

BOARD OF ZONING APPEALS MEETING  
THURSDAY, JANUARY 25, 2023 5:30 P.M.  
COUNCIL CHAMBERS  
40 W MAIN ST, NEWARK, OH 43055

**MINUTES**  
**PUBLIC HEARING**

**Mr. Carter** - We need to nominate a President and Secretary for the year 2024

**Steve Layman nominated for President, Seconded**

**Jack Gienger nominated for Secretary, Seconded**

We have a schedule for 2024 with most meetings being on the 4<sup>th</sup> Thursday with the exception of October, November and December to avoid holidays, October 17<sup>th</sup>, November 21<sup>st</sup> and December 19<sup>th</sup>.

**1. CALL TO ORDER**

**CALL TO ORDER- Phil Claggett acting Board Chair called the Thursday January 25, 2024 Board of Zoning Appeals Meeting to order.**

**Present:**

George Carter	Zoning Inspector
Eddie Hunt	Member
John Paul	Member
Jack Gienger	Member
Phil Claggett	Member - sitting in for Steve Layman as Board Chair

**Absent:** Steve Layman Board Chair

**2. APPROVAL OF MINUTES**

Minutes of the December 28, 2023 meeting

**Motion and second to approve minutes of December 28, 2023, motion passed by acclamation**

**3. OLD BUSINESS**

**APPLICATION BZA-23-16**

Applicant: Amy Jordan  
Owner: Amy Jordan  
Location: 1429 Granville Rd.  
Project: Conditional Use - Dance Studio

Reference: 16.4

**Amy Jordan, 1429 Granville Rd.** - I have some of my students here today (inaudible), some of my students have come from Westerville to support me. I've been doing it for 6 months and it's been going well, one on one or one couple and one comes and one goes, so it's going very well. Any questions for me?

**Mr. Claggett** - Is there anyone else here to speak for or against this application?

**Brian Reed, Reese Pyle and Meyer, 36 N. 2<sup>nd</sup> Street** - I am here on behalf of Tom and Molly Campbell, they reside at 509 Wayne Drive, which abuts the property where Ms. Jordan resides or has the dance studio going on. The Campbell's have resided at that address for over 43 years. This board is aware this is a residential low density district. As the Board may recall, the Campbell's objected to the conditional use when the application was previously before the Board back on May 25<sup>th</sup>, 2023. Mr. Campbell had brought up at that time that there were covenants in the deeds and the Arnold Manor which is the neighborhood here, they contain restrictions that they be used for single dwelling house purposes only, while I understand the Board is focused on Zoning Code and not restrictions in deeds, one is a legal argument for the deeds and the other is the Zoning law, the Campbell's still request the conditional use be denied as it's inconsistent with the residential use of the neighboring properties. If the Board decides to permit the dance studio to continue, the Campbell's are requesting clarification of the type of lessons permitted such that the use does not interfere with neighbors. For example, will there be drumming, horned instruments, R&B music. Correctly the conditional use is limited, as Ms. Jordan mentioned, to two people and one instructor, the operating limits right now are Monday through Friday 12-8pm, would those continue? So, there are still some questions we have about the nature and scope of any conditional use that's permitted if it were to be continued. I had mentioned to Mr. Carter, before, he and I had some discussions prior to tonight's meeting, we also have concerns about the applicants willingness to follow the Boards use restrictions in general. So, while we're here on the dance studio, I think it is important to at least inform the Board that the Zoning Inspector has been made aware of the fact that this residence which is a big white house across from State Farm that Ms. Jordan owns is being used as an AirBNB, short term boarding house, bed and breakfast for rent. That is a use that's not prohibited under the code, it could be if this Board granted conditional use for that. In fact the Board issued a cease and desist letter to Ms. Jordan back on September 27<sup>th</sup>, informing her of the required conditional use approval which she did not have. It's my understanding MS. Jordan even met with Mr. Carter after that letter was issued and despite receiving that notice she's continued to operate it as an AirBNB on the property. My client lives right there, so he sees this, I understand Mr. Paul lives in the neighborhood, I don't know if he's seen that, but I brought with me if the Board members would be interested the listing that's on AirBNB showing that people have been staying there and leaving reviews. It's not even available until March 3<sup>rd</sup> from what we can see. The District standards in the Code indicate that

providing a service on a repeated basis not approved by the Board is prohibited. She's not sought approval from the Board to get a conditional use for that so, in light of that I guess the Campbell's have concerns about, if we're not following one, what are we going to do with regard to the dance studio we may or may not have compliance with regard to that. So, looking forward, the Campbell's have concerns that the continued operation of the studio whether the applicant would or would not comply with any restrictions that may be imposed by the Board and ultimately when the property was purchased and I looked over the documents from when Ms. Jordan acquired the premises, I think her ultimate or at least part of her initial desire to acquire it was to operate a wedding venue and for obvious reasons we have concerns that maybe the dance studio and the use of the AirBNB which is in violation right now would lead toward a further removal of this property from what's really a residential area. Having said all that, we have concerns.

**Mr. Carter** - There was a letter sent to Mrs. Jordan regarding the operation of a short term rental and that it is a conditional use with the BZA. I did have an in person conversation in my office with Mrs. Jordan about that, the distinction why I'm considering it a short term rental versus terms of AirBNB which is a company corporation name. I would say Mr. Reed, our legal team is in the middle of investigating that in connection with our Zoning Code, so the truth is that I did send a letter and I do know that she has received it. At this time the administration process through our enforcement action.

**Mr. Claggett** - I guess what's on the table tonight is the conditional use for the dance studio, is there anyone else here to speak for or against this application.

**Mark Patznick, 1400 Independence Ct.** - My Mom lives right next door and that's what I'm concerned about because I've seen plans that George had shown me that Ms. Jordan was up in Engineering and had plans as far as parking and whatnot in that empty lot next door. What we don't need is (inaudible), my Mom has been there almost 30 years now, we have concerns because tonight it's a dance studio, but what's next.

**Mr. Carter** - What I will confirm is any conversations we've had regarding a wedding venue or similar items of that nature, have been clearly explained that does fall under a District Change and would need, obviously Council approval for that, neighbors would be informed of that, so, Ms. Jordan and I may have had some conversations about that, but there has been no formal application for that.

**Patricia Hughes, 4984 Wintersong Ln, Westerville** - I met Amy in 2017 when she operated her studio in Westerville. I took lessons there and I worked there doing some administration work for her. The room that she had there as well as the room that she has here in her little house behind the main house is no bigger than that right there, so the sound that she uses for dance lessons is no more than one would want just listening to music in his or her own home, so the noise thing is an absolute non-issue. The room does not allow that kind of group space, as a matter of fact, I attended a party that she hosted this past week and it was

one of the buildings, the Buckingham House.

**Ms. Jordan** - I spent \$200 to rent the Buckingham House, I've been teaching group classes at Newark Station and the Trout Club.

**Ms. Hughes** - So, she doesn't have the space for groups at her property and so it's really couple or individuals. The idea of drunks, there is no alcoholic beverages being consumed there, I mean you come in for a dance lesson and you leave. When she offers refreshments it tends to be water, so the idea of a parking lot full of drunks is just ridiculous, out of bounds really.

**Christopher Cain, 1017 Beaver Run Rd. Hebron** - My wife and I have been taking lessons for about a month now, we appreciate the convenience it's only about 10 minutes from our house, we're the only couple ever there, the music is not loud, to describe it, it's something you would listen to in your kitchen.

**Pam and Doug Vickers** - We've been life long residents of Newark, about 40 years. We've been taking lessons from Amy because our eldest daughter is getting married in May and we didn't want to make a fool of ourselves on the dancefloor, so we sought out someone who could do adult dance lessons to do some ballroom dancing for us. We sought this out last fall and couldn't find anybody local, anybody local was a kids dance studio, so we were prepared to drive to Columbus to do that and somebody made us aware that Amy could provide dance lessons for us, so we were thrilled to not have to drive top Columbus. We think the service that she's providing to our community, not just the dance lessons for adults, it's very delightful, involves no alcohol at all and in fact is quite quiet, I would say a barking dog in the yard would be louder than the music that we experience when we're there, but I think it's really a nice thing for us to have as a community to have someone here who is qualified and willing to offer such a wonderful service for us in this community and I think we're doing a lot of great things in Newark and I think this particular service, I certainly can't speak to any of the other issues that have been raised, but this particular service that is on the docket tonight is something that we're thrilled that we have an opportunity to have here locally in Newark.

**Ms. Jordan** - I think one of my other Newark residents sent a letter to the Board.

**Mr. Carter** - They did and it's been distributed to the Board.

**Pam Kelly, 270 Blairfield Dr. Columbus**- I just want to say that Amy was our back yard neighbor in Columbus, my husband Scott and I and she's now renting that place and the people that live there are delightful, I've gone over and met them, I've watered their plants, she's never been a problem as a neighbor, we trade plants, ideas and she's a great neighbor and when she's giving free dance lessons, which I love, it reminds me of when I was a kid and took piano lessons with Mrs. Fisher in Pennsylvania and she lived in a residential area and it was very quiet, me and my brother took lessons from her, it's about the same thing it's very subdued, she sometimes will have a little snack or some tea or something, but I can't see that the dance studio is going to cause any trouble it's like the other lady said, it's more of a community service. People have lost the ability to dance and to listen to beautiful music, with Amy you have a chance to

do that again. I was in band I played the trumpet I had piano lessons, I love music and Amy is giving the opportunity to re-visit something I love.

**Mr. Reed** - Briefly, in light of the comments by others, I think I want to impress upon the Board that it seems like we're running two businesses on the property. There is the rental in the large dwelling house, which people are staying there for long term and short term rental and then the property behind is the dance studio and so I'm failing to see where it's a residential property now, what we're doing is running a business on two different dwellings on the premises and I think that's the concern, it's compounding and turning more into a business property when this is a residential area.

**Ms. Hughes** - Excuse me, but Amy is living there.

**Mr. Claggett** - So, the short term rental, that's a subject or an issue, a wedding venue is another total application, what's before us tonight is the conditional use for a dance studio.

**Shirley Patznick, 1459 Granville Rd.** - I live right next door to the property, this is the second time I've been here for zoning because of her wanting to re-zone this, it's a residential area, I don't understand when she bought the property she had to know this, if she wanted these kind of businesses why didn't she go elsewhere. If she gets this changed to be a dance studio what's to keep it from 6 months down the road becoming a wedding venue or whatever else.

**Mr. Carter** - Mrs. Patznick I can address that particular question. Every residential home in the City of Newark that is zoned Residential, a home based business, a conditional use, is approved by the Board of Zoning Appeals. A home based business is different that McDonald's there is no advertising there is no stock of inventory allowed, they do have to come before the Board to plead their case, the Board can issue conditions like we did last time, hours and similar items. If she wants to run a wedding venue, she would need to go in front of Council and request for her District to be changed to the appropriate Business or Commercial District. I'm not going to sit here and say that people don't run illegal businesses out of their homes, but that's a legal process that's well defined here in the City of Newark for her to do something similar to that. Everybody has a right to ask, they also have a right to be told no, it's a Council action. So, what the Board decides tonight is going to limit what she can do regarding that home based business and particularly for exactly that, so if they grant for a dance studio, she can't 6 months down the road decide now it's going to be art lessons. So, that's where those restrictions come in. That's where it's the right of every property owner in this town to come to this Board and ask permission to do so. The conditions given were noon-8pm for hours and no more than two people plus one instructor at a time and it was Monday through Friday.

**Motion to approve for an additional 6 months with the continuing conditions I want to be sure we separate the dance studio from any other potential use on the property and then advise that to be addressed through legal counsel, Second with the understanding this is not a gateway to anything other than the**

**dance studio, motion passed 4-0**

#### **4. NEW BUSINESS**

##### **APPLICATION BZA-23-46**

Applicant: Northpoint Architecture  
Owner: Angela Phillips  
Location: 1210 Shide Ave.  
Project: Single Family Dwelling  
Reference: 16.8

**Angela Phillips, 402 Tuscarawus St.** - My house was destroyed by a drunk driver crashing into the side of it, it has to be demolished and re-built. I am attaching the house to the existing garage.

**Mr. Carter** - Mrs. Phillips house was destroyed in a disaster, she is permitted to re-build her house in the same footprint and the same use under the Zoning Code. Her architect decided they wanted to attach the existing detached garage, which essentially the garage is a legal non-conforming structure on der the Zoning Code, if it is altered it has to have approval. I have spoken with the contractor and architect.

**Deb Doyle** - I live on the corner of 34<sup>th</sup> and Shide, the way the houses are it's 34<sup>th</sup> and Shide and she is in my back yard, our house was hit by the same drunk driver, the garage she is asking to have her house attached to has been there since I was born 70 years ago, so I don't see there is any change to that being there other than the house being attached to it.

**Mr. Carter** - We did receive a hand written letter from a Mr. John Laurel that owns property catty cornered from Mrs. Phillips, in support of the re-build.

**Michele Dunlap, 74 S. 34<sup>th</sup> Street** - My back yard backs up to Angie's garage and I am in support of her doing what she needs to do.

**Motion to approve, Second Motion passed 4-0**

##### **APPLICATION BZA-24-01**

Applicant: Chrisanne Webster  
Owner: Chrisanne Webster  
Location: 2011 Londondale Pkwy.  
Project: Porch  
Reference: 16.8

**Chrisanne Webster, 2411 Londondale Pkwy.** - I am coming before the Board tonight because I would like to improve my property by adding a front porch to the residence. I am the original owner of the property, it was at one time the model home for Woeste Real Estate who built the Brittany Hills Subdivision and the porch will be within the variance of the property and so I am asking to extend the variance.

**Mr. Carter** - I did receive a phone call from one of her neighbors, I apologize, I

forget the neighbor's name who is 100% positive that you will do a great job.

**Motion to approve, second motion passed 4-0**

**APPLICATION BZA-24-02**

Applicant: Scott Hartley  
Owner: Cynthia Englefield/Kennedy Group  
Location: 0 West Main St.  
Project: Multi-family Development  
Reference: 125.2

**Scott Hartley-**

Thanks for your time this evening, I think George had passed around a packet that we had submitted, we are here for a parking variance for a proposed project off of West Main Street. We were successfully re-zoned for a multi-family project back in September. For the variance application we included two specific parts of the Zoning Code, 150.8.1, literal enforcement of the Code would create an undue hardship in addition to 150.8.2 the condition prevailing for the site. As you guys know this is a very challenging site from a development perspective the topography in addition to limestone specifically, so it does not allow and is not conducive to fully develop it for the parking code that's required per the City of Newark. The package in front of you is a draft site plan, again this has to go through the Planning Commission to ultimately get approved this is just the draft site plan that we have here currently. What we are currently proposing is going to 1.5 parking spaces per unit which is in line with what our historical experience is with residential across the country, our partners have developed over 73,000 apartments across the country, typically at 1.5 parking spaces per unit or higher. From a case precedent perspective the BZA has approved reduction in parking spaces previously back in 2022 for the Log Pond site behind Walmart in addition to the Fox Run Apartments. Typically we try to cater more from a per bedroom basis versus a per unit basis and both of those were successfully reduced the parking amount to just over 1.0 space per bedroom which is in line for what we are proposing for our site here as well. The majority of the existing developments in Newark don't meet the existing Zoning Code for the City of Newark in addition to have less parking than what we are programming for our site here, a couple of existing examples in close proximity to our site here, Hartwick Square has less than .8 parking spaces per bedroom, Reddington Pines has less than .7 parking spaces per bedroom and Trail West has less than .84 parking spaces per bedroom and again we are seeking a variance for at least 1.0 parking space per bedroom and 1.5 parking space per unit. Just to continue on from a research perspective both Yardy and ULI are some of the largest Real Estate Membership Organizations in the country. Yardy has very good case studies for parking ratios that have been present for multi-family from 1940 all the way through present day, it does escalate from the 90's and early 2000's to just over 1.5 parking space per unit and their study now indicates that it's less than 1.5 parking space per unit is the typical standard for multi-family projects.

Part of the reason why we are seeking such a large variance from the Code is because we have 50% of the unit mix is toward one bedroom units. From a Code perspective there are two spaces required for a one bedroom unit and 2.5 space per two bedroom unit, so given that we have more one bedroom units programmed for our site it lends itself to a higher variance is what we are seeking here. Again going from ULI, their standard is 1.5 parking space per unit, which again, is the variance that we are seeking here, National Builder's Code is 1.2 parking space per unit. We have a tremendous amount of case studies across the country that we can point to in addition to the four you have here on your piece of paper all of which are just over 1/5 parking space per unit, 1.0 per bedroom. In addition to we have the historical experience we've developed 73,000 apartments across the country, we are drawing from the historical experience we have across the entire country as well as institutional partners that have historically been investors with us as well.

**David Hodge** - I have very little to add, the research here is well done. I'm a zoning and land use lawyer by trade, I've spent my entire adult life working for real estate developers all over greater Columbus. Unfortunately have not spent a tremendous amount of time on Zoning issues in the City of Newark, but seems to be happening more and more every day out this direction, certainly in Licking County. 1.5 spaces per unit is a pretty standard requirement, like I said in a previous meeting with some of the Administration, that traffic engineers who have kind of formed parking requirements have paved paradise and put up parking lots, you go look around just about any business, three's too much parking, I see unused parking, you know go to Kroger or Walmart on any given day and there is just an abundance of parking, the Zoning Codes have required too much parking. I'll leave it at that, happy to answer any questions, this is a great development that's proposed here in Newark. We've all heard the discussion about the need for additional housing all over our region and really all over the country, this brings a great new sleek modern product here to the community and has been fully supported thus far by the Administration. Re-zoning I think unanimously supported through that process and for all the challenges discussed by Scott, I respectfully request the Board approve this variance request.

**Mr. Hartley** - Just one other comment, the City of Columbus requirement is 1.5 parking space per unit as well.

**Dave Rhodes, 40 West Main St. City Service Director** - We have found this group to be very professional, very engaging and very strong in experience and after looking at the parking reduction the Administration does not have a problem with the reduction of parking.

**Motion to approve, Second, Motion passed 4-0**

**THE NEXT SCHEDULED BOARD OF ZONING APPEALS MEETING WILL BE HELD ON THURSDAY, FEBRUARY 22, 2024 5:30 P.M. THE DEADLINE FOR AGENDA ITEM SUBMITTAL IS FEBRUARY 1, 2024, 4:30PM.**



**5. ADJOURNMENT - Motion to adjourn, second, passed by acclamation**

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Chairman, Board of Zoning Appeals

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Secretary, Board of Zoning Appeals