



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

January 15, 2025 - 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 Bill Koons; Ruth Griswold, Board Secretary

Visitors: Mitchell Herman, 52 Daisy Lane; Rick Kondas, 139 Fairview Rd; Katie and Bill Stone, 137 Fairview Rd; Rebecca Pantuso, Heather Davies, 402 Reserve Tr; Bina Mehta and Dave Leone, 402 Reserve Tr; Rob Myers, 120 Ashleigh Dr; Colleen Woodbury, 124 Fairview Rd; Tanner and Anneke Payne, 128 Fairview Rd

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

Mr. Hitchcock said the first order of business is to review the minutes from the last meeting on December 18, 2024. It has been brought to his attention that there is an item that needs correcting before Ms. Griswold can complete the minutes. They can then be reviewed and approved at the February meeting. He said a motion was made for **804 Bell Road** that did not get a second, so he will reread the motion, which was unanimously approved, and get a second.

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. Hearing none, he asked for roll call. On roll call vote, the motion carried unanimously.

Mr. Hitchcock asked Ms. Matheney to do the swearing in.
Ms. Matheney swore in the applicants, guests and Dave Hocevar.

Agenda Item 1: BZA Case #25-01: Rob Myers of Myers Homes, applicant for the property located at 120 Ashleigh Drive, owned by Scott and Kelly Noble, is seeking approval for an area variance of 8' for the height of an accessory structure. The height of the proposed pool house is 23' to the top of the cupola. Section 4.02 of the South Russell Zoning Code allows a maximum height of accessory structures to be 15'.

Mr. Hitchcock asked the applicant to provide an overview of what he would like to accomplish. Mr. Myers said his client has hired them to build a pool and pool house. The proposed pool house will have a limited kitchen, a small living area and a storage room for the pool equipment and winter storage of outdoor furniture. He said considering the length of the pool house, they wanted to break up the roof element with a cupola. It will be framed in so that the ceiling of the living space will actually go up into the cupola and the windows will be seen from underneath.

Mr. Hitchcock asked board members for comments or questions. Mr. Buda asked the applicant if the cupola was functionally necessary. Mr. Myers said the way the pool house is designed right now it is, since it is incorporated into the framing of the ceiling. Mr. Buda asked if they didn't have the cupola, could it be framed differently. Mr. Myers said yes. Mr. Buda said so the cupola is primarily for aesthetics and light purposes. Mr. Myers said yes, that is correct.

Mr. Hitchcock said for clarification, to the top of the roof line, the proposed height would be 18'11", and the cupola itself would add another 4'1". Mr. Myers said yes, roughly. Mr. Hitchcock said it would be 23' to the top of the cupola. Mr. Myers said yes.

Mr. O'Toole asked if they embarked on the project even though they knew it was not consistent with the zoning. Mr. Myers said as they began designing the structure, they wanted the architecture to be pleasing and not make something that looks ugly, flat or squatty, while keep everything proportional. He said that is in keeping with what the goals are for all different rules within city codes, which is to not have ugly things built. They want the architect to have a little bit of leeway to incorporate good design elements.

Ms. Matejczik said if they didn't have the cupola, could they put another peak lower into the roof design to make it aesthetically pleasing but not quite so high. Mr. Myers said if they wanted to have it conform to the code, they would have to flatten the pitch, and the length and width of the building would cause it to look squat. Mr. Myers referred to the site plan and said when designing the pool house, they considered the relationship of it to the fairly decent size house. The house has some high roofs, and their goal was to have the pool house compliment the overall design of what is already there.

Mr. Buda asked if the roof height, and therefore the cupola height, is dominated by the size of the structure to maintain proportions. Mr. Myers said yes, it comes down to math, and the length and width of the structure determines the length of the rafters, which go up a certain height at a certain pitch. They didn't want the pitch of the pool house to be extreme, but they wanted it to be enough, so it didn't clash with the roof pitches on the house. Mr. Buda asked if the building was smaller, could they maintain those proportions and bring things down, maybe not to code. Mr. Myers said if they made the structure smaller it would not be able to have what the homeowners want. Mr. Buda said by that law of logic, they could make it as large as the house, if it would fit on the property. He said functionally, is there anything that would prevent the structure from being smaller in footprint.

Mr. Myers said absolutely; to try and incorporate all the pool equipment inside, along with the small living area that relates to the pool the way the homeowners want to use it for entertaining and family gatherings. Those things did drive the proposed size of it, and what limited the size of it was cost. The size of the building was determined by balancing those features. Mr. Buda said a portion of the building is truly functional for the maintaining of the pool, and the balance is for living. Mr. Myers said it is not habitable per se, but there would be a little kitchenette, bathroom and a small changing area.

Mr. Hitchcock asked if their intent was to have the design of the backyard pool house and roof pitches in keeping with the design elements of the main house, just shorter or lower than the main house roof pitch. Mr. Myers said yes, they are trying to use those elements and incorporate this into the overall property so that the structures relate to one another in a holistic manner. Mr. Hitchcock said it looks as if the structure will be set back into the woods a bit, and asked if they will have to take down some trees. Mr. Myers said a couple of the trees will have to be taken down. The client wanted the pool a specific distance from the house for the safety of grandchildren. The edge of the pool is only 35' from the house. There are only two good size trees that are going to be affected.

Mr. Mulloy referred to page 8 of the plans, showing 35'9", plus or minus, for the existing roof ridge on the main house and asked if that was correct. Mr. Myers said yes. Mr. Mulloy said the slope on the new structure does match the main house.

Mr. Hitchcock ask board members if there were any other questions. Hearing none, he asked guests if they had anything else to add. Hearing none, Mr. Hitchcock made a motion for BZA Case #25-01 for the property located at 120 Ashleigh Drive, for an 8' height variance for an accessory structure, to permit a pool house with a height not to exceed 23' to the top of the cupola. Mr. Mulloy seconded. Mr. Hitchcock asked for any discussion on the motion. Mr. O'Toole said he thinks this is different than a lot of things seen by the board. Very often when things come before the board, there are reasons the applicants need the variance, due to accessibility issues or other needs, but this seems to be just what the homeowners want. What they want is permission to build a structure that satisfies how they want to entertain and develop their property, while cognizant that it is not within the code for the community. Mr. Myers said that is partially true, but the part of the code that limits the 15' height on accessory buildings is not targeted at structures such as this; it is more geared to structures such as sheds. He feels the code is a little behind the times regarding as to how people are going to use properties going into the future. Mr. Myers said that is something that maybe should be looked at, but for right now, the fact is that more and more people are going to be doing this to their properties, and not just in South Russell, wanting to improve existing homes that run afoul of codes that were written in the 70s. Mr. O'Toole said he would like to build on that. In this community, there really is a diversity as to the types of streets, neighborhoods and homes. He said what might be a smart common denominator for the community overall would be to have different zoning for different areas. Mr. Myers said if this was in an area with smaller lots, a project like this couldn't go forward, but this is an almost 4-acre lot with significant privacy, and this project will add value to the home.

Ms. Matejick asked if they could vote separately on the cupola. Mr. Hitchcock said if this were to be denied, and it came back without a cupola, they would revisit a 3' and change variance instead of an 8' variance. Mr. O'Toole asked about history of other instances such as this. Mr. Hitchcock said every case is judged on its merits, and properties on smaller lots are viewed differently than those

on larger lots. There is an area of subjectivity, and the board has to consider those elements. Mr. Mulloy asked if there were any neighbors present, or if any neighbor had provided feedback. There were no neighbors present, and none had provided feedback.

Mr. Myers said the whole reason to have a Board of Zoning Appeals is for consideration of the appropriateness of a particular case. Ms. Matheney confirmed that Ashleigh was located in R-1A. Discussion followed. Ms. Matheney said there are usually different heights for accessory structures in different districts, and that has already been considered. She said there is also the opportunity to ask for an amendment to the Zoning Code.

Mr. Hitchcock asked for any further discussion on the motion. Hearing none, he asked for roll call. On roll call vote, Andy Hitchcock-Mr. Hitchcock said he is voting yes, due to the size and the location of the property being very distant and removed, the impact to the neighbors is minimal, and the structure is in keeping with the consistency of the house. Mike Mulloy-Yes; John Buda-Yes, and he said the only reason he is voting for the variance is because it is behind the house and can't be seen from the street. Martin O'Toole-Yes; Cindy Matejcik-Yes. Motion passed.

Mr. Myers thanked the board.

Agenda Item 2: BZA Case #25-02: Rebecca Pantuso of Pantuso Architecture, applicant for the property located at 137 Fairview Road, owned by William and Kathryn Stone, is seeking approval for the following: 1) an area variance of 8' for the height of the proposed detached garage, shown to be 23'. Section 4.02 of the South Russell Zoning Code allows a maximum height of accessory structures to be 15'. 2) a side yard setback area variance of 10' as garage is shown to be 10' off the side yard. Section 4.02 of the South Russell Zoning Code requires accessory structures to be a minimum of 20' off all property lines. 3) an area variance of 638 square feet, as proposed structure is shown to be 908 square feet, and Section 4.01(b)(1) of the South Russell Zoning Code allows 500 square feet per acre for accessory structures. Property is .54 acres, allowing 270 square feet for an accessory structure.

Mr. Hitchcock asked who was present tonight to begin the presentation. Bill Stone introduced himself and his wife Katie as owners of 137 Fairview Road. He said they own three lots in the Chagrin Falls Heights subdivision. Each lot is .18 acres, and they are non-conforming lots. There's not much they can do within the current code. Most of the houses in the subdivision sit on one, two or three lots. Mr. Stone said they have lived there for about 20 years; he is a car enthusiast, and he has always wanted a three-car garage. He has had to store his cars in other places. Years rolled by and during the last couple of years they have had to decide whether to move to a place that had an existing three car garage or stay in South Russell. Their current architect, Becky Pantuso, worked with them to create designs and the result is what is before the board tonight. He said their current two car garage was built in the 50s, and they get a lot of flooding in it, since it is one of the lowest spots in South Russell. Mr. Stone pointed out a buried drainpipe noted on the site plan. He said they didn't know about this easement when they bought the house. They would like to demolish the current garage and relocate the new garage to a drier area and reconfigure the driveway. The area of the former garage would become nice green space.

Mr. Stone said they have talked to many of their neighbors and shared the plans with them. He introduced his neighbors who were in support of his project and at the meeting. He had three letters of support as well.

Mr. Hitchcock said there are three separate lots, and the one possibly being infringed upon is vacant. He asked Ms. Matheney if the board could reasonably exclude the extra .18 acres from the available acreage. Ms. Matheney said if it is a separate parcel, it could be deducted from the other two lots, making the total lot area .36 of an acre. Mr. Hitchcock said he understands Mr. Stone owns all three lots, and looking at the map, the home is on the middle of the three, and the existing garage is partially on two of the three lots. He feels he can't reasonably include that vacant separate lot as part of the acreage, and this limits Mr. Stone further as far as square footage of the accessory structure.

Mr. Hitchcock asked how tall the current house is, as he is trying to get a proportional gap between the existing residence and the proposed garage. Rebecca Pantuso, architect, said she doesn't know that number off the top of her head, but she will try and find the answer to that question. Mr. Hitchcock said the Stones have a very different style of house from the rest of the neighborhood, at least on Fairview. He said he is trying to determine if the accessory structure will look like a second house. Ms. Pantuso said it will definitely not look like a second house. Mr. Hitchcock thanked her and said he appreciates that response. He asked if they knew how tall the garage was on the next-door neighbor's property. Mr. Stone said that the garage is a couple feet shorter than what their proposed garage would be, and the new structure would also sit lower than theirs, but it still may look a foot or two taller.

Mr. Hitchcock asked Mr. Stone if the vacant lot that he would be encroaching on is buildable. Mr. Stone said as far as he knows, yes, it is a buildable lot, and if he were to sell his home, this lot could potentially have a house built on it instead of his garage. Mr. Hitchcock said that is one of his concerns, at some point in the future, some vacant lot owner may be infringed upon without really having a say. Discussion followed regarding clarification of the location of the lots, and the potential ramifications of the encroachment onto the buildable lot. Mr. Hitchcock said if the lots were consolidated, it would address his concern. Mr. Stone said he would have no problem consolidating the lots if this project were approved.

Ms. Pantuso said there would be two garages next to each other, of reasonably similar scale. She said they could have designed the new garage with a flat roof and comply with the code, but the aesthetics would be negatively impacted. They chose the 12:2 pitch because it is so appropriate to the style of the house. She said she did work hard to try and pull the design down by creating a reverse gable. If she had designed a three-car garage with one gable, it could potentially be higher than the house.

Mr. Buda said Ms. Pantuso had indicated that the new garage would be similar to the one next door, but it would actually have about a 30% larger footprint, since it is a three-car garage instead of a two-car garage. Ms. Pantuso said that is a fair statement. She did push the third bay back a bit to try and make it look more comparable.

Mr. Buda clarified that the total acreage of all three lots came to .54 acres. Mr. Buda referred to the topographical site plan, and asked if there would have to be fill in order to level the ground. Ms.

Pantuso said yes, and pointed out the lines on the map indicating the areas that she would choose for the driveway and the garage. Mr. Buda said since they will be utilizing fill dirt for the project, would it make sense to level off the area where the existing garage is in order to try and alleviate the flooding problems. Ms. Pantuso said anyone would be excited to have measures taken to address the flooding problem, but she would defer to an engineer to assess the situation. Mr. Buda said he was just exploring options that would enable the garage to be built within setbacks. Since they would be using fill anyway, the need for the side yard setback variance could be obviated if the new garage was in the same location as the existing garage. Mr. Stone explained that they would like to start entering on the first floor, and not having to go in through the basement. The proposed placement and design would allow that. The current driveway makes it very awkward to maneuver, and that being one of the lowest parts in the village, major flooding occurs a few times a year, including inside the garage. He said it was just a terrible place to put a garage in the 50s. If they located the new garage there, they would be getting awfully close to the pipe that was put in by the Village. The proposed plan and the pitch of the new driveway would reduce the impact of the flooding for them.

Mr. Buda said this particular case, for him, revolves mostly around the size of the footprint of the garage. It would be roughly 93% of the footprint of the house. He said to him, it's almost like building a second house. The need for the height and setback variances stem from the overall size. If it was a two-car garage, that would probably obviate the side yard setback, and the height may come down a little bit. His strongest considerations are around the overall size relative to the character of the neighborhood.

Mr. Hitchcock asked for further thoughts or questions from the board. Ms. Matejcik asked Mr. Stone if he knew if the new owner of the house next door would be tearing the house down. Mr. Stone said no, they are planning to restore the house. Ms. Matejcik said that means the new garage and driveway would be next to one another, as Mr. Stone had indicated. Mr. Buda said he did tour the neighborhood, but did not see anything of this magnitude. Ms. Matejcik said there is a three-car garage nearby, but it is attached to the house.

Mr. Mulloy said he does take into consideration that the applicants are trying to solve some problems that they are dealing with, and they are choosing to make an investment in their property and neighborhood. He said he also appreciates Mr. Buda's concern.

Mr. Hitchcock said his thoughts align with Mr. Buda's relative to the magnitude of the request. From an architectural standpoint, the garage blends in quite nicely with the house. He is concerned that it's basically a second house by perimeter, if you will. He said he realizes there are challenges with the properties on smaller lots in that area of the Village, and there are things that would be done differently there than we would with a 4-acre property with no neighbors. Some challenges could be obviated by building the garage in a different location, and he is and aware of and sympathetic to the water issues that affect many South Russell residents. He said he is struggling with the location and the size of the proposed garage.

Mr. Mulloy began by saying he respects everyone opinion, and understands that the garage could be put elsewhere, and it could be raised up, and fill dirt could be brought in. There are a lot of things that could be done, but that could also very quickly make the project become cost prohibitive.

Anneke Payne of 128 Fairview Road introduced herself and her husband Tanner, and said they are in support of the proposal. She said their property is across from the house that just sold. They plan on living there the rest of their lives, so the project would affect them, and they are absolutely for it. The Stones have been planning this for as long as they've known them, about two and a half years. They have planned this so correctly and so thoughtfully. The Stones have such an appreciation for the street and the neighborhood. She said it is such a joy to live on a street where people really care about the street. It is such a great community. As Mr. Mulloy said, the money that the Stones are willing to invest in their property will only help their small street. Ms. Payne said she doesn't care that it is a three-car garage, this has been a dream for the Stones, it will benefit them and make their lives happier, and that in turn will make the whole street happier.

Tanner Payne said he has seen the drawings and done some visuals mentally. He said he thinks the current two-car garage is only 6' from the lot line. Most of the properties in their area are not to current code, since they were built so long ago. When residents do improvements, they often need variances, and it's within the norm of what our street is like. A variance regarding the property line is not unusual. If the Stone's garage is 10' from the property line, it would actually be further from the property line than the structure next door. It would only be 1' taller than the structure on subplot 6 and it would match well with their home. It may be a large structure in relation to their house, but it's not their fault their house has a tiny footprint. The property next door may be larger by about 1,000 square feet, and the new garage won't seem very large in comparison. Having the garage relocated and green space restored will be a beneficial shift. Mr. Payne said the entirety of the water in the subdivision ends up running through the Stone's backyard, and unless the Village wants to come in and replace all the pipes and raise the land, and spend the money as it should have 70 years ago, this is a great option for the Stones to use the space but also let it flood and let nature do its thing.

Colleen Woodbury of 124 Fairview Road introduced herself and said the one thing that comes to mind for her is that the Stones are willing to spend a lot of money to build this new garage and keep their vehicles and tools safe from flooding. It would be a huge risk to try and fix the land, add drainage and add even more money into it. That would be a risky venture to take that chance, as it may not even work. To her it makes sense to locate the garage on higher ground. She said her second thought was if the Stones could consolidate their lots, which would hopefully not take too much time away from their project, it would eliminate the concern of a future owner of the vacant lot being encroached upon.

Mr. Stone asked Ms. Matheney if it would be out of the question to have the board's decision subject to having all three lots consolidated. Ms. Matheney said that is a reasonable condition and it would be acceptable to do so.

Discussion followed regarding the current zoning code and the likelihood of a house being able to be constructed on a small lot, even though it is considered a buildable lot.

Mr. Stone recalled his time on the Board of Zoning Appeals, and the Village set precedent by allowing a developer to buy multiple lots and build large homes on them. He said across the street from him on Hazelwood is a new 3,000 square foot house. He cited parts of the code and its restrictions, and said basically, you can build a house easier than you can a garage. He said in a way, he is saving the street from possibly having another large house built. If he were not approved

for the garage, they would have to look at their financial situation, and since he really wants a three-car garage they may have to sell their house and the lot separately and move, and who wins there. Mr. Stone said all his neighbors around him fully support him. He has tried to meet the neighbor behind him for 20 years but has not been successful. They are part of a great community; they have breakfast together and the Paynes just had an event and invited the whole street. He said they don't want to leave. The neighbors on both sides and across the street are all supportive and have either written letters or given testimony. He said he thinks it is important to take that into consideration, and he would have no problem consolidating the lots if this were approved. Being able to build this garage would solve a lot of problems for them and keep them there. There aren't a lot of houses in his neighborhood that have three lots, so in a way they do have more space than most of the people in the neighborhood.

Mr. Hitchcock asked board members for further comments or questions. There were none. He asked if the guest had any other comments. Rick Kondas of 139 Fairview Road said he is a 35-year resident. He said where Mr. Stone's garage is right now used to be an actual lake that the neighbor's children used to swim in, and he is not sure that filling in that area and building it up and making it usable is likely to be successful. Added to that, the amount of water that both of their yards get is phenomenal. Mr. Kondas said Mr. Stone has spent an immense amount of time considering this project, and he is being very careful and considerate as to how it may impact the neighborhood. The neighbors are happy about that, and they trust the Stones to do the right thing, because that's just the kind of people they are. They are wonderful neighbors, and he has absolutely no problem with this whatsoever.

Mr. Hitchcock said there will be three separate motions, one for each variance request.

Mr. Hitchcock said for BZA Case #25-02, for the property located at 137 Fairview Road, he makes a motion to approve an area variance of 8' for a proposed garage, to permit a structure not to exceed 23' in height, subject to the consolidation of the three lots into one lot. Mr. Buda seconded. Mr. Hitchcock asked for comments from the board on the motion. Hearing none, he asked for roll call. On roll call vote, Andy Hitchcock-Mr. Hitchcock said he is going to vote Yes; the concerns he had have been alleviated by the neighbors and some of the plan. Mike Mulloy-Yes; John Buda-Yes; Marty O'Toole-Yes; Cindy Matejcik-Yes. Motion passed unanimously.

Mr. Hitchcock said for BZA Case #25-02, for the property located at 137 Fairview Road, he makes a motion to approve a side yard setback variance of 10' to permit an accessory structure no closer than 10' to the south property line, subject to the consolidation of the existing three lots. Mr. Mulloy seconded. Mr. Hitchcock asked for any discussion on the motion. Hearing none, he asked for roll call. On roll call vote, the motion passed unanimously.

Mr. Hitchcock said for BZA Case #25-02, for the property located at 137 Fairview Road, he makes a motion to approve an area variance of 638 square feet, to permit an accessory structure no greater than 908 square feet, subject to the consolidation of all three lots. Mr. O'Toole seconded. Mr. Hitchcock asked for any questions or discussion on the motion. Hearing none, he asked for roll call. On roll call vote, the motion passed unanimously.

Mr. Hitchcock wished the applicants luck on their project. Mr. Stone thanked board members for coming out to look at their property.

Agenda Item 3: BZA Case #25-03: Heather Davies of Davies Architecture, applicant for the property located at **402 Reserve Trail**, owned by Bina Mehta and Dave Leone, is seeking approval for a left side yard area variance of 8', to allow an addition to be 17' from the side yard. Section 4.02 of the South Russell Zoning Code requires a minimum side yard setback of 25'.

Mr. Hitchcock asked the applicant to begin the presentation. Heather Davies of Davies Architecture introduced herself and the homeowners Bina Mehta and Dave Leone. She said their request for a side yard variance is because they would like to add some square footage to their first floor. The shape of their lot is somewhat pie shaped. Ms. Davies said they tried very hard to stay within the side yard setback., but in the end it proved difficult to do. They are seeking to create more sunroom space, and with the bathroom and storage area it may eventually be used for a first-floor primary suite. Because of the location of the garage, the addition would be pushed pretty far back and would not be seen much from the street. That created the need for a variance, but they all feel it was the right thing to do. Ms. Davies said the homeowners wanted to keep existing side entry to the mudroom and laundry room, and the plan includes covering that entryway. She said all materials will match existing. The homeowners have been given Homeowners Association approval, contingent upon the approval of the Village.

David Leone introduced himself. He said they are a blended family with seven children. He said eventually they hope to convert the new space to a first-floor master suite. Dr. Leone said they are both physicians with the Clinic, and their main practice is in Kent, Portage and Summit County. He said they drive about an hour to work every day. They explored their options of moving into a larger house with more land, but they just love their home and would like to stay in the area. Dr. Leone said this addition would be a good alternative for them to avoid moving and do the development all over again. Dr. Mehta said their seven kids do not fit in the family room right now.

Mr. Hitchcock asked board member if they had any questions. Ms. Matejcik asked if they will be keeping the trees. Ms. Davies said yes. Mr. Buda said some of the trees will have to come out. Ms. Davies said the survey doesn't show exact tree location on the site plan. Mr. Buda said he paced it off today and wound up in the trees at the corner. Dr. Leone said they would keep as many trees as possible.

Mr. Buda said it seems like tonight's cases all revolve around size, and what somebody wants to have instead of what they must have, therefore if the addition was smaller, it may fit without the need for a variance.

Mr. O'Toole asked if the residents most affected at 404 Reserve Trail had an opinion on the addition. Dr. Mehta said both neighbors on either side of the property, as well as across the street, saw the plans and have no issues with the proposal. Dr. Leone said they feel it would bring value to their homes as well. Dr. Mehta said they may also want to do an addition on their homes in the future.

Mr. Hitchcock referred to the site plan and asked Ms. Davies to approximate what percentage of the addition is currently within the existing setback. Ms. Davies said she thinks about 85%, and just the little triangle at the back corner is not.

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

Mr. Hitchcock said for BZA Case #25-03 for the property located at 402 Reserve Trail, he makes a motion to approve a side yard variance of 8' to the left side yard to allow an addition to be no closer than 17' from the property line. Ms. Matejcik seconded. Mr. Hitchcock asked for comments or questions on the motion. Hearing none, he asked for roll call. On roll call vote, the motion passed unanimously.

The applicants thanked the board, and board members wished them well.

Mr. Hitchcock said having completed the three agenda items, he believes there is some **Old Business** to discuss. He asked Mitchell Herman of 52 Daisy Lane to come forward.

Mr. Herman said after the last meeting, Eileen and he sat down and reviewed the tape of the meeting. They found it very exhausting. He said he would like to read a letter that he and his wife wrote. Reading the letter: I am reading this on behalf of Eileen and myself to express our concerns regarding the recent meeting and the decision-making process surrounding the matter of the fence variance request. Several troubling aspects of the experience warrant attention and reflection. One, we felt that it was an unstructured meeting with poor management. The meeting lacked focus and deviated significantly from the primary topic of the fence. This allowed for conversation to escalate. The primary topic was the fence and again it was allowed to unnecessarily escalate, creating an environment that felt both personal and hostile. The neighbor was permitted to dominate the discussion with irrelevant and unfounded claims about our property which exacerbated the attention and detracted from productive dialogue. Fabrications and misrepresentations. There was no fact-checking. You all let him just talk. Several falsehoods were presented during the meeting. There was a claim about a lawyer going from his house to my house. That's not true. Mr. Herman said he thinks that may have been Dave, who drove in the driveway and then drove in my driveway, honestly. He said he has never gotten a lawyer to talk about any of this. The neighbor's claim about him changing the walkway is entirely false. The walkway in the back remains in the same location but was updated due to safety, that is a fact. Mr. Herman said it almost felt like there was bias and pre-determined outcomes. Board members said they had talked to neighbors, but had they talked about the fence or were they talking about other things, because the reality is it sounded like there were other things that made your determination, it wasn't even about the fence. The meeting gave the impression that a decision had been made prior to hearing our perspective. He said the reality is that some board members came to their house and his specific comment was, "What are we going to talk about?" and was told the fence, and nothing more. That's where everything went awry. He said again, it undermines the trust, integrity and fairness of the process. The neighbor requested prioritizing the view over their right to privacy, and it is unreasonable and concerning to them. He suggested the board listen to the tape. He said the question was asked of the neighbor as to what his issue is, and he said he wanted the view. That's what he said, in his words, on the tape. That's just ridiculous. Mr. Herman said the other part of this is, they have taken care of their house, and the improvements were done in good taste. So, if the neighbors had been asked if they have done things

correctly and done things to increase the property value, the property value has doubled since they moved in 7 years ago. He said they bought the house in 2017, got the survey in 2018 because the neighbor ran at Eileen and yelled at her to stop taking the plants from the corner. It was a little scary for her. It turned out the property was actually their property, not the neighbor's. That started everything, and that was the beginning of the end of our relationship with the neighbor. Mr. Herman said the neighbor talks a lot about him, but he doesn't know him. He is a pharmacist that graduated from Ohio State University, and he works with oncology patients to create resources for them. For the past decade he has worked with cancer patients at the Cleveland Clinic, because he is a cancer survivor. He talks to patients all over the country so he can ease their minds about what they're going through with chemotherapy. He said his Great Dane Maggie is a licensed therapy dog with a million-dollar bond, and she has gone all over the state with him and has been on the news. When talking about character, he doesn't want to argue with anyone, it's not who he is. He said he did try to give options about water, which had nothing to do with the meeting, but that's all off the table, since it seems like it doesn't matter. He said moving forward, he urges the board to reflect on what happened at that meeting, and Eileen and him feel like they are owed an apology, since it went totally awry from what was on the agenda for the day. He said they will move forward with what they have to do, and he also thinks it was emotional for the board with all the pressure the neighbor put on them. It came to be not about the fence, but about his feelings, and what he thought, and he was bullying. That's how they feel and what they have to live next door to every day; the board has no idea. He went into detail about the HOA, and said they do not belong to the HOA, if there still is one. Mr. Herman said he does acknowledge that he did not follow the correct procedures for the fence, but the board allowed 807 Bell Road to place their fence 6" from the east and west lot lines. He said because somebody decided to make it very personal, he didn't get his variance. He said he will take his fence down at a cost of \$4,000 and put a board on board fence up to be 3' off the property line. They just want their privacy. He said the other neighbor on the other side has a fence with the same thing, but nothing was said about that fence. He talks about making rules after the fact, how many people do things without permission. He said they understand the ruling, but the way it was all handled was very upsetting to them, but he will do things the right way. He is not going to have to worry about coming for another variance, and Erikson Construction will pull the permit and do everything. In the end it's going to cost them \$8,000 to put the fence in, which he thinks is just ridiculous. He said he listened to the applicants at tonight's meeting, and he feels the board did the right things for the applicants tonight; they are only trying to better the property and doing things that make sense. Rules from 1970 make no sense when you can't get on the other side of the fence anyway because it's all dirt, and no lawn is being mowed. Mr. Herman said if he had five neighbors that said yes, that would be fine, but since he had one neighbor that didn't like it and that's the way it is because he wanted the view. We'll make that concession and spend the money, but he thinks some kind of apology should come from the board. They don't want animosity with South Russell, and they are not planning on moving, this is a legacy house that will be given to their kids.

Mr. Hitchcock said the board appreciates his feedback. As far as the board is concerned, they do their best. It's unfortunate that Mr. Herman doesn't feel that was a representation of the board, and to be fair, he is not going to apologize to him. Mr. Hitchcock said this board of volunteers does fantastic work. The decision Mr. Herman got was not to his liking.

Mr. Herman interrupted and said it wasn't the decision, it was how he was always redirected to talk only about the fence, but the neighbor went off topic, and he was allowed to overtake the meeting,

and the board did not stop it. Mr. Mulloy said board members did try to stop it, and just to be fair and transparent, he did vote in favor of allowing Mr. Herman to keep his fence, and he knows that everybody interprets this, and they all did their job. He said he understands that it didn't go Mr. Herman's way. For as long as he's been on this board, he has not been a part of a meeting like that. Mr. Mulloy agreed that it was unfortunate, but the board did try to keep everybody on track and redirect Mr. Herman and his neighbor as well. It was a difficult meeting for the board. As Mr. Hitchcock said, they did do their best, and the meeting was not typical to what they usually see. Mr. Mulloy does sympathize with him, as he does have extra costs and he tried to take that into account, and the fact that you have this going on with your neighbor, but the zoning law is what the zoning law is. Mr. Herman said but what works for some people doesn't work for other people. He said 75% of the meeting was the neighbor talking. Mr. Mulloy said again, the board did try to redirect him. Mr. Herman said he thinks it would have been better to stop the meeting and vote against the variance request instead of allowing the neighbor to drag them through the mud. He said his wife is pretty upset, because some nasty things were said about her. He said it was all very unfortunate.

Mr. Hitchcock agreed that it was unfortunate, and he was exhausted afterward. He said upon reflection, it could have gone differently, but as Mr. Mulloy said, they did their best to manage it. They can do better, in everything they do, and they will do better. It is unfortunate that that is how it went, regardless of the outcome. The board is here to do the best they can as volunteers for the Village. He said he does appreciate his feedback, and it is not falling on deaf ears.

Ms. Matheny addressed Mr. Herman and made him aware that what he talked about tonight is not part of the record of what happened at the previous meeting. She said first of all, he was not sworn in and was not on the agenda. Mr. Herman said he did raise his hand, and he can go on the agenda and come back. Ms. Matheny told him that he has certain legal rights, and we really can't be doing this back and forth as to what you want to recreate through revisionist history or talk about what happened. That is not part of the record as to what happened; this is a totally different matter as far as your legal rights are concerned, so please understand that. She said this is not part of what happened previously, and it will not be a part of the record if in fact you do appeal the board's decision.

Mr. Herman said he is not going to appeal anything, but a letter in the Chagrin Valley Times would be pretty nice to see. He said again he feels like he was just dismissed. Ms. Matheny said she was not being dismissive at all, she just wanted him to understand his legal rights.

Mr. Herman said he was trying to be the bigger person, he was trying to give the board a little bit of courtesy, but the reality is, that meeting was a disaster. You could say we should do better, and we're sorry, but again, it's just disappointing to him. They're still living here and will do things the right way the next time, but he still can't believe, at the end of the day, nobody will step up.

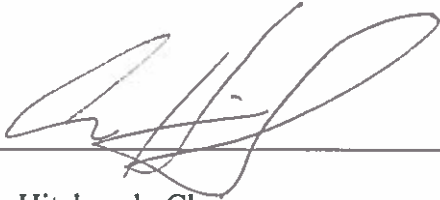
Mr. Herman was thanked for coming.

Mr. Hitchcock asked if there was any **New Business**.

Ms. Matheny said technically, Mr. Herman's visit should have been **New Business**. Ms. Matheny asked if Mr. Herman had reached out to anyone to ask to be on the agenda. He had not. Mayor

Koons said when he walked in, he told Andy Hitchcock that he should be under **Old Business**. Ms. Matheney said that is incorrect, it would be considered **New Business**. Mayor Koons said that was his mistake. Ms. Matheney said if Mr. Herman had an issue, he should have gone to Council, and the whole appeal process is now a big problem. She said please understand that we have to be very careful of who we talk to if the appeal time has not run.

Mr. Hitchcock said with no **New Business** on the agenda, he calls the meeting to a close at 8:32pm.



Andy Hitchcock, Chairman

Feb 19, 2025

Date



Ruth Griswold, Board Secretary

2-25-2025

Date