feel as if they are being attacked, but it is important to stay on topic and only discuss what is relevant tonight. Mr. Mulloy said his observations are that Mr. Mitchell did go about it the way one would be expected to do so, obtaining a survey and applying for a permit for the trellis. As for all the other things regarding the water, so many people within the community are dealing with similar situations, having differences and having to work together...none of those issues are part of this conversation. It's really about the fence and its location. He always encourages residents and neighbors to compromise and work together.

Mr. Mulloy asked Mr. Hitchcock what actions would be taken if the variance request was denied. Mr. Hitchcock said Mr. Herman would have 30 days to either move the fence or take it down. He said weather or other circumstances may come into play. As an alternative, Mr. Herman could appeal to the Court of Common Pleas. If the vote is the other way, Mr. Mascia would have the same redress.

Mr. Herman said by taking the fence down and moving it a foot and a half away or whatever, the reality is, it will not change the view or anything else. Mr. Mulloy said, to be clear, if Mr. Herman is expected to take the fence down, he could apply for a permit and place it at the appropriate distance, without the neighbor having any say in how it's done and put it right back up. Mr. Mulloy said his consideration would be the hardship to do so.

Mr. Hitchcock asked board members for any other comments. Ms. Matejcik said she is wondering if assessing Mr. Herman a fine and allowing him to keep the fence where it is would be an acceptable

compromise. Mr. Hitchcock said the Board of Zoning Appeals is not punitive in that respect; they do not have that power.

Mr. Mascia asked Ms. Matheney what happens to Mr. Herman if he does not do what the board decides. Ms. Matheney said if the board denies the variance request and Mr. Herman has not appealed the decision, the enforcement is usually through the police prosecutor in Chardon Municipal Court, or possibly in the Chardon Court of Common Pleas. It would be an injunction to remove the fence. Mr. Mascia thanked the board for their time and said he appreciated their guidance. He said he knows they realize he is a little upset about this whole thing. He felt he had to come to the meeting tonight, because he just can't have this. Mr. Herman asked Mr. Mascia if he was going to go to the neighbor on the other side of him and have her do the same thing on her side. Mr. Hitchcock said his questions about other fences on other properties are irrelevant to tonight's meeting. Mr. Herman said unfortunately it doesn't seem to be possible to ever satisfy the neighbor.

Mr. Hitchcock said the board has heard both sides of this and have asked their questions. Before he makes a motion, he asked board members if there was anything else they would like to include, discuss or convey. There were no further comments.

Mr. Mascia felt the need to share the City of South Euclid's procedures regarding fence permits.

**Mr. Hitchcock said for BZA Case #24-11 for the property located at 52 Daisy Lane, he would make a motion approve an area variance of 1'8", so an existing fence can remain in place on the south property line, no closer than 1'4" from the property line. Mr. O'Toole seconded. Mr. Hitchcock asked for discussion on the motion. Hearing none, he asked for roll call. On roll call vote, Andy Hitchcock: Mr. Hitchcock said he is a little frustrated that there wasn't a willingness to compromise and there isn't a better solution in the offing. That being said, he is uncomfortable putting the aggrieved party on the defensive. He is voting No. Mike Mulloy-Yes; John Buda-No; Marty O'Toole-Yes; Cindy Matejick-No. Motion denied.**

Mr. Herman said he is very frustrated, and the reality is that this process has been horrible, and this has not been fun. He said if they are telling him to take down the fence in the spring or summer when he can do it, and put it 3' off the line, he'll just do it. It will cost him money; this is just ridiculous and shame on South Russel for having this antiquated 3' rule for fencing, when the neighbor has grasses that are 12" off his property. He doesn't see what the difference is.

Mr. Hitchcock said given the time of year and the realities of what it may take to move the fence within the standard 30 days, he asked Ms. Matheney if the board or the building department has flexibility for enforcement. Ms. Matheney said the 30 days is general practice for enforcement and is not in the code, but that time period should be given for an appeal. If there is no appeal, the Village would issue a letter indicating that the fence must be taken down within a time period established perhaps by the Building Committee. She said she doesn't think it should necessarily be longer than 6 months.


Mr. Herman expressed frustration that the ornamental grasses are not held to the same 3' offset standards. Mr. Hitchcock said there is no guidance in the code as to where plants go. Mr. Mulloy said natural plantings and barriers can typically be on the property line. Mr. Herman said he will take care of it, he'll come in and get a permit for the fence to be 3' off the line. He said in reality

this has all been a bunch of hogwash, they have done nothing but improve their property, and they are being targeted and a lot of things are being said about us. He said this is an unfair process, and it is unfair as to how the Mascias have portrayed them. He said if he does have to take the fence down, he's going to need some time to do that. Mr. Hitchcock asked Ms. Matheny details about the appeals process, which she shared. Mr. Herman asked the board how many times they have denied a variance like this. Mr. Hitchcock said it happens. Mr. Herman said how often, and under what circumstances, and was this denied because he is not sharing the view of his pond with the neighbor. Mr. Hitchcock said he appreciates Mr. Herman's frustration.

Mr. Hitchcock asked if there was any **Old Business**. There was none.

Under **New Business**, Mayor Koons swore in both Andy Hitchcock and Marty O'Toole for another term on the Board of Zoning Appeals.

There being no further business, Mr. Hitchcock adjourned the meeting at 8:37pm.

  
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Andy Hitchcock, Chairman

Feb 19, 2025  
Date

  
\_\_\_\_\_  
Ruth Griswold, Board Secretary

2.25.2025  
Date