



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

**BOARD OF ZONING APPEALS  
MEETING MINUTES**

**March 19, 2025, 7:00 p.m.**

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

**Other Officials:** Bridey Matheney, Solicitor; Dave Hocesvar, Building Official; Mayor Bill Koons; Leslie Galicki, Administrative Assistant

**Visitors:** Mark Derry, Living Lean, 576 Industrial Parkway

Mr. Hitchcock called the meeting to order at 7:00 p.m. Ms. Galicki conducted roll call.

Mr. Hitchcock indicated there were minutes from the February 19, 2025, BZA meeting which had been reviewed by the BZA members. Mr. Hitchcock made a motion to approve the meeting minutes of the February 19, 2025, seconded by Ms. Matejcik. Roll call – ayes, Mr. Hitchcock, Ms. Self, Mr. O’Toole, and Ms. Matejcik. Mr. Buda abstained. Motion carried.

Mr. Hitchcock stated that there was one item on the agenda. First, he asked Ms. Matheney to swear in the presenters. Ms. Matheney swore in Mr. Derry (applicant) and Mr. Hocesvar.

**Agenda Item 1: BZA Case # 25-06:** Mr. Mark Derry, owner of Living Lean and the property located at **576 Industrial Parkway**, is seeking an area variance of 22 parking spaces for the operation of his business and tenants. Section 5.05 of the Village of South Russell Zoning Code would require 55 parking spaces for the current tenancy, and the applicant is showing 33 spaces available.

Mr. Hitchcock acknowledged that the application being presented is somewhat of an unusual application about parking. He advised that the board would be using the same set of criteria to judge the application as any other case that they would consider. He introduced Mr. Mark Derry, owner of the property at 576 Industrial Parkway, and advised that the discussion would involve an area variance of 22 parking spaces for the business and tenants. Mr. Hitchcock offered Mr.

Derry the opportunity to share information with the board members who reviewed the application and were generally familiar with the request.

Mr. Derry stated that he was seeking a variance for 22 spaces if the board deemed necessary. He referenced a parking plan displayed on the media screen and explained that there is 165 feet of property that is currently brush available for additional parking. Mr. Hitchcock clarified the location of this area, and Mr. Derry indicated it was to the left side.

Mr. Hitchcock asked Mr. Hocevar to identify the applicable zoning, and Mr. Hocevar stated B111. According to that, Mr. Hitchcock explained that there were requirements for parking depending on the type of business as well as the square footage. He asked Mr. Hocevar to provide background/context on how the criteria were determined. Mr. Hocevar said it went back quite a while, but at the time, a lot of the area was warehouse and storage. Since that time, offices and retail sales have come in, which is how it developed. The Village's parking regulations are stricter for personal services as compared to an office. Mr. Hitchcock referred to the left corner of the parking plan which listed the square footage of the existing businesses. Mr. Derry said it was reasonably accurate according to what he knows the code to be. Mr. Hitchcock said he looked online and at a sketch of the building and saw that a portion of it had a second floor. Mr. Derry clarified that there are second floors on both wings. Mr. Hitchcock was calculating the square footage according to the sketch online, and Mr. Derry explained he tried to do the best he could. Mr. Hitchcock noted that the application indicates that a 22-spot variance is needed and there was a plan for 50. He wanted to make sure this information was correct so that the board had the appropriate information. Mr. Derry questioned whether it was 50 total or 50 more. Mr. Hitchcock advised that the application states 33 existing parking spaces and with a proposal for 50. Mr. Derry corrected that it is 55 and added that he did not fill out the portion of the application to which Mr. Hitchcock was referring. Mr. Hitchcock explained that his point was that the proposal was a plan to add 17 spaces to get to 50. Mr. Derry stated that he does not have a proposal. When he spoke to Mr. Hocevar, Mr. Derry thought the current meeting was going to be about doing business as usual and verified that this was the purpose of the variance. He further explained that the building is doing well. At 9:30 a.m., the parking is at capacity, but after that, the Living Lean patrons/staff are gone and the iDevice employees come in and have 4 cars. After 9:30 a.m. or 10:00 a.m., it is good. If the variance is that he must put parking in, it is for 22 more spots for a total of 55.

Mr. Hitchcock asked for some color commentary on the other businesses in the building to include what they do. Mr. Derry referred to the parking plan, and said Living Lean is all the way to the left with 2,400 square feet and are a personal training gym and group fitness. Above this is the same square footage, and contains a business called iDevice Wholesale. They just fix everything idevice like earbuds, cell phones, etc. with lots of inventory. There is a strip next to and belonging to Living Lean which makes 3,200 square feet total. This area is the entryway and bar area, with two offices behind it. Next to this is OrthoSport, which does some fitness training

but primarily does physical therapy. Next to OrthoSport and all the way to the right is Hawaiian Guy Barbeque. There is a space above Hawaiian Guy Barbeque that is unoccupied but rented by iDevice. Mr. Hitchcock concluded that the building is a mix of gym, catering/restaurant and some sort of iphone repair business. Mr. Hitchcock verified that Mr. Derry's business is generally busy until 9:30 a.m. or so and asked how he would describe the flow throughout the day. Mr. Derry reiterated that the last class of the morning for Living Lean is 8:30 a.m. – 9:30 a.m. By 9:45 a.m., all their folks are gone except for him. iDevice rolls in around 9:00 a.m. to 9:30 a.m. and take spaces 33, 32, 31, and 30, and perhaps one spot in the 1-7 section. There are four or five employees. The rest of the day is pretty good. OrthoSport is running a great business and throughout the day take up at the most  $\frac{3}{4}$  of spaces 8 through 25. He has instructed everybody from OrthoSport and Living Lean to park in spaces 1 through 7 to get them out of the way and to park like human beings and not seven feet away from each other. There used to be lines that were painted by the former owner from spaces 8 through 25, and possibly 26 through 29. They were too small, and the lines are almost gone. Mr. Derry said they are prepared to paint more lines there and added that they probably needed to redo the existing parking lot. He had a call into a company to quote this. He concluded that it runs smoothly after 9:45 a.m. to 10:00 a.m.

As far as Hawaiian Guys, Mr. Hitchcock asked if it was just a catering business, or did they have take-out, or dine-in. Mr. Derry said there is no dine-in and thought that they may have just been approved by the Village for takeout Monday through Wednesday. Mr. Hocevar said no. Mr. Hitchcock clarified it would not have been the BZA granting this, but possibly the Planning Commission. Mr. Derry further explained that he received a text from the Hawaiian Guy and thought it said Monday through Wednesday from 11:00 a.m. – 1:00 p.m. or 12:00 – 3:00 p.m., or something like that. Hawaiian Guy only has two cars. Mr. Hitchcock explained that his point was that the bulk of the parking situation is early in the morning and related to Living Lean. Mr. Derry clarified that it would be Living Lean and OrthoSport which take up the bulk from 7:30 a.m. to 9:30 a.m. He added that it has never been a problem.

Mr. Hitchcock invited other members of the board to ask questions. Without asking Mr. Derry to share proprietary information, Mr. Buda asked Mr. Derry how long his business had been there and what the trend had been with regards to the number of customers they are having. Mr. Derry said that he has been in the current location for about 15 years. They rented for 8 years and bought the building 7 years ago. The business holds steady at 110 members with low attrition. It does not have the public gym trends of churn and burn with January being high. The numbers are steady, but they are always marketing for more, which is difficult with there being 35 gyms from Solon, Bainbridge, and Chagrin. Mr. Buda asked how consistent the consumption of the spaces is in that 9:30 a.m. timeframe. Mr. Derry said it is consistent. At the 5:45 a.m. class they have between 18 and 22 people; 7:00 a.m. class is between 7 and 11 or 12; and the 8:30 a.m. class has between 10 and 15. Mr. Buda verified Mr. Derry owns the whole building, and Hawaiian Guy is his tenant. Mr. Derry concurred. Mr. Buda asked Mr. Derry what his

understanding is of what their operation will be from a timing of the day/number of days of the week, etc. Mr. Derry asked whether the question was relative to parking or in general. Mr. Buda said it all relates to the parking. Mr. Derry said that the Hawaiian Guy owners are there all the time and are hard workers. They are always cooking for events and stock. However, to his knowledge, they do not have employees, and if both are there, there are two cars between spaces 26 and 29. Regarding potential take-out business, Mr. Buda asked if Mr. Derry was aware or could estimate the hours for this. Mr. Derry said that from what he was told, they were aiming for 11:00 a.m. to 1:00 p.m., but he thought the text he received may have said 11:00 a.m. to 3:00 p.m. Even with those hours, Living Lean is gone. He reiterated that iDevice has four cars and OrthoSport has an employee total per day of six cars. He cannot speak to how many clients they have coming in. He concluded that there are two for Hawaiian Guy, about 15 for OrthoSport, practically zero for Living Lean, and about 5 for iDevice. Mr. Buda noticed that parking spaces 22 through 24 say that they are reserved. Mr. Derry explained that OrthoSport asked if they could reserve them for their older clients who have difficulty getting around and have walkers, canes, etc. He gave them permission to do this with three or four spots, and they are strictly for their use.

Ms. Self asked if the concern for adding more spots was just that Mr. Derry would have to clear the land behind the building. Mr. Derry said that was not a concern, but the money is a concern because it would be quite substantial. However, he would do it if required. Ms. Self asked how much it would cost to create this parking. Mr. Derry did not but could report back in a week after consulting with a contractor about the parking lot. Ms. Self questioned Mr. Derry about his knowledge of the zoning restriction when he purchased the property eight years ago, and he said he was unaware. At that time, his business had the majority of the first floor, and no one was upstairs or in the front, so it was not a concern. This all came about when the people at 477 Industrial Parkway started to complain. Mr. Hocevar came to him and explained that there was a zoning restriction pertaining to how many cars were permitted per square footage, which was a few months ago.

Ms. Matejcik said that she had viewed the property at 6:30 p.m. and every spot was filled down the whole side. Mr. Derry said it was probably mostly OrthoSport, although Living Lean also has a class at 6:30 p.m. At that time, they may have as few as four and as many as ten cars, plus the trainer would be eleven. He would not suspect OrthoSport would be that busy at that time, but he is not there but one night at 6:30 p.m. Ms. Matejcik was aware there was a class and thought that if the cars were all for Living Lean, then that would be quite a bit. Mr. Derry asked if they were all parked civilly, and Ms. Matejcik confirmed that they were.

Ms. Self clarified that 477 complained. Mr. Derry said it was someone from that building. Ms. Self asked if this the building attached to CrossFit, and Mr. Derry confirmed it is. She questioned whether these individuals have said anything to the BZA or submitted any statements. Mr. Hocevar said yes, and Ms. Matheney clarified that it was not necessarily in support of or

opposition to this parking plan. They submitted their own parking plan to Planning Commission, and it was approved. Ms. Self wondered if they would be adding spots, and Ms. Matheney could not recall, but said they would be striping the spots that meet the zoning code with respect to the uses and square footage that is in that building. Mr. Derry agreed and said he is in communication with the man who runs the building, and he said they have plenty of concrete space to get their required spaces. However, this matter all came to light because of that business and Hawaiian Guy. Hawaiian Guy wanted to open for lunch takeout, and the 477 business came to the Village about it. Ms. Self clarified that this had been the zoning code for a substantial period of time and questioned whether the building had been added onto. She questioned how it ended up having less spots than are required per square footage in the building. Mr. Hocevar said that the way the zoning book reads with different occupancies is somewhat complicated. He stated that the current parking plan shows iDevice as being 4,000 square feet of office, but they are selling retail. It is not office but personal service, so it is necessary to change the calculation to 20 parking places instead of 12. Mr. Buda advised he was not clear about what Mr. Hocevar was saying. The Solicitor explained that in looking at the building drawing, iDevice has 4,000 square feet and is listed as "office." With the Village's code, the uses with respect to office are different than retail and personal service. The definition of personal service includes repair of electronic devices for consumer use. Mr. Derry clarified that this still applied even though they do not have customers coming to the space. Ms. Matheney read, "repair services such as shoe, furniture, household appliances, and electronics repair for consumer-oriented products" is considered a personal service. Mr. Hitchcock noted that the building had been there for about 50 years. Mr. Derry stated that it was built possibly in 1971 and was added onto in 1995. Mr. Hitchcock concluded that the building use had probably changed significantly over the years and gone through various iterations. It makes sense that the parking situation has evolved. Mr. Derry added that it was one business at the time.

Mr. O'Toole summarized that the reason they were there was because somebody filed a complaint that resulted in the matter surfacing. He asked who complained and what they complain about. His question was directed at Mr. Derry or Mr. Hocevar. Given the changes over time, he wanted to know who was unhappy with how things were working. Mr. Derry pointed out the location of the business in question, and said he was unsure of the name of its name. However, he said there were two people associated with it, a Doctor of Osteopathy (DO) and his wife, a massage therapist. She found out that Hawaiian Guy came to the Village to apply for a variance to do takeout from 11:00 a.m. to 1:00 p.m. She did not like this because in the front of their building, there are six to eight parking spots and she was worried that people would come up Industrial Parkway, take a right and park in her parking spots. He was unclear why someone would do that when it is a building away. Mr. Derry further explained that the individual was adamant that she did not want this to happen. He conveyed to her that if it did happen, she should speak to Hawaiian Guy or to him and discuss how the problem could be resolved. That did not happen and here they are. Mr. O'Toole brought up the satellite image for reference. He

clarified that there was no one else in the community who was being inconvenienced by the current state of affairs. Mr. Derry said not to his knowledge. Mr. O'Toole further questioned that this matter was being addressed because one person was anticipating some conflict down the road. Mr. Derry concurred. Mr. Derry added that his is the last building in the complex. On the other side is a playground for St. Joan of Arc School.

The Solicitor interjected that although that is the impetus, there is a matter of not being in compliance with the code. Mr. O'Toole agreed and added that it appeared this is a case where through no overt intent fault of anybody, the property has arrived through a set of individual decisions at the point where it is out of compliance. If he understood correctly, the fact that iDevice falls by virtue of their business code into a certain zoning requirement, that is probably legally accurate but not perfectly representative of what they do for a living and how that would incur parking. He asked if he was interpreting correctly, and Ms. Matheney said he might be right, but the same thing could be said for the Hawaiian Guy. They are a catering business, which is not a permitted use nor is it a conditional use in this district. It was allowed by Planning Commission as a restaurant, but it is not a restaurant because there is no sit-in. Furthermore, carry-out has not been approved by the Planning Commission for this business. She continued to say that sometimes definitions morph. For example, OrthoSport may also have office in addition to the personal services, and that is a gray area. Mr. O'Toole agreed that there is gray area and said that at some point someone must put a pin in it and stop the gray and decide what it is. In the real world, however, there is a lot of gray. He concluded that the crux of the matter is that they have this property that has arrived in the state of being out of zoning through 50 years of changes and evolutions with tenants coming and going. Because the people with the property next door are proactively concerned that their parking spaces might be abused, they are calling all of this to a head.

Ms. Self explained that there are factors the board weighs and considers when thinking about whether a variance is reasonable. When she considers these, whether a property will still have a reasonable return on investment, she was sure gyms sometimes do well and sometimes do not and are always looking for business. Investing substantial financial resources into parking probably would break even. Whether the variance is substantial, she would argue that it is not substantial considering it has sat like this for all these years. Regarding the character of the neighborhood, it is all gyms, and everyone is looking for parking all the time back there. Mr. Derry concurred and said there are five or six gyms in that area. Regarding 477, the entrance to their facility is on the other side next to CrossFit where they have six spots there and spots across the parking lot as well. Mr. Derry said their parking lot is a little wonky also. The majority of the parking is in the back of the building. Ms. Self explained that in looking at whether an adjoining property would suffer a substantial detriment as a result of the variance, she considered that there is other parking over there. She did not think they would suffer a substantial detriment considering they have been in business and have not been impacted by the parking. She continued to say that Mr. Derry did not purchase the property with knowledge of a zoning

restriction, and Mr. Derry concurred. Ms. Self said that another factor to consider is the spirit and intent behind the zoning requirement. In talking about square footage of a facility, there is an assumption that the bigger the facility, the more people who occupy it, which is not necessarily true in that area. Gyms are large so that people have space, so she was not sure that when the zoning code was written, that was the spirit behind it. For those reasons, she thought the variance would be reasonable based on the code.

Mr. O'Toole clarified that the decision they were making was based on the current use of the property. If a variance were approved based on the current state of affairs, but then things continued to evolve with new businesses coming in, would this property always have benefit of this variance, or would it be appropriate to rescind the variance at some point based on the evolving use of the property? Is the variance permanent? Ms. Matheney advised that normally, the variance is permanent and runs with the land, but because the uses could change, she would think the board might want to consider making a condition that it is based on the current uses on the plan. She clarified that in saying uses, she meant offices and personal services and not necessarily, for instance, that if OrthoSport changed to something else, but it is also personal services, the same calculation would apply. Mr. Hitchcock added that this related to his question. If ten years in the future this becomes a restaurant, he would assume Planning Commission would address some of the situation, but he would not be pleased if it was terribly out of scope for something that the BZA could not have foreseen or planned. He thought the wording of the resolution could help with this.

Mr. Buda advised that he was thinking in terms of the current state and the potential future state. Everything seems to just fit in the current state, but the board has no idea what will happen in the future. If unnecessarily ripping down more trees and building another parking lot can be avoided, he was in agreement. At the same time, the board also does not know what the future will hold for the business at 477 Industrial Parkway. It could be smaller or bigger. Regarding future state, he liked the idea of putting in a caveat or condition regarding changes in the business that would require additional parking. Additionally, from a proprietor's standpoint, even if the proprietor changes and needs more parking, a future business decision could be made to create more parking. Ms. Self added that business owners are generally going to want parking for their customers and would do something about it if there were a parking issue. Mr. Buda suggested including the painting of lines to clarify where the 33 spots are located.

Mr. Hitchcock stated that based on the square footage provided by Mr. Derry, there is 11,800 square feet with the current businesses in the building. If in the future, it becomes all office space, that would require 40 parking spaces. If it were all retail and personal service, it would require 59 spaces. The request is towards the high end, but as the building evolves in the future, it does not seem like the problem could be much worse than what it is today. He thought it was at the extreme end of the requirement based on the current occupancy of the businesses in the building.

**He asked for other comments or questions from the board or Mr. Derry.** Mr. Derry clarified that based on the discussion, he may not have to put in parking. OrthoSport is a growing business and is doing well. If more parking were needed, would he have to apply for another variance? Mr. Hitchcock explained that if Mr. Derry were to receive a variance this evening, it would be for what Mr. Derry submitted. Basically, the minimum number of parking spaces would be 33. If he wanted to add more to it, that would be fine. He would not need to reapply for a variance from the BZA. If the board said, no, 50 or 55 spaces were needed, and this was not met, then it would be up to Mr. Derry to start adding on until he reached this number. Mr. Derry said he understood. Along these lines, Mr. Hitchcock clarified that Mr. Derry was saying that the potential to add more spaces is to the left of the map on the media screen behind spaces 1 through 7. He asked how many spaces could be reasonably added based on the available space. Mr. Derry did not know, but his lot goes right back to 477's. It was noted that there are a lot of woods behind the building, but Mr. Derry advised that area is park. He has 1.08 acres, and his property goes right to where the parking lot for 477 Industrial Parkway ends. It is a fairly substantial space, but he did not want to take out any more trees than necessary. Most of the space that they would take is mostly brush. He thought that he could get 20 more parking spaces in this area.

Mr. O'Toole referred to an image of the 477 Industrial Parkway property on Google Maps and indicated that there is a lot of room behind the building. Ms. Self explained that this space is normally used for outdoor workouts, and not many cars park in the area. Mr. Derry agreed that most people park up front, but they do have the space.

Ms. Self offered that maintaining the essential character of the neighborhood would be keeping more trees because people do not want to see big buildings. Mr. Derry indicated that there are a number of neighborhoods behind his building to include Pheasant Run, but it is beyond the St. Joan of Arc School playground area which is within a couple hundred yards from his building. His building is not in clear view of a neighborhood. Mr. O'Toole displayed the properties on Google Maps on the media screens to show the lot lines. Ms. Self relayed that in previous discussions about allowing the Hawaiian Guy to have the food truck that she defined as not a truck was that there were trees there which blocked the view and potential smoke. The board has depended on trees remaining and other choices being made. Ms. Matejick pointed out that the Hawaiian Guy's smoker, etc. is in the front, so the trees would not be removed. Their truck is actually parked in the back. Mr. Derry explained that they park it up front if they are having an event but typically park it in the back. Ms. Matejick verified that they primarily cook in the front where the smokers are by the parking lot. Mr. Derry said they park in the back and do not want that to be an eyesore. She wondered if this would continue, so that would be one of Mr. Derry's parking spaces back.

Mr. Hocevar stated that the number of parking spaces would need to be changed from 55 to 63 for required parking. Mr. Hitchcock asked Mr. Hocevar to explain the math because he arrived




at 55.8 spaces with what was submitted. Mr. Derry said that there is some office space, but most of the building is not office space. He described that in looking at the front of the building, it is 60 feet wide, 30 feet of that to the left and 28 feet back, which is 700-800 square feet, is office space for Hawaiian Guy. OrthoSport has some office space, and Living Lean has a 20 by 20 office and a 14x14 office, which he did not include in the numbers because he did not want to get that technical since it is a difference between one or two parking spots. Mr. Hocevar explained that Mr. Derry submitted the application with the map, and everything was good until he realized that iDevice was considered personal services. So, he changed the upstairs space of iDevice to square footage for personal services, which adds 8 more parking spaces. Mr. Hitchcock clarified that Mr. Hocevar was suggesting 63 required parking spaces. He noted that the application before BZA stated 55, and would be amended to say 63 as the required number of parking spaces.

**Hearing no other conversation, Mr. Hitchcock made a motion to approve the following: For BZA Case 25-06 for the property located at 576 Industrial Parkway, he made the motion to approve an area variance of 30 parking spaces to bring the minimum number of parking spaces required to 33, subject to the parking lot being painted with proper lines and markings and contingent on the current uses existing in the building, seconded by Mr. Buda. On roll call vote Andy Hitchcock – Yes, stating that in addition to the analysis provided by Ms. Self, cutting down trees to solve a problem that may not really exist did not appeal to him. He thought as a business owner, if there are issues with parking, there are ways to address those to satisfy customers because otherwise, the business would not survive. John Buda – Yes, and concurred with Mr. Hitchcock, adding that the current conditions seemed to meet what the needs are. Lindsey Self – Yes; Martin O’Toole – Yes; Cindy Matejcik – Yes, based on the current conditions. Motion carried.**


Mr. Hitchcock noted that Item 1 was concluded and thanked Mr. Derry for presenting his information, and Mr. Derry thanked the board.

With no New Business on the agenda, Mr. Hitchcock closed the meeting to a close at 7:44 p.m.

  
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Andy Hitchcock, Chairman

  
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Date

  
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Leslie Galicki, Administrative Assistant

  
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Date