

BOARD OF ZONING APPEALS MEETING  
THURSDAY, APRIL 28, 2022 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 April 28, 2022 Board of Zoning Appeals Meeting to order.**

<b>Present:</b>	Steve Layman	Board Chair
	Jack Gienger	Member
	George Carter	Zoning Inspector
	John Paul	Member
	Phil Claggett	Member
	Absent: Tony Fox	Member

**2. APPROVAL OF MINUTES**

Minutes of the March 24, 2022 meeting

**Motion and second to approve minutes of March 24, 2022, motion passed by acclamation**

**3. OLD BUSINESS**

**4. NEW BUSINESS**

**APPLICATION BZA-22-05**

Applicant: Scott Manno  
Owner: Elite Construction Services LLC  
Location: 118 Union St.  
Project: 3 Unit Retail Building  
Reference: 56.8

**Scott Manno, 556 Greenwood Loop** – I'm applying for a variance for setbacks on a proposed building that I would like to build on the corner of Union Street and Maholm and this would replace an existing building that sits there today. This is an extension of a project that was initially a restoration of a 3 story building that's no longer there and a house on Maholm Street, 11 Maholm that burned down last year that I purchased and we'd like to at some point, tear down the white building and then build a 3 unit retail plaza there.

**Mr. Layman** - I have a question. Why don't you push them all the way forward rather than have a 6 foot setback from the sidewalk .It's showing a 6 foot setback from the sidewalk. Why not move it up to the sidewalk and just give you more room in the back?

**Mr. Manno** – So, when you come down the alleyway on the south alley, you cannot see when you're pulling out there.

**Mr. Layman** – And 6 feet will make enough difference?

**Mr. Manno** – It will.

**Mr. Layman** – So you've got a good reason.

**Dale Jones, 120 Hillview Ct.** – My biggest concern is parking.

**Mr. Manno** – I can answer that, but it's better explained with the photos.

**Mr. Layman** – Dale, is your question answered?

**Mr. Jones** – Yes.

**Mr. Layman** – The variance would be subject to combining all lots?

**Mr. Manno** – Yes that is correct.

**Mr. Layman** – You may need more parking places to meet the code, have you discussed that?

**Mr. Manno** – We have not discussed that, but that rendering is not set in stone.

**Mr. Carter** – You will need about 40 spaces, according to code.

**Mr. Manno** – Okay.

**Motion by Mr. Clagget, second by Mr. Fox, variance granted 4-0**

#### **APPLICATION BZA-22-06**

Applicant: Craig Allen

Owner: Allen Home Solutions LLC/Alliance Property Group LLC

Location: 61 Leonard Ave

Project: Accessory Structure

Reference: 86.3

**Craig Allen, 3575 Sellers Dr., Millersport** – The property we own is very narrow as you've seen from the diagrams it's about 44 wide on Leonard on the south side and maybe 42 on the back side. The home sets at the back of the property which is about 125 deep, literally there is about 12-18 inches of property on the left, back and right of the home, so all of the land that comes with the home is in the front between Leonard Ave. and where the home begins. So, we are asking for a variance in order to get a detached garage placed in the front of the home, the position of the building we are asking for to the east side or the right of our property, the homeowner on that side, their land sets up much higher than ours. SO there's 4-6 railroad ties then with a 4 foot privacy fence on top of that, so when you pull up to our property that is what you see railroad ties and a privacy fence. So, we are asking to set the building back 22 feet which would get it back to where his fence starts so we're not blocking any other type of view and it would be 18 feet wide by 22 feet deep so we could have a garage, just Ohio weather, ability to have a mower, which the last owner had tools and things in the house because he had no accessory building. So we're looking for a detached garage in the front of the home.

**Dennis Dunlap, I own 418 S. Second Street, I live at 801 Howell Drive** – I'm moving there to Leonard, I just redid the house, I own the property west of him 18 inches from his house, so he has nothing on the side. My concern is, when he builds this building, I had to get variances of 9 feet for mine and he's wanting 2 feet off of that wall, the road is 5 feet higher than where he comes down to the house, he has nowhere for his water to go, his water has been running on my land anyway, but it was there when I bought the property. Now it's still being channeled to my land and when you put this building on with another metal roof, he put a metal roof on which brings twice as much water down faster and it's washing the gully out behind the place. Now when he puts a building on, here's the road and here's the building, I don't know how they're going to do this, I'm, not an excavator, there's more water, where's this water going and my concern is it's going to look ugly for the neighborhood and are you going to let me build a building if I want top 2 feet off of his property line. I don't want it there and that's why I oppose it. He hasn't ever said what he's going to do with the water issues, he told me, it's up to you, I'll do whatever you want me to. Well it isn't up to me, you can't put your water on my place, I know that for a fact, you aren't allowed to channel your water to me. I do oppose it.

**Peg Dunlap, I own 418** – It has been in my family since 1901, my great grandmother bought it. That place was a Union Hall, that's what they built it for and he is correct, and they're very nice people, they put a school in it Cairos Academy, Park National bank was part of it and they did sell it to a young man, actually his dad bought it for him and he lived there but he was never there. The house has major problems, it sets very low, I'm sure they've done a wonderful job. Their air condition sets on our property and he asked my husband if it was going to be a problem and he said well, not right now it isn't. My husband used to clean their gutters out, the kid that lived there, because he never cleaned them out and it just flooded our yard. Our yard is almost a whole acre, it's a

**beautiful lot, we love it, we plan on moving there and living there, but I think it sets a precedent that if you allow a garage in front of a house in the south end of Newark, and we both grew up in the south end on Holliday Street, so we're moving back home, that's the way we look at it, so bottom line is, you just open a can of worms allowing people to put a garage in front of their house. We're definitely against it, we've talked to the other neighbors, they're not crazy about it, but they didn't want to come so, that's why we are here, we definitely oppose it.**

**Beth Bline, 33 Summit** – I've been speaking to several residents and because of working they are not able to attend. They are very concerned if the variance should be granted for a garage, they're concerned that excavation would cause a shift in their property as there are pallet driveways that are within just a foot or two of their boundary lines, so they are definitely afraid that should excavation begin their properties will be further damaged.

**Mr. Claggett** – Have you ever considered an attached garage?

**Mr. Allen** – Our roofline is a little odd, it's high on one side and a very long on the other, so, the home is a block building, the lot goes down so the water runs, our intent is to build that up some, right now it's all driveway. The whole 40 feet because of past use of the building is all driveway, we plan on bringing some topsoil in and trying to level it off so the water can soak in versus run down everywhere, so we would have to build the lot up a foot or so top get it level enough for a garage. Your question about attaching it, with a new roof and new siding and new doors, we didn't think about the need for an attached garage at the time, I think it would look really weird the way the roof of the garage would be versus the roof of the **home**, so when we started talking about that as an option if we couldn't do this, it would look odd the way the house is sitting with a garage with a normal roof on it. We're willing to push things over to the left a bit if that helps. I went and spoke to the neighbor directly across the street, they are the ones that would be seeing that building and they said they would be fine with it. I've tried to talk to the neighbor to the east side, I haven't met him and if Dennis is concerned with the water and so forth all he has to do is come ask us, we're going to try to minimize that water issue but that issue has been there for the 20 years that building has been there and since 1901 when her grandparent owned that property.

**Ms. Dunlap** – But it wasn't a home, it was a union hall and this kid who just bought it was never there. We have pictures there is a five foot difference and you've got me a little confused I don't know how you're going to put topsoil in front of the house.

**Mr. Allen** – Can I show you a picture? It goes down there is no doubt about that, but it's been that way, we didn't create that.

**Mr. Layman** – I will tell you philosophically we have shied away from garages in the front and we have denied them repeatedly, the issue is you can connect then it's part of the house and it's not in front of the house.

**Mr. Allen** – Is the issue how close to the property line that we're requesting because we can push over further to the left if that helps.

**Mr. Claggett** – It's that and a detached structure in front of the house. That helps. I'm one vote.

**Mr. Layman** – Just doing a quick head count, you do not have 3 votes, so if you ask to table you can go back to the drawing board, come up with more specific engineering on what you're going to do and how you're going to handle the water, talk to you neighbor and see if you can figure out something that will mollify them and I would say see if you can connect it to the house and come back next time, because right now you don't have the three votes, so if you ask for the vote you'll get turned down or you can ask to table and go back to the drawing board.

**Mr. Allen** – Can I ask you a question, there are a couple neighbors here and that's great that they showed up, I guess I was thinking about the neighbors on the other side and across the street that were closer to the property, so are you suggesting I go to all the neighbors within 200 feet and get a majority or how does that work?

**Mr. Layman** – What we've heard is there are lots of issues, specifically with water and drainage and I haven't heard any solution. Maybe some engineering has to be done to say

okay here's what we're going to do with this water, all the water on this lot is going to be fixed. One way you help your neighbor maybe is take care of the water they're getting now. Just a suggestion to you, you don't have the votes. I would tell you that the board has traditionally frowned on garages in front yards.

**Mr. Allen** – I didn't know the water was such an issue that we came prepared to talk about that. We didn't change anything about the structure from the 20 years it has been there, but again, they are correct, it slopes down and runs downhill, there is a French drain in front of the home that pushes it around to the side. We went to Dennis and offered to buy land so we wouldn't be on their land, we went to the neighbors behind and offered to buy easements that was on our land and not your land, but it's their land and they want to keep it and I respect that. So, I don't know where else to channel the water, I mean today it is a driveway packed down it's like concrete. The water just runs down that driveway today.

**Ms. Dunlap** – Into the house. The house was full of mold when they bought it.

**Mr. Allen** – We're trying to relieve some of that water issue too, but again as you said, I have no space behind me or beside me, I don't know how it ever got built with only one foot of surrounding area. We will try to take care of the water issue and I guess we can think about attaching it through a breezeway or something to the home, but we want it to look good.

**Mr. Carter** – My recommendation is that you table your application tonight to give you 30 more days for the planning stage.

**Mr. Allen** – Please Table this.

**Motion and a second and it has been Tabled.**

#### **APPLICATION BZA-22-07**

Applicant: Bryan Lewis  
Owner: Laverne Heath Properties LLC  
Location: 204-212 Laverne Dr  
Project: Multi-Family Units  
Reference: 110.2.1/26.8

**Bryan Lewis, 1239 Cherry Valley Rd** – I'm representing the company to put the apartments up and we need a variance between two of the structures, we don't have the 18 feet, it's 14 ½ and also the setback from 75 to 50. I guess everybody else is here because of me and probably wondering where the water is going. Right now we have not taken it that far because I wanted to get the variances on this. I have a meeting Monday with the engineer to engineer ponding to divert the water because as I know right now all the water is running down the back of the property and onto everybody else and if I lived there, I wouldn't want it.

**Mr. Carter** – I can inform the board that Mr. Lewis has been in front of the Planning Commission and part of the requirement of the Planning Commission is to design a storm water system, that has not been approved yet, it's still part of the conditions of the Planning Commission.

**Lawrence Goodin, 246 W. National Dr.** – I'm the adjacent property at the bottom of the hill and the biggest problems I can see right now, I don't mind the structures on the side of the hill to the back, but the number 1, number 3, the parking area and dumpster, that is basically adjacent to my property where the dumpster area is going to be which dumps down the hill right there and where he is wanting to put dwelling number one, unless he's planning on building it on stilts, there is no way you can put a building in that area right there. Yes there is a water problem a big water problem, I've been there over 25 years, I've dealt with it time and time again. Nobody wants to be liable for it. When the apartments were built back in the 60's, so basically what I've got is. Let me show you what I'm looking at.

**Mr. Layman** – In a way you're fortunate, because of the way he's planning this development he can solve the drainage problems. You already have a drainage problem. The only thing that can happen as a result of this development, the drainage problem can get better.

**Mr. Goodin** – My biggest concern like I say is building number 1, 3 and the parking area where he's wanting to build there is a 20 foot cliff of the backside of it. He's probably going to be in the middle of that hole on top of where he's going to build.

**Mr. Layman** – The Engineering Department from the City of Newark is going to have to bless this. My experience with the Engineering Department of the City of Newark as it's currently constituted, they will make the problem better, not worse. That's just my experience.

**Freddie Queen ,276 W. National Drive** – Our concern is just the closeness of our property line to the buildings coming in on us, the parking, the dumpsters, with the apartments that are there now, there's already several stray cats hanging around the dumpsters, raccoons and water runoff that we get already from the blacktop that's already there. Our major concern is the closeness to our property line.

**Clifford Simon, 248 W. National Dr.** – I'm down below where all the water is going to go and where it has been going. Larry gets the brunt of it because back when Stickles owned it, 30-40 years ago, supposedly somebody from the City approved to run that water, 12 inch pipe over the side of the bank. It's eroding, the pipes are separating, you've got sink holes up above, I've got some pictures of them and it's not good. It's been that way for 35-40 years and technically you're not allowed to run water, it's against the law to run water onto other peoples property. There used to be a spring back there, back in the day Mrs. Griffin lived in that house and that was built in 1905 and they live in their house now up on top it was built in 1880 or something like that, but she said the little spring was just like for cooling your milk and stuff, but this is manmade that's running over the bank and into a retention pond you might as well say it's on their property clear at the back. I looked at some of those catch basins up there where the brick apartments are yesterday, but there's some curved catch basins there, I don't know if you saw them or not when you were up there Mr. Carter, but there are catch basins, but then they go down, I'd almost say they go into the City Sewer because there's caps up there everywhere. Then there's a cap behind where this drain was that goes over the bank and it's got sinkholes. There's all kind of erosion, that had to be put in there in the 80's probably. Water will find a way, either through it or around it, but it will find a way. They need to do something. I'm against it because they've got enough apartments.

**Mr. Layman** – You have somebody now who has the motivation to improve it.

**Mary Queen, 276 W. National Dr.** – My biggest concern is from the parking at that dumpster to my property line. We tried to buy that property, just that patch when it went for sale a couple years ago and were told we could not buy it because it was a right of way and it had to stay 75 feet or whatever with that property. So building on that you're coming into and infringing on the existing line of my property. Mine is the two story yellow house that shares the driveway with the apartment complex.

**Mr. Layman** – Can you lose a building?

**Mr. Lewis** – Not really, that's a loss of revenue.

**Mr. Paul** – If we vote no, what are you going to do?

**Mr. Lewis** – Scrap it, I mean what are we at now? We're just trying to make it better, I know the runoff is killing the properties down below and I'm not totally up to code, George would have to be the one to answer this, but I'm sure we have to put retention pond of some sort to catch the water.

**Mr. Carter** – From a zoning standpoint as far as density goes it is permitted to have 7 there.

**Mr. Layman** – What we're talking about just so you know, is there are 7 building with two units per building, so 14 units, what we're asking is if he can push it all up the hill, still get 14 units, reconfigure his design.

**Mr. Claggett** – What we're discussing so you guys know, we have no say what goes on with the water. The only thing before us it's the setbacks. Can you re-shuffle the units to get 18 in between to take that one off the board?

**Mr. Lewis** – Yes.

**Mrs. Queen** – What does that do to the distance from my property line?

**Mr. Claggett** – He meets all other criteria, we have no say in that.

**Motion to approve the front yard setback variance, seconded, subject to final approval from the City Engineer on the storm water, passed 4-0**

**The variance for the 18 foot separation was dealt with and approved**

**Mr. Layman** – My suggestion is that you take your complaint and go visit the City Engineer and let him know what you're concerned about, I'm sure they are aware, but that's how you protect your rights. The final approval process is Planning Commission, the City Engineer is an advisory member of Planning Commission.

**THE NEXT SCHEDULED BOARD OF ZONING APPEALS MEETING WILL BE HELD ON THURSDAY, MAY 26, 2022 5:30 P.M. THE DEADLINE FOR AGENDA ITEM SUBMITTAL IS MAY 2, 2022, 4:30PM.**

## **5. ADJOURNMENT**

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Chairman, Board of Zoning Appeals

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Secretary, Board of Zoning Appeals