

BOARD OF ZONING APPEALS MEETING  
THURSDAY, JULY 25, 2024 5:30 P.M.  
COUNCIL CHAMBERS  
40 W MAIN ST, NEWARK, OH 43055

**MINUTES**  
**PUBLIC HEARING**

**1. CALL TO ORDER**

**CALL TO ORDER- Steve Layman Board Chair called the Thursday July 25, 2024 Board of Zoning Appeals Meeting to order.**

**Present:**

George Carter	Zoning Inspector
Phil Claggett	Member
Steve Layman	Board Chair
John Paul	Member
Jack Gienger	Member

**Absent:** Eddie Hunt Member

**2. APPROVAL OF MINUTES**

Minutes of the June 27, 2024 meeting

**Motion and second to approve minutes of June 27, 2024, motion passed by acclamation**

**3. OLD BUSINESS**

**APPLICATION BZA-24-16**

Applicant: James Edwards  
Owner: James Edwards  
Location: 650 Ridgefield Ave  
Project: Building Addition  
Reference: 16.8

**Mr. Carter** – This gentleman is not here. I'd like to ask the Board to make a motion.

**Mr. Layman** – This is his second time not being here.

**Mr. Carter** – Yes.

**Motion to deny by Mr. Claggett, second by Mr. Gienger, Motion passed 4-0**

**4. NEW BUSINESS**

**APPLICATION BZA-24-26**

Applicant: Matt Dunlap

Owner: Matt Dunlap  
Location: 47 Philmont Ave  
Project: Fence  
Reference: 88.1.1

**Matt Dunlap** – I have pictures of where the fence is going to be.

**Gary Babcock, 67 Philmont** – I'm ok with it. I was there when they were taking the pictures. I am for allowing him to build his security fence. If there was anything negative I'd be the first to say so. I think you'll see that he covered it quite well. He's a great neighbor: takes care of his stuff. I know it's not going to be a rickety, old security fence two or three years from now. Matt takes care of his property. He also takes pretty good care of the property across the road.

**Mr. Carter** – Do you have any idea what the space is between the property line and the sidewalk?

**Unknow speaker** – Four foot six.

**Mr. Dunlap** – Front corner: four foot six off the sidewalk. Twenty-four six off the front sidewalk. The rear corner is four foot six off the sidewalk: 18 feet from asphalt in the alley, and 22.6 from the center of the alley.

**Mr. Layman** - Now, we got a problem notwithstanding your neighbor. The board just doesn't like six-foot fences in front yards. We just don't know. Can you pull it in?

**Mr. Dunlap** - Okay, so what, you want me to go and stick four feet off the property? You want me to go, like, what, 20 feet off? Inside?

**Mr. Layman** - I don't know, what is this, a 40-foot lot?

**Mr. Dunlap** - I'm not really sure the measurements of that. Because the reason why I'm wanting to do that, I have a big dog.

**Mr. Layman** - I get it. I get it. We totally understand. And we appreciate the fact that you're a good neighbor and you do good stuff.

**Unknown speaker** - Yeah, I just wanted to add that we do have two big dogs, one of them being a Great Dane, and we just...

**Mr. Layman** - We totally understand. We're not saying no because your neighbor's here telling us you're a good guy. But we want you to pull it back from, is this Philmont?

**Mr. Dunlap** – Yes.

**Mr. Layman** - Let's pull it back from Philmont to whatever, is that a roofline?

**Mr. Dunlap** - Yeah, that's my porch, which we're actually starting from this area here.

**Mr. Layman** - Your drawing shows it up here. Your drawing shows it at the leading edge of the porch.

**Mr. Dunlap** – That's a mistake. Sorry about that. It's actually going from the house right there, because that's the porch. I'm connected to the house. And we want to go...

**Mr. Layman** - Okay, this is a 50-foot lot?

**Mr. Carter** - Yeah, I'm estimating.

**Mr. Layman** - We just don't like six-foot fences. If we give it to you, then the next thing you know, they're everywhere. We just don't do it. We're going to guess that the property line is inside the sidewalk. So, we're going to come 10 feet off the property line, and we're going to come from the leading edge of the house, not the leading edge of the porch, which is what we're showing. 10 foot in, the area in the back, you're right on the alley.

**Mr. Gienger** - That'll work.

**Mr. Layman** - Was that a motion? You said it was already. Is that a motion?

**Mr. Gienger** - Oh, yeah, a motion to approve.

**Mr. Layman** - As amended.

**Mr. Gienger** - Yes, as amended. Correct.

**Mr. Layman** - So the motion is to approve a six-foot-high fence, no closer to Philmont than the leading edge of the house, not the porch, and 10 foot off of... What is this?

**Multiple speakers** – Emerson.

**Mr. Layman** - 10 foot off the property line on the side of Emerson. Is there a second?

**Motion to approve by Mr. Gienger, Second by Mr. Claggett, approved 4-0 with conditions**

#### **APPLICATION BZA-24-27**

Applicant: Curaleaf – Jacob Throneburg  
Owner: NLCP 1150 North 21<sup>st</sup> St. OH LLC  
Location: 1150 N 21<sup>st</sup> St.  
Project: Conditional Use  
Reference: 46.4.1

**Steve Belich** - Yeah, I'll be speaking for Jacob, I'm Steve Belich.

**Mr. Carter** - Let me address the board here really quick. After meeting with our law team, we are glad that you are here addressing this conditional issue. We're also going to ask that you go ahead and request a conditional use for the recreational side. No point in making you come here twice. So, we're going to ask that your condition be removed from your previous variance issue for the non-recreational or adult use. And we're going to go ahead and ask that you request a conditional use for recreational. Does that make sense?

**Mr. Layman** - Don't worry about it. Anyone else here to speak for or against this application?

**Mark Dunn, 1163 Pierson Dr.** - I'm not sure that recreational use of marijuana sales would be good for our neighborhood or for the City of Newark.

**Mr. Layman** - Yeah, we get that. Have you had any issues with the existing business?

**Mr. Dunn** - No, sir, I haven't.

**Mr. Layman** - When this first came up five years ago, however long it was, when medical marijuana became a legal thing in Ohio, we granted three variances to allow medical marijuana in the City of Newark. All three variances contain

language that said medical marijuana only. If it became used for recreational, the medical marijuana variance would go away. Laws have changed statewide since then. The City has taken a position that they would like to control recreational marijuana by putting it in the same place as the medical marijuana on the theory that that traffic's already there. It just seemed like the easiest way for the city to control recreational marijuana. We can have an argument over whether that's a good thing or bad thing, but that's why we find ourselves here. It was a deliberate action by Council, by City Council, I think, to say that recreational marijuana had to go where the medical marijuana is currently being sold. So, for that to happen, we have to waive our original restriction and then grant the conditional use. I get your point.

**Mr. Dunn** - I understand, I'm not here to argue, I'm just here to give my opinion.

**Mr. Layman** - No, no, and I'm glad you did. We find ourselves in an interesting position.

**Unknown Speaker** - Yeah, we don't buy the example of other communities that have allowed this. It's not really a good thing. It leads to a higher crime rate and medical issues. Things of that nature.

**Mr. Layman** - Yeah, so this is the old Blockbuster building, or is it the other one?

**Mr. Carter** - Blockbuster.

**Mr. Layman** - This is the old Blockbuster building?

**Mr. Carter** - Correct.

**Mr. Layman** - Thank you for your comments.

**Mr. Dunn** - Okay, you're welcome, thank you.

**Mr. Layman** - Anyone else to speak for or against this?

**Mr. Belich** - Can I just ask a clarifying question, because I thought we submitted the application to amend the use? So, I'm just-

**Mr. Carter** - Yeah, you did. The way we kind of looked at it was at first was you were coming to amend that old decision letter, and then talking with our law team, it seemed pointless then to ask you, because the way the legislation is coming down is that it's going to be for recreational adult use license. It's going to be considered a conditional use, and you're going to have to come back in front of the board, go ahead, again, ask for permission to have conditional use there. So, we're going to combine that in one meeting versus in two meetings. Does that make that more clear? It still makes them come back here. I think it's the council, committees, law teams, administrations. It seems that the only thing they're on page about is having the dual license. The argument was regarding whether it was going to be to a specific company or not. That's going away. It's just going to be, if you're going to do it, we want you to have a dual license here in town. The process was is that they did like the individuals who were operating and the amount of trouble they did or didn't have. But they're going to be going through an application process with the safety director. Any other ones are going to have to come in front of the board again, ask for conditional uses if one of the three closed down and a new player comes into town, then it's the same thing.

You need to meet all the state conditions, need to meet the safety director conditions, and the zoning conditions along with the distancing, etc.

**Mr. Layman** - So to answer Mark's issue, which nobody knows what it's going to be like, if there's a problem, do the neighbors have some place to turn?

**Mr. Carter** - Yeah, so it's my understanding that your licensing will be annually with the City of Newark Safety Director's office. If there is a complaint that can be addressed to the safety director, and the safety director does have the authority as long as he follows the proper steps, and I think maybe in conjunction with council, to revoke (inaudible).

**Mr. Layman** - Can you hear this, Mark?

**Mr. Dunn** - Yes, sir.

**Mr. Layman** - Okay, I'm at, is that? It's better than nothing. An annual review on their license, if it's a problem for you?

**Mr. Dunn** - Sure, sure. If it's okay with the City of Newark, it's all right with me.

**Mr. Layman** - Well, we're in uncharted territory. We don't know what's going to happen.

**Mr. Dunn** - I understand that.

**Mr. Carter** - As far as the board putting the time limit on conditional use...

**Mr. Layman** - Well, the license does the same thing. Been moved and seconded to approve a conditional use for recreational marijuana at this location, and to remove the condition imposed on the 2018 approval for medical marijuana.

**Motion by Mr. Paul, Second by Mr. , approved 4-0 with conditions**

**Mr. Layman** - Your variance has been altered to remove the restriction, and you've been granted a conditional use for medical marijuana, or for recreational marijuana at that site.

**Mr. Belich** - Appreciate it, thank you.

#### **APPLICATION BZA-24-28**

Applicant: Sarah Arnold  
Owner: Habitat for Humanity Mid Ohio  
Location: 331 Washington St.  
Project: Single Family Dwelling  
Reference: 16.8

**Sarah Arnold** – We are requesting a variance to the rear yard setback due to the necessity of this particular homeowner needing to have a single-story home. The family that was offered the opportunity to purchase this lot has a son that requires lifelong care. He is wheelchair bound and requires fulltime nursing care as he can't function on his own. Because of that, we had to choose this particular house plan to go on this lot in order to accommodate their ADA needs. We needed to have a lot and a house of an appropriate size that was able to accommodate a wheelchair access ramp into the home, hallways that are wide enough for wheelchair and Hoyer lift access and turning radii, and a roll in shower. As you know, creating a custom house plan can be very expensive, and it creates a financial burden for both Habitat and the family. Our costs are already

well beyond the appraisal price of the home and what we sell the home for. We just want to save costs in any way possible. We are requesting a variance to allow the rear setback to be approximately 17 feet. That 17 feet is to the rear, covered porch. It would then be about 23 feet to the rear wall of the home. That's about 1/3 of the back yard. The rest of the house allows for a rear setback of approximately 29 feet.

**Mr. Carter** – If the Board is willing to grant this, I have a condition. I'm going to ask that you guys cut the grass out there. I got some complaints this week about the grass being high. The weeds are high out there to be more precise.

**Ms. Arnold** - We can do that. We'll talk to the folks at the land bank. They actually help us mow the grass until we get our building permits, but I have no problem doing it myself if I need to.

**Motion to approve by Mr. Claggett, Second by Mr. Gienger, approved 4-0**

### **APPLICATION BZA-24-29**

Applicant: 57 Neal Newark LLC

Owner: 57 Neal Newark LLC

Location: 963 Wells Ave

Project: Accessory Structures

Reference: 86.3

**Mr. Carter** - I'll give the board a little history on this. Maybe a year or so ago, the owner at that time came in and asked for a variance to address the multiple accessory structures and locations of those accessory structures. We laid out some very specific conditions for that person. That person did not meet those conditions. I asked the board to revoke said variance. The board did so. The property has now transferred owners. Two of the units have been removed and remains with three as it shows on the picture in your guys' packet. That is the history.

**Mr. Layman** – So, it's better than it was.

**Mr. Carter** – It's better than it was.

**Andy Brunette** - Thank you. So, I'm here representing 57 Neal Newark, LLC, far outside of my normal spectrum of representation. Basically, she acquired the property on March 20, 2024, did not know anything about the prior variance, the conditions on it. She's since, just like George said, removed... There were five sheds, we'll call them. Four sheds, actually, one garage. It's actually like a pole barn. She's removed two of those. Three of them still remain. My understanding is that the issue with the structures is that they are not behind the actual home. They lay off to the side. She actually doesn't have any room for structures behind the home due to the shape of the lot. She's requesting a variance so that she can maintain the three existing structures on the property. She has also been cited for property maintenance issues. But has went into a contract with the contractor to improve those structures as they sit. But work obviously has not

begun on that because she needed to make sure that she got the variance first to maintain the structures.

**Mr. Layman** - Anyone here to speak for or against this application? Well, I don't know what the board wants to do, but...

**Mr. Carter** - Councilwoman Bline would like to address the board.

**Beth Bline** - Hey, how are you? It's so good to see you. Beth Bline, I work with residents in that ward. And thank you for coming.

**Mr. Brunette** - Yeah, no problem.

**Ms. Bline** - I appreciate it. Yes, there have been several complaints over years concerning those sheds. And so even as well as the activity behind them.

And so, property maintenance has been very, the work ethic has been commendable. And seeking the best results for the neighborhood. And so, I support whatever property maintenance comes up with. And as far as offering greater security for not only that property, but those around it. So, thank you.

**Mr. Layman** - Thanks. I was just going to suggest to the board if you wanted to grant the variance, put a restriction on it that said if they're not in total compliance with property maintenance in six months, the answer would be no. How long have those buildings been there?

**Mr. Paul** - This is the one the guy had cancer and I said, let's just give him some more time. Now he's turned around and sold it. Now we're back at the same containers.

**Mr. Carter** - I want to estimate 2015.

**Mr. Paul** - And this is the problem you don't realize. We've already had this on our plate for a while. Phil, you got any ideas? You know what I mean? You don't realize, but this has been an ongoing, lingering... I just feel like we're not getting, I mean we're getting a little bit done but, shouldn't it just end at some point, Jack?

**Mr. Gienger** - I think so.

**Mr. Brunette** - I understand your position.

**Mr. Paul** - I don't know what to do. Phil, I'm trying to be reasonable. I'm looking for some suggestions, guys. Because I don't know what to do on this one. I truly don't.

**Mr. Carter** - At the end of the day, code states you can have two accessory structures per lot. If you want more, you've got to come to the board and ask. At the end of the day, there is an encroachment into the city right-of-way. We do know, we do understand it is an odd-shaped lot, and you're limited by geography. So, I think the board should take that into consideration with the encroachment, which is maybe, in my opinion, the biggest issue. Outside the condition of the buildings themselves. That's a pole barn, I believe. That's the one there, near the road.

**Mr. Brunette** - Yeah, so I have one as a garage with an overhead door. The other, and then two and three are more lean-to sheds, all three of which she has a

contract in place to improve. I'm hoping that that would deter any activity that we've heard out there.

**Mr. Carter** - I think at one point in time, the shed here was being lived in. So, I do believe that it's off of the point, but I do know that he was living in it at some point in time. It appears to be two lots. So, the house was very dilapidated at one point in time. I do think a lot of, I think even maybe this lean-to structure on the house has been torn off.

**Mr. Paul** - A lot of positive, you're saying?

**Mr. Carter** - So there has been positive movement on it.

**Mr. Layman** - The only thing I would say, if we do decide to do something that would make it contingent on them combining the lots.

**Mr. Carter** - Oh, sorry. Yeah, I think it's one parcel, but it's two lots. So, if I'm, maybe you can attest to that. I do believe the whole entire piece is one parcel. However, it is two lots, to be precise, if not three lots.

**Mr. Paul** - Auditor's website says it's one parcel.

**Mr. Carter** - So, it is one entire parcel made up of two lots and a part of lot 961. But it is one parcel. None of the structures are permitted right now. As we have mentioned, the homeowner has an application in my office. We have not moved it forward. We are waiting on the result of this hearing.

**Mr. Claggett** - Make a motion on those three conditions. One being connect buildings one and two to make one building. Two, the building that encroaches in the right-of-way would be removed at the owner's expense in the event the city would like to improve any utility, stormwater, sanitary, sidewalks, roadway. Three, property maintenance violations will be brought up by... Conform to the property maintenance code.

**Mr. Layman** - Six months? January 1. Is that a motion?

**Motion to approve by Mr. Claggett, Second by Mr. Gienger, approved 4-0**

**Mr. Carter** - The simple way to do that is a breezeway. Connect the road lines somehow.

**Mr. Brunette** - I appreciate you guys. Thank you for your time. And thank you for giving me good news to deliver to a client.

**Mr. Layman** - You guys were here for?

**Unknown Speaker** - I actually just have a question. Just like an inquiry for information. I'm the general manager of Zenleaf in Newark, and we just got word today that the Department of Cannabis Control (inaudible) to convert to adult use due to the city of Newark having some questions. So, I was just seeing like the best person to contact in order to make sure we have, yes. Hi, George.

**Mr. Carter** - That's the other one on 21st Street, correct? So, you missed the first part of the meeting where Curaleaf was in. So, Curaleaf came in and asked for the original conditional use for the medical side. Pretty much said medical only. And so, he came in and asked for that condition to be removed, and then simultaneously asked for the conditional use to operate a recreational adult use



business at that location. This board granted that request for them. So Zenleaf would need to repeat that same situation.

**Unknown Speaker** - Awesome.

**Mr. Carter** - And then you would be good from a zoning standpoint with the city of Newark.

**Unknown Speaker** - Perfect. Do we have to wait until the next meeting in August?

**Mr. Carter** - Correct. Yeah. So, what I need is an application from you guys by the first business day of August.

**Unknown Speaker** - Perfect.

**Mr. Carter** - And it will be the fourth business day of August.

**Unknown Speaker** – Awesome. I appreciate the information. Thank you.

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