



**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 squat, 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. Matejcik 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. Matejcik 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 sublot 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. Matheney 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. Matheney 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. Matheney 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.

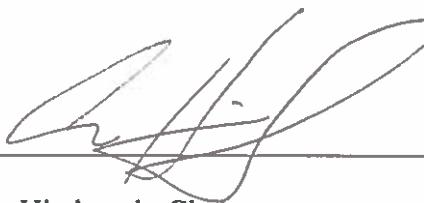
Mr. Herman was thanked for coming.

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

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

Koops 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 Koops 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



09

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

**BOARD OF ZONING APPEALS  
MEETING MINUTES**

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

**Members Present:** Andy Hitchcock, Chairman; Mike Mulloy, Lindsey Self, Martin O'Toole, Cindy Matejcik

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

**Visitors:** Tim Flurry, 120 Ashleigh Dr.; Rob Meyers, 120 Ashleigh Dr.; Vivian Self

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

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 the applicants, guests, and Dave Hocevar.

Mr. Hitchcock indicated there were two sets of minutes reviewed by board members. Mr. Hitchcock made a motion to approve as is the minutes of the December 18, 2024, meeting, seconded by Mr. Mulloy. Roll call – ayes, Mr. Hitchcock, Mr. Mulloy, Mr. O'Toole, and Ms. Matejcik. Ms. Self abstained. Motion carried.

Mr. Hitchcock made a motion to approve as is the minutes of the January 15, 2025, meeting, seconded by Ms. Matejcik. Roll call – ayes, Mr. Hitchcock, Mr. Mulloy, Mr. O'Toole, and Ms. Matejcik. Ms. Self abstained. Motion carried.

Mr. Hitchcock introduced Agenda Item 1, 120 Ashleigh Drive, but pointed out a typo on the agenda which suggested that the proposed structures are in total 1,807 square feet. It is actually 2,807 square feet.

**Agenda Item 1: BZA Case # 25-04:** Tim Flury of High-Tech Pools, applicant for the property located at 120 Ashleigh Drive, owned by Scott and Kelly Noble, is seeking approval for an area variance of 912 square feet as applicant shows proposed pool to be 1,000 square feet and Section 4.01(b)(1) of the South Russell Zoning Code limits accessory structures to 500 square feet per BZA Minutes

2-19-2025

acre. At 3.79 acres, this property would allow 1,895 square feet of accessory structures. Proposed structures total 2,807 square feet, requiring an area variance of 912 square feet for the proposed swimming pool.

Rob Meyers, Meyers' Homes, explained he had been involved with the customer for over 20 years and had built the home. They were before the Board of Zoning Appeals (BZA) for a height variance for the pool house about a month ago. At the time this was submitted, they did not realize that an area variance was also needed for the lot coverage. Had they realized they needed this, they would have presented it at the last meeting.

Tim Flury, High-Tech Pools, stated that the proposal is to put in a 20 by 50 swimming pool.

Mr. Hitchcock asked for questions from the board. Mr. O'Toole stated the proposal involves a 20 by 50 pool, which would be 1,000 square feet. He asked whether the proposal was just for the pool or also the deck around it. Mr. Meyers said it was just the pool. He explained that the way the code reads in South Russell is that there are only so many feet of accessory structure permitted. Also, according to the code, which they did not realize, is that a pool is considered a structure and not part of the landscape. Mr. O'Toole concluded that the proposed structures included the pool house the board approved last month. Mr. Meyers concurred.

Ms. Self asked if there were any concerns or anticipated concerns from neighbors about it being visible or too big and asked if 20 by 50 was a pretty normal size pool for a house this size. Mr. Meyer said yes, and added that if anything, it is not as big or convoluted. Many pools have wild shapes and rock stuff and slides. This is just a straightforward five-foot deep pool.

Ms. Matejcik addressed the lighting. She noted the plans said there was indirect lighting, but she wanted to better understand what kind of lighting would be around the pool as to the exposure, i.e. how high would it be allowed to be, where it is allowed to be placed, etc. Meyers stated that there will be lights in the pool as an option for the owners to have the pool lit. Other than that, there would only be landscape lighting and coach lights on the pool house. Ms. Matejcik thought the lights were 16-feet and asked Mr. Hocevar how high the lights could be in terms of the light reflecting out. Mr. Hocevar did not think this would be an issue only because there is something in the ordinances about lumens effecting adjoining neighbors. Ms. Self added that it appears that where the house is situated, it is set back the furthest on the cul-de-sac. They could have baseball field lights, and no one would see them, although she was not encouraging this. Mr. Meyers assured the board that the residents did not want this. They were looking for tastefully done and understated, not ostentatious.

Mr. Hitchcock asked for any further questions. He said that from his perspective, the board approved the pool house, and although one does not have to force the other, it does not seem like one should have a pool house without a pool.

**Mr. Hitchcock made a motion for BZA Case 2004, for the property at 120 Ashleigh Dr., to approve an area variance of 912 square feet to permit accessory structures totaling no more than 2,807 square feet, seconded by Mr. Mulloy. Mr. Hitchcock asked for comments or questions on the motion. Hearing none, he asked for a roll call. On roll call vote, the motion passed unanimously.**

The applicants thanked the board.

No old business was noted. Under new business, Mr. Hitchcock asked the Mayor to provide context to the proposed BZA/Planning Commission meeting. The Mayor said first, they were not going to have it. Mr. Hitchcock acknowledged this. The Mayor said the Planning Commission would be busy that night and they did not want the BZA sitting around. He added that the BZA could take the Zoning Code book and suggestions from Ms. Matheney, and this would be the first step if they could start seeing what needs to be done and what changes could be made. We, in turn, will come with some additional suggestions but we will start with the Planning Commission and the BZA can get started looking. Eventually everyone will get together probably in April. He added that this year looks like it will be meetings every month and there is a lot going on and going through the Building Department right now.

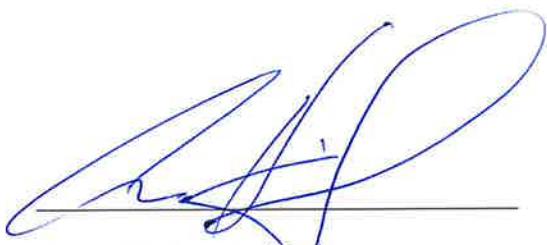
Mr. Hitchcock wondered if he missed an email containing Ms. Matheney's suggestions as mentioned by the Mayor. Ms. Matheney said she would make sure everyone has the suggestions she made a few years ago about the Zoning Code in general. The point for BZA is that since they see the variance requests, the board is being asked to identify those matters needing updating, amending, changing, or looking at different regulations. This is the information the Planning Commission is interested in knowing.

Ms. Self asked if a spreadsheet or list was maintained of the issues being seen repeatedly, like what had gone before BZA in the last two years, to see if there are patterns. Ms. Matheney said they do not have a formal list, but the agenda from previous meetings can be reviewed to compile a list.

Mr. O'Toole asked if at this juncture, they would be attending to the lighting specifications discussed previously about the Red Barn. Ms. Matheney did not know. She did not recall if this was part of her suggestion but knew that it had come up. She asked Mr. Hocevar if there is a Codified Ordinance outside the Zoning Code with respect to lighting. She did not think there was, other than addressing glare beyond a certain point. Mr. Hocevar said that was about it. Mr. O'Toole added that the board found itself at a juncture where it wished it might have had something. Ms. Matheney said that was correct and it was that kind of issue that comes up and the code is not clear and a little ambiguous and could use clarity.

The Mayor said that with that in mind, the next meeting is March 19<sup>th</sup>, and asked that any members who will not be available communicate this.

With no New Business on the agenda, Mr. Hitchcock closed the meeting to a close at 7:11 p.m.



Andy Hitchcock, Chairman

3/19/2025

Date



Ruth Griswold, Board Secretary

3/19/2025

Date



**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 Hocevar, 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. Hocevar.

**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 B1I1. 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 Solict 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 acers, 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. Matejcik 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. Matejcik 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.

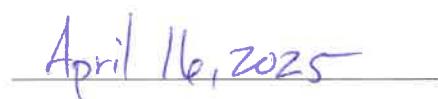
**Hearing no other conversation, Mr. Hitchcock made a motion to approve the following:**  
**For BZA Case 25-06 for the property located at 576 Industrial Parkway, he made the motion to approve an area variance of 30 parking spaces to bring the minimum number of parking spaces required to 33, subject 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.



Andy Hitchcock, Chairman



Date

  
Leslie Galicki, Administrative Assistant

Date



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

**BOARD OF ZONING APPEALS  
MEETING MINUTES**

**April 16, 2025, 7:00 p.m.**

**Members Present:** Andy Hitchcock, Chairman; Lindsey Self, Martin O'Toole, Kevin Takacs, Cindy Matejcik

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

**Visitors:** Brian and Angela Berger, 129 Lakeview Lane; Allen Fisher, Complete Fence & Construction LLC, 17681 Kinsman Rd., Middlefield

Mr. Hitchcock called the meeting to order at 7:00 p.m. Present were Andy Hitchcock, Chairman; Lindsey Self, Martin O'Toole, Kevin Takacs, and Cindy Matejcik.

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

Ms. Matheney swore in presenters Mr. and Ms. Berger and Mr. Hocevar.

**Agenda Item 1: BZA Case # 25-07:** Brian and Angela Berger, owners of the property located at 129 Lakeview Lane, are seeking two variances. One is for the type of fence and the other is for the height of a fence.

Ms. Berger explained that the home is located on the corner of Lakeview and Leaview Drives on an oddly shaped lot. The bulk of the lot is up front and wooded with a dry creek that carries water when it rains. They have an invisible fence and a new puppy. They would like to fence the lawn portion of their yard to be a safer contained space for the dog. Because of the shape of the lot, it is technically the front yard being fenced, and she understood there would be a rule against having the front yard fenced. However, in the case of their house, it is a unique situation

in that the house is set back from the road with woods in front, and she thought the fence would look quite nice. The variance being requested for the height is because the fence is supposed to be 3-foot, and the proposed fence is a 4-foot, white picket scalloped fence.

Mr. Berger distributed to board members photos of the property as well as pictures of the fence type. Mr. Hitchcock clarified that the picture on the front page showing the section of the house with the blue door was the front of the house. Ms. Berger said yes, and explained she wanted to show how the bulk of the lot is wooded with a small area of actual grass lawn. They wish to have a picket fenced area to enclose the lawn space. Ms. Matejcik asked if the reason the Bergers wanted so many gates was so that the children could get out. She observed that there was climbing on the tree, and they appeared to be utilizing the wooded area. Ms. Berger confirmed that the wooded area is used. There is one gate coming down the walk, a gate at the back of the house, and another gate out to the trampoline area and to the woods. Mr. Berger explained they have two very active 13- and 15-year-old boys who play soccer and golf in the yard.

Ms. Self asked how the front yard is determined. When she viewed this property, she would have assumed that the front yard was with the driveway in large part because that is also the street that their address is on. Ms. Matheney said it was a corner lot. Mr. Hocevar explained that according to the Village's Zoning Code, with a corner lot, the description is that the front yard is the longest width of the lot. Ms. Self said that if the front yard had been determined to be the portion of the yard with the driveway, the proposed fence would be considered to be in the backyard and would not need a variance. Mr. Hocevar added that if it had been the side yard it also would not have been needed.

Mr. Hitchcock asked where the fence would sit relative to the property line, specifically how far back in the front. Ms. Berger said in the front, it would be quite a distance and closely tucked to the house. In the back, the property line cuts up tightly to their home. The neighbor in the house behind them, Cindy Hummer, has lived there for 40 or more years, and they walked the property line together to verify it. The plan is to come across and up the lawn and cut closely down the back so that they are assured not to be too close to Ms. Hummer's space. Mr. Hitchcock verified that it would be at least 3 feet off the property line, and Ms. Berger said yes. Although they are good friends with Ms. Hummer, they realize at some point she might move, or they might move.

Ms. Matejcik asked if the proposed fence line is where the blue flags were located in the yard, and Ms. Berger said no, that this is the invisible fence line. Utilizing the Geauga REALink 2021 GIS Aerials of the property on the media screens, Mr. Berger pointed out the location of the proposed fence line. He described where on the front lawn it would run and said it would not be very far into the yard. It would go back and tie into the garage. He said it is not a very large area and its purpose would be to have a secure area for the dog.

Mr. O'Toole advised that he viewed the property and noted that the only neighbor potentially impacted by the fence would be Ms. Hummer. He asked if she had expressed any concerns about the fence, and Ms. Berger said that they discussed it with her, and she did not have concerns. Ms. Berger further explained that initially, they considered just doing the front area, but they are going for the whole thing because Ms. Hummer's dog will come over for playdates as well into their space. Ms. Berger verified Ms. Hummer is in agreement.

Ms. Self said that based on how the house is sitting and how the code defines the front yard, they do not have a backyard. Mr. and Ms. Berger agreed. Ms. Self concluded that there is no backyard to have a fence anyway. Ms. Berger concurred. Ms. Self verified that there is no alternative for the Bergers to put a fence up other than seeking a variance. Ms. Berger said yes. Mr. Hitchcock offered that this would be the case unless they did not have a front yard fence and only encircled the side and back. Ms. Berger advised that this was their alternate plan, but it would not benefit the house aesthetically and would instead lengthen the house even more instead of creating definition in the front.

Mr. Hitchcock asked why the fence would need to be 4-feet high in the front as opposed to just on the side and back. Ms. Berger deferred to Mr. Fisher, who raised the question of how big the puppy would grow to be. Mr. Hitchcock concluded that it was not a construction issue, and it would be possible to make a shorter fence if the residents wanted it. It was a practical issue. Mr. Berger added that it would also be sunk into the ground and would not actually be 4-feet high. Ms. Self clarified that 4-feet would be the maximum, and Mr. Fisher concurred. Ms. Self verified that the posts are 4-feet. Mr. O'Toole asked for clarification of the discussion that the posts are 4-feet, meaning that the part of the physical post that is exposed above ground, not what is below ground, is a 4-foot post. Mr. Fisher and Ms. Berger concurred. Mr. Hitchcock continued that because of the scallop, the center of the section would be shorter.

Mr. O'Toole verified that it is not the business of the BZA to consider the design of the fence. It is not architectural review. The meeting is just about obtaining a variance for the height of the fence. The Solicitor agreed. Mr. Hitchcock explained that the board had two matters in front of them. Mr. O'Toole indicated he understood. Mr. Berger offered that they could also go with a consistent 4-foot-standard picket fence if that would make a difference. Ms. Self noted that per the code, it is supposed to be a split rail fence, and Mr. Hitchcock added that this is for the front yard. They can have any style on the side or back. For clarity, Mr. Hitchcock stated that the board has a variance request for the style of fence because it is not a split rail and then they have a variance because it is greater than 3 feet tall. Mr. O'Toole asked the Bergers if the split rail fence they currently have on the Lakeview side of the yard would stay. Ms. Berger replied yes that this was in place just to have a gate when their children were little to keep the basketball off the road. Ms. Matejcik asked if they would be removing it, and Mr. O'Toole acknowledged that was actually a different topic. He continued to say that they have split rail now, which is what is called for, but the purpose of this is totally different. Ms. Berger said she did not envision a split

rail fence looking very good as their lawn fence because it would need to have wire. It seems like this would be the much more aesthetically pleasing fence up near their house rather than a split rail. Ideally, they would love it to be a backyard fence, but they do not have one due to the strange property line. She asked Mr. Fisher if a 3-foot fence was a possibility with the given materials. Mr. Fisher said it is, but he still thought the proposed fence would be better for containing the dog.

Having driven by the property, Ms. Matejcik noted that the Berger's property will be more pronounced because there are not many fences in the neighborhood. She asked if the neighborhood had a homeowners' association (HOA), and the Bergers said they had a club association for the lake, but no HOA.

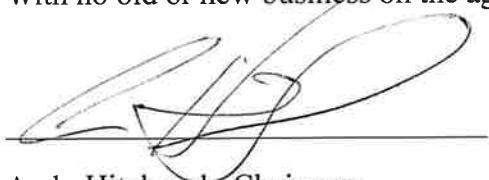
Mr. Hitchcock advised that there are a handful of criteria the board considers when reviewing the applications. Although he would not specifically go through each, as far as he was concerned, most were probably not applicable. The one point that Ms. Matejcik touched on that there are not a lot of fences in this neighborhood would be the one Mr. Hitchcock would think most about. Regarding the distance, they have the woods and the distance from the street to the front of the house and the front of the yard is fairly significant and hides a lot.

**Hearing no other comments, for BZA Case 25-07 for the property at 129 Lakeview Lane, Mr. Hitchcock made a motion to approve a height variance of 1-foot to permit a front yard fence no greater than 4-feet in height, seconded by Ms. Self. Roll call – ayes, Mr. Hitchcock, Ms. Self, Mr. O'Toole, and Mr. Takacs, and Ms. Matejcik. Motion carried.**

**For BZA Case 25-07 for the property at 129 Lakeview Lane, Mr. Hitchcock made a motion to approve a style variance to allow for a non-permitted style of picket rather than split rail, seconded by Ms. Self. Roll call – ayes, Mr. Hitchcock, Ms. Self, Mr. O'Toole, and Mr. Takacs, and Ms. Matejcik. Motion carried.**

The Bergers thanked the board.

With no old or new business on the agenda, Mr. Hitchcock closed the meeting at 7:17 p.m.



Andy Hitchcock, Chairman

May 21, 2025

Date



Leslie Galicki, Administrative Assistant

May 21, 2025

Date



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

**May 21, 2025 - 7:00 p.m.**

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

**Member Absent:** John Buda

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

**Visitors:** Kyle Dingfelder, 49 Cascades Drive; David Murray, 71 Morningside Dr.

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

**Mr. Hitchcock asked if the board had any questions or comments after reviewing the minutes of the meeting held on April 16, 2025. Hearing none, he made a motion to approve the minutes from April 16, 2025 as is. Ms. Self seconded. On roll call vote, the motion passed unanimously.**

Ms. Matheney swore in the applicant, guest and Mr. Hocevar.

**Agenda Item 1: BZA Case #25-08:** Mr. Kyle Dingfelder, owner of the property located at **49 Cascades Dr.**, is seeking a variance of 63 square feet for an accessory structure measuring 768 square feet. The Village of South Russell Zoning Code Section 4.01(b)(1) allows 500 square feet per acre. 49 Cascades Dr. is 1.41 acres which would allow 705 square feet.

Mr. Hitchcock said the board has seen this property before, but there is a very different application before them tonight. He asked the members if everyone had the chance to review the documents submitted. All board members had.

Mr. Hitchcock asked Mr. Dingfelder if there was anything else he would like the board to know. Mr. Dingfelder said all he has are copies of everything the board has reviewed, so if there are any questions regarding his variance request, he would be more than happy to answer them.

Mr. Hitchcock said his only question would be is if the structure would be used for the same general purposes as his previous submission, just on a smaller scale. Mr. Dingfelder said that is correct, but it is minus a lot of what was in the previous proposal. He said basically it would be a storage building, hobby shop and perhaps have a treadmill.

Mr. Hitchcock asked board members if they had any questions. There were none. Mr. Hitchcock said he sees this as a relatively small variance request; according to his math it's a bit less than 9% of the overall allowable size by code, and the rest of the Duncan factors are not swaying him. The request is pretty straightforward, and as far as the neighbors are concerned, a letter of approval from the Homeowners Association has been received, which was a difficult requirement to get the previous time.

**After no further questions or comments, Mr. Hitchcock said for the property located at 49 Cascades Drive, he makes a motion to approve an area variance of 63 square feet to allow an accessory structure measuring no more than 768 square feet. 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.**

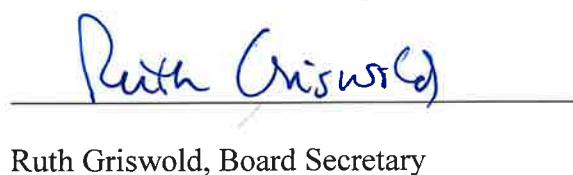
Mr. Hitchcock asked if there was any **Old Business**. There was none. He asked for any **New Business**. Hearing none, he adjourned the meeting at 7:04 pm.



Andy Hitchcock, Chairman

6/18/2025

Date



Ruth Griswold

6-20-2025

Date

Ruth Griswold, Board Secretary



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

**June 18, 2025 - 7:00 p.m.**

**Members Present:** Andy Hitchcock, Chairman, Mike Mulloy, Cindy Matejcik

**Member Absent:** John Buda, Martin O'Toole

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

**Visitors:** Jaclynn Bosley, 100 Fox Trail; Angelo Alesci, 115 Leaview Lane; Tom Fowler, 128 Countryside Drive; Quinn Fowler, 128 Countryside Drive

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

**Mr. Hitchcock asked if the board had any questions or comments after reviewing the minutes of the meeting held on May 21, 2025. Hearing none, he made a motion to approve the minutes from May 21, 2025, as is. Ms. Matejcik seconded. On roll call vote, the motion passed unanimously.**

Mr. Hitchcock asked Todd Hicks to swear in anyone who would be giving testimony. Mr. Hicks said the Board of Zoning Appeals is only supposed to listen to sworn testimony. He said anyone who will be speaking tonight, whether an applicant or a member of the public, please raise their right hand. Mr. Hicks swore in the applicants, guests and Mr. Hocevar.

Mr. Hitchcock addressed the applicants and said that typically, the board has five members present. Tonight's meeting was anticipated to have four, but unfortunately one person was unable to make it due to some travel issues. With three members, there is a quorum, but the applicants would need all three votes to be in the affirmative for their applications to be passed. Both applicants understood.

**Agenda Item 1: BZA Case #25-09:** Angelo Alesci, applicant and owner of the property located at **115 Leaview Lane**, is seeking approval to locate a shed 7' from the side lot line at the rear of the shed and 15' from the side lot line at the front of the shed. Section 4.02 of the South Russell Zoning

Code requires accessory structures to be located at a minimum of 20' from all property lines, requiring an area variance of 13' at the side lot line at the rear and 5' at the side lot line at the front.

Mr. Hitchcock asked Angelo Alesci to give the board a little background as to what brought him before the board today. Mr. Alesci said that on January 2, he received a call from Ruth Griswold saying that it was brought to their attention that he was putting a shed up, and that it seemed too close to the lot line. It was determined that there was no permit. He went on to say that he had discussed the location with his neighbor because the shed would be closer to the lot line than usual. His neighbor agreed and had no issues with the location. His neighbor also wrote a letter, which is submitted as part of the application before the board. Mr. Alesci said he is requesting two variances for the side yard setback, because the shed is situated at an angle.

Mr. Hitchcock asked Mr. Alesci when he began the construction process of the shed. Mr. Alesci said he began the project in the spring and summer of last year. Mr. Hitchcock confirmed that the project was started before Mr. Alesci was made aware that he needed a permit or a variance, or both. Mr. Alesci said that is correct.

Mr. Hitchcock said that Mr. Alesci's application noted mature trees on the property as one of the reasons that would prohibit locating the shed differently and asked him to explain further. Mr. Alesci said their property is one of the most tree-filled on the street, and he loves having them there. He did not want to cut down any trees to put up a shed. The chosen location was the best spot for placement of the shed in order to save the trees. He also wanted it near the driveway.

Mr. Hitchcock said as he drove past the property, he didn't look at the neighbor's house. He asked approximately how close their house and any other buildings are to the lot line. Mr. Alesci said there's nothing back there, and the shed is really far away from the rear lot line. His neighbor also has a lot of trees on the side lot line, but there are no structures near it.

Ms. Matejcik said she had visited and walked the property with Mr. Alesci. Her only concern was with the water flow. Mr. Alesci explained how he had cut out a little bit of the property, but she felt with the creek there, everything was still flowing properly. Ms. Matejcik said she does like that the trees were all left there. They had gone to the neighbor's property to look at the view from there, and all that can be seen are the trees.

Mr. Hitchcock asked Ms. Matejcik and Mr. Mulloy if they had any other questions. They did not. Mr. Hitchcock asked Mr. Alesci if he had any other comments or anything the board should consider. Mr. Alesci said the shed will look beautiful if the board approves it.

**Mr. Hitchcock said for BZA Case #25-09 for the property located at 115 Leaview Lane, he makes a motion to approve a 13' variance to the side lot line to permit the rear of a shed to be no closer than 7' from the side property line, which is the north property line. He asked if there were any questions on the motion. There were none. Ms. Matejcik seconded. On roll call vote, the motion passed unanimously.**

**Mr. Hitchcock said for BZA Case #25-09 for the property located at 115 Leaview Lane, he makes a motion to approve a 5' variance to the side lot line to permit the front of a shed to be no closer than 15' to the lot line, which is the north property line. Mr. Mulloy seconded. Mr.**

**Hitchcock asked for any discussions or questions on the motion. There were none. On roll call vote, the motion passed unanimously.**

Mr. Hitchcock told Mr. Alesci he is approved, and said he appreciated him coming out tonight. Mr. Alesci thanked the board.

**Agenda Item 2: BZA Case #25-10:** Randy and Jaclynn Bosley, applicants and owners of the property located at **100 Fox Trail**, are seeking an area variance of 1,225 square feet, to allow a deck and pool structure in their rear yard. Applicants show their proposed deck and pool to be 1,760 sq ft. and Section 4.01 of the South Russell Zoning Code limits accessory structures to 500 sq ft per acre. At 1.07 acres, this property would allow 535 sq ft. of accessory structures. Proposed structures total 1,760 sq ft, requiring an area variance of 1,225 sq ft for the proposed deck and swimming pool.

Mr. Hitchcock said the board has all the documents Ms. Bosley submitted and asked her to give them a little background to her proposal. Ms. Bosley said they would like to add a semi-in-ground swimming pool to their backyard, adjacent to the back side of their home. They want it to be fully enclosed within a new deck structure. Their current smaller deck would be removed. The new deck would be expanded to accommodate the pool and have an eating or sitting area.

Mr. Hitchcock asked how many square feet the existing deck is. He said he wants to look at the net difference between what they will be removing and what they will be adding. Ms. Bosley said she doesn't have that exact figure, but she would say it's probably about half of what will be there. Ms. Bosley referred to the site plan submitted, noting they are only extending about 5' to the left of the back door, and then the entire length of the 13' pool, and approximately 20' to the right side and very close to the end of the house, which includes a recent addition.

Mr. Hitchcock asked approximately how large the pool is relative to the overall square footage. Ms. Bosley said the pool is 16' x 32', or 512 square feet, and the deck is 1,248 square feet, which totals 1,760 square feet.

Mr. Hitchcock said one of the things that the board is tasked with considering is alternatives and whether the need for a variance could be eliminated or reduced. He asked if the pool was a standard size. Ms. Bosley said yes, the rectangle is a standard size. They also offered round, oval or lagoon shaped. The round ones are larger; the lagoon was 16' x 28', but they did not want the odd shape since it wouldn't be used as a leisure pool, but rather a family pool and mainly used for swimming, which is why they want as much circumference as possible.

Mr. Hitchcock said when he visited the property and walked the yard with Mr. Bosley, he saw that there were many mature trees in the backyard. He asked if the plan included the removal of any trees. Ms. Bosley said there is one smaller interior tree that must be removed in order to get the equipment in without cutting it too close. The other trees were removed on the recommendation of the tree company, since they were diseased and posed a hazard. She said the other trees in the bed also have the same disease, and they will be removed as well. The removal of these trees was not related to the project; the only one to be removed because of the project will be the small one on the interior of the yard.

Ms. Matejcik said she also walked the yard, but there was no one home at the time. She asked what would be on the lower edge of the pool decking. Ms. Bosley said there will be a two-foot perimeter border for landscaping such as ornamental grass and other plantings yet to be decided. Ms. Matejcik said she wanted to be sure it was closed off enough for safety reasons. Ms. Bosley said there will only be one entrance from the exterior, which is where the locked gate will be, and the railings have been approved by Village Council to serve as the required fencing. Ms. Matejcik asked if they had looked at other options for the size of the pool as Mr. Hitchcock had mentioned, such as how to make it more compact so as to lessen the area variance needed. Ms. Bosley said because of the way their yard is sloped, they wanted to do the semi-in-ground pool vs a fully in-ground pool. There are more options if you go with a standardized in-ground pool. They would still need the same variance for the deck side, and the next size down for this pool would be 14' x 28' and that's just not a lot of swimming area. The awkward shaped options would have been smaller, and they really wanted a rectangle or an oval. She said for their need and what they are looking to do, the medium size pool was the best choice. She went on to say that two of their neighbors both have in-ground pools of similar size, but they also have a pool house and a deck, and they have less acreage than their property. She feels that their choice of the medium size is not grandiose or extravagant, and there will be no slides or extra additions to the pool project.

Mr. Mulloy asked if there were any neighbors present to speak. There were none, and he confirmed that they had all been notified.

Mr. Hitchcock said, as he mentioned before, they have a handful of criteria to consider when making decisions, and most of them do not apply to this situation. The one that is reasonably relevant is the significance of the area variance request, which is roughly two and a half times what the code allows. He said he would be hung up on that if this sizable variance was for a detached accessory structure. Mr. Hitchcock said if their proposal was for an attached addition or expansion to their home, they wouldn't even be here, since they would be well within their ability to do that. They do view pools and decks differently than kitchens and dining rooms. The fact that the existing deck would be removed, and that this is attached to the house, and that really only one neighbor is affected makes him a lot more comfortable with it. Ms. Bosley said that neighbor will be putting in a pool next year.

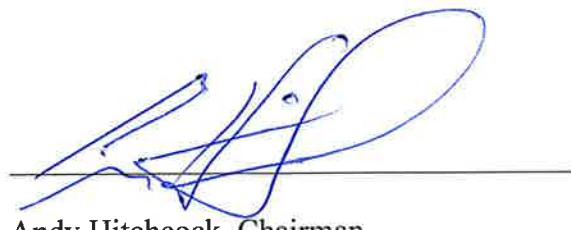
Mr. Hitchcock asked board members if they had any further questions. There were none.

**Mr. Hitchcock said for BZA Case #25-10, for the property located at 100 Fox Trail, he makes a motion to approve an area variance of 1,225 square feet, to permit a deck and pool structure no greater than 1,760 square feet. Mr. Mulloy seconded. Mr. Hitchcock asked for any discussion or questions on the motion. Hearing none, he asked for roll call. On roll call vote, the motion passed unanimously.**

Mr. Hitchcock told Ms. Bosley she is approved, and he hopes they enjoy the pool. Ms. Bosley thanked the board.

Mr. Hitchcock said they already have one applicant for the Board of Zoning Appeals meeting on July 16. Ms. Griswold confirmed that, and said the applicants are aware that only four board members are able to attend.

Mr. Hitchcock asked if there was any **Old Business**. There was none. He asked for any **New Business**. Hearing none, he adjourned the meeting at 7:27 pm.



Andy Hitchcock, Chairman

July 16, 2025

Date



Ruth Griswold, Board Secretary

7-16-2025

Date



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

**BOARD OF ZONING APPEALS  
MEETING MINUTES**

**July 16, 2025 - 7:00 p.m.**

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

**Member Absent:** John Buda, Mike Mulloy

**Other Officials:** Chris Elko, Solicitor; Dave Hocevar, Building Official;  
Mayor Bill Koons; Ruth Griswold, Board Secretary

**Visitors:** David and Debbie Bargar, 1152 Sheerbrook Drive

Mr. Hitchcock called the meeting to order at 7:06 pm. Ms. Griswold conducted roll call.

**Mr. Hitchcock asked if the board had any questions or comments after reviewing the minutes of the meeting held on June 18, 2025. Hearing none, he made a motion to approve the minutes from June 18, 2025, as is. Ms. Matejcik seconded. On roll call vote, Andy Hitchcock-Yes; Lindsey Self-Abstain; Martin O'Toole, Yes; Cindy Matejcik-Yes. The motion passed.**

Mr. Hitchcock asked Chris Elko to swear in anyone who would be giving testimony. Mr. Elko swore in the applicants and Mr. Hocevar.

**Agenda Item 1: BZA Case #25-11:** David and Debbie Bargar, applicants and owners of the property located at **1152 Sheerbrook Drive**, are seeking approval to allow two 6' tall rear yard privacy screens, 28' total length, with horizontal boards that do not have 25% vertical openings. Section 4.01(4) of the South Russell Zoning Code requires fencing to provide at least twenty-five percent of the vertical surface to be open to light and air.

Mr. Hitchcock asked the applicants to provide the board with a brief overview of what brings them here tonight. Mr. Bargar said they have been wanting to redo their patio for the last couple of years. The existing Home Depot privacy panels that were removed had been there since they moved in. Mr. Bargar said he asked the contractor if they needed to do anything with the Village before proceeding. The contractor told him since they are just replacing something that is already there, it is usually fine.

Mr. Bargar said the contractor removed the existing panels and replaced them with the new ones seen in the photos. After they were installed, the contractor said he would cut them down from a height of 7.5' to a code-compliant 6', but it would take him about ten days to get back out there. Mr. Bargar said during that time, they received the violation notice from the Village. He said he honestly had no idea that the code distinguished between vertical and horizontal openings, since he has seen both styles in the Village.

Mr. Hitchcock asked Dave Hocevar to explain to the board how a vertical is defined. Mr. Hocevar said a code compliant fence could achieve the 25% vertical opening by having a 2 x 4, a 1 x 6 and another 1 x 6 on the other side, like a shadowbox style. The intent of the code is to allow privacy while avoiding a solid stockade fence. He said it's been in the code for a long time. Mr. Hitchcock said the code doesn't address horizontal openings. Mr. Hocevar said that is correct.

Mr. Hitchcock asked the applicants to give them an idea about the spacing of the horizontal openings. Mr. Bargar said the boards are about an inch apart. Discussion followed and it was determined that the 25% opening requirement has been met, only horizontally instead of vertically.

Ms. Self asked if the code specifies that a fence is for enclosure purposes, because she doesn't view this as a fence. She said to her, the purpose of a split rail fence is for enclosure of a property. If the purpose here is screening, there is nothing you can do that would be compliant with the code to meet the screening purpose, if this is defined as a fence. Mr. Hitchcock said, to that point, when referring to fencing, the code talks about distances from lot lines. He said the applicant's screen is 35-45' away from either lot line. He said whether it's codified or not, it doesn't even resemble a fence. Ms. Self said this is a privacy screen that happens to be made from wood. There are lots of different ways to put up a privacy screen, but to her, that's what it is, and not a fence.

Mr. Hocevar said the privacy screening falls into the fence category in the code. He said he feels there isn't much difference between vertical and horizontal openings.

Mr. O'Toole recalled a recent applicant who came before the board, and they were requesting barrier type panels around the perimeter of their rear yard, not continuous but close to the property line. He said at that time, the board had a discussion as to if those panels should be defined as fencing, but at least in that case, they were proximate to where you would expect to find a fence.

Mr. Hocevar said the matter before the board tonight complies with zoning codes, other than the required vertical openings.

Mr. Hitchcock asked if any neighbors complained about their previous privacy screening. The applicants said no. He asked if any neighbors have complained about this new privacy screening. Ms. Bargar said apparently they did, and that's why they're here. Mr. Bargar said the violation notice also mentioned needing HOA approval. His wife had been on the HOA board for Chagrin Lakes for about six years, and back in that time, it was not considered an issue if they were to replace something that was already there. Mr. Bargar said they reached out to the HOA board and were told that if the neighbors on either side of them did not have a problem, it would be ok. They emailed both neighbors, and one neighbor was fine, but the other neighbor was not. Ironically, they have the same Home Depot grade privacy screening in their yard, which was put in after they moved in. He said he thinks they are a little disgruntled about other things.

Ms. Matejcik asked Mr. Hocevar if there were any codes against people installing the Home Depot plastic screening, which is solid. Mr. Hocevar said if the slats on this were vertical, they could put it around the whole yard. The solid fencing would not be permitted. He said they have been discussing procedures with the solicitor about changes and updates needed in the zoning code.

Mr. Hitchcock asked the applicants if they had received HOA approval. Mrs. Bargar said they have reached out to the HOA several times, since we told them there was a problem. She said they have not received a response back and she's not sure why. She said they may be waiting to see how this meeting goes, since they don't want to go between two neighbors.

Ms. Self asked if there was a separate HOA rule, or would they be relying on the zoning code. Ms. Bargar said basically zoning, since it is not against their HOA rules, since they replaced existing panels. Mr. Bargar said apparently the previous owners who installed the first panel did not get approval.

Ms. Matejcik said throughout the community there are many fences with horizontal openings, and she can point to three of them. She said the one Marty was talking about does not have vertical openings, but horizontal. There are three in her neighborhood, including the one being discussed. Some are used for privacy, and some are used for fencing. She doesn't understand why this one is different than those that have already been permitted throughout the community. Mr. Hocevar said the ones that are there now probably never got a permit. Ms. Matejcik said the one that Marty brought up definitely did, because they came before the board. She doesn't understand because there seems to be a lot of them, and she thinks they are very attractive with a nice natural look. She said if there is a need for there to be more space, something could easily be done without having to go vertically.

Mr. Hitchcock said Lindsey brought up a good point about this not really being a fence. The ambiguity of the code doesn't really get to the detail they want, but this board exists to interpret those gray areas. Ms. Self said even if it is a fence, which she doesn't think it is, the board is supposed to consider particular factors when deciding whether or not to grant a variance. In going through them, this will not impact the essential character of the neighborhood, since there was something similar up there prior; there's no adverse effect on receiving any services; and they purchased the property not knowing the restrictions. There is no other option, so if they want privacy screening, this is the way privacy screening goes up, and no matter what it wouldn't comply with our zoning regulations. Ms. Self said based on the conversation, the spirit and intent behind the actual zoning requirement is not privacy screening.

Mr. Hitchcock asked board members for any further comments or questions. There were none. He asked the applicants if they had anything they wanted to add. Mr. Bargar said he wants it known that they were not trying to circumvent anything, they just wanted to upgrade their property.

Mr. Hitchcock said he wanted to make it clear that this board very frequently, probably 100% of the time to the best of his recollection, defers to the Homeowners Association on what they will permit. His motion to approve will be subject to HOA approval. However the board votes on this motion, just recognize that you still have a Homeowners Association to appease.

Mr. Hitchcock said for BZA Case #25-11 for the property located at 1152 Sheerbrook, he makes a motion to approve a fencing variance to permit two privacy screens without the required 25% vertical openings, subject to HOA approval and payment of any permit fees that may be required. Ms. Self seconded. Mr. Hitchcock asked for any questions or discussions on the motion. Hearing none, he asked for roll call. On roll call vote, the motion passed unanimously.

Ms. Bargar verified that the HOA approval could be emailed, and once that is received, the permit fee could be paid.

Mr. Hitchcock asked if there was any **Old Business**. There was none. He asked for any **New Business**. Hearing none, he adjourned the meeting at 7:26 pm.

  
\_\_\_\_\_  
Mike Mulroy Chairman

10-15-2025

Date

  
\_\_\_\_\_  
Ruth Griswold

Ruth Griswold, Board Secretary

10-15-2025

Date