

BOARD OF ZONING APPEALS MEETING  
THURSDAY, JUNE 23, 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 June 23, 2022 Board of Zoning Appeals Meeting to order.**

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

**2. APPROVAL OF MINUTES**

Minutes of the May 26, 2022 meeting

**Motion and second to approve minutes of May 26, 2022, motion passed by acclamation**

**3. OLD BUSINESS**

**APPLICATION BZA-22-10**

Applicant: Josh Darfus

Owner: Darfus Real Estate & Management LLC

Location: 398 – 400 Mt. Vernon Rd.

Project: Retail Building

Reference: 46.8

**Joshua Darfus Representative** – We are here asking that you grant my client, Josh Darfus and Darfus Real Estate Management LLC a setback for the property at 298-400 Mt. Vernon Rd. I know we discussed the background previously, but my client became aware the property was vacant in the winter of 2022 and after negotiations with the property owner, purchased it in April of this past year. It was the home of the barking Box, a dog grooming facility for many years. As I stated previously, Barking Box was far too large to meet the setbacks of the zoning code. My client and I were here last month requesting a setback variance, after recommendations from the board and concerns from adjoining property owners that parking needed to be provided in the initial plans, we tabled our request to address the concerns of the community and this board. I believe the plans presented to you today effectively address the boards concerns. At that time I believe there was a request for 3 to 4 parking spaces, as you will note on the plans, there are in fact, 6 parking spaces provided, that is in accordance with the zoning code of the City of Newark, which requires for retail space, 150 sq ft of parking for anything less than 2,000 sq ft. This is 900 sq ft, so each parking space is approximately 150 sq ft, so therefore there are 6 parking spaces. The property is zoned Medium Intensity Business District pursuant to article 46. Setback requirements include 30 feet for a front yard, 25 feet for a side yard and 40 feet for a rear yard, as a result of these minimum setback

requirements it is impossible for any person or entity to really effectively build a structure without seeking a variance to modify the setback requirements. At the front is Mt. Vernon Road, the setback requirement is 25 feet and since the property only 50 feet wide that would provide zero feet of buildable land to develop on. Additionally, if the front is deemed to be west North Street, the rear setback requirement is 40 feet, the front setback is 30 feet as a result there is negative 20 feet of land to develop on. The code is quite clear, whereby the exceptional narrowness, shallowness or unusual shape of a specific piece of property existing on the effective date of this code, the literal enforcement of the requirements would involve particularly difficult or would cause unnecessary hardship to a property, the board may grant a variance. The narrowness of this lot and the setback requirement induces hardship on the person wishing to develop there. My client, Mr. Darfus, is wishing to erect a modest 900 sq ft sporting goods store, as a result he is seeking a side, front and rear setback variance to make the property economically viable for the community. Really at our most basic level individuals strive to improve the land they own. Improvements and developments of otherwise valueless land results in increased productivity and economic stimulus for the community. Undeveloped land, especially in a city such as Newark or any city for that matter can attract nuisances if left undeveloped. This variance application to modify the setback standards is an opportunity that I do not believe this board should overlook. It presents an opportunity for the community to develop land that may otherwise go to waste and Mr. Darfus as a result is asking that the board grant his setback variance requests.

**Mike and Tracy Johnson**– I don't see how the parking is near the homes. Can you drive through?

**Mr. Darfus** – We're going to use an existing curb cut off of Mt. Vernon Rd .Enter and exit would be off of Mt Vernon Rd.

**Mr. Hunt** – How far from Mt. Vernon Rd. is the building?

**Mr. Darfus** – It would be whatever the public right of way is with the streets. That was something we had discussed at the last meeting, going to a zero setback in order to accommodate the off street parking.

**Mr. Layman** – First of all, I can't speak for the board but for myself, I appreciate the attitude with which you have approached this. We would like to work with you, agree with your counsel's opinion that you should be able to make this work. In nobody's world is a 900 sq ft building big. The argument that I heard and I'm sorry but I lost your name back there. I heard you are concerned about a blind corner. Effectively if we grant this we are creating a blind corner.

**Mr. Johnson** – There is already bone building on the right side and now there would be one on the left side, so you would have blind corners both ways.

**Mr. Layman** – The other thing is, I think it's a nice looking building. My question is, can we tilt the building so that the front you now have West North Street, faces Mt. Vernon and tuck it into 3 feet off the property line to the south.

**Mr. Darfus** – In the rendering that's here there is verbiage he used, that 5 feet on the North Street side, there is that 5 foot buffer off the sidewalk.

**Mr. Layman** – Probably too close. The lot is 50 feet wide, the building is 37, that leaves 13 feet. If you are 3 feet off the south line, that gives you 10 feet off Mt. Vernon Rd., which is a lot better.

Motion to grant variance with the following conditions: 10 ft. setback off Mt Vernon road, 10 ft. setback off W North St, and must have 5 parking spots.

**Mr. Gienger:** 2<sup>nd</sup> the Motion

**Motion granted 4-0**

#### 4. NEW BUSINESS

##### APPLICATION BZA-22-16

Applicant: Ryan Badger

Owner: St. Haven LTD

Location: 115 Wilson St.

Project: New Building

Reference: 60.8

**Shawn Murphy** - We are requesting a setback to add onto the mens transitional housing shelter to add additional rooms. It's the same ownership, we're requesting a n7 or 8 foot setback from the existing thrift store building.

**George Carter** – I believe it's actually 5 feet, what in question is the distance between the two buildings. Reducing the 25 foot requirement to 5 foot. There are certainly building and code concerns with that, zoning only concern is that it meets those standards.

**Shawn Murphy** – Building wise we've worked through all of those requirements with building code, the fire stops and fireproofing and all that stuff.

**Motion to approve, second and motion passed, variance granted**

#### **APPLICATION BZA-22-17**

Applicant: Ryan Badger

Owner: John Roush

Location: Log Pond Dr (054-054-269904-00.098)

Project: New Apartment Complexes

Reference: 26.8/125.2

**John Roush** – We are trying to build some very needed housing here in Licking County, had a study done with some astounding no vacancies here. Part of the plan was to build something a little more dense in this area, a little more modern and we are pushing a couple thresholds in doing that. We're asking for some help on a density variance and we were already granted a parking variance in the first phase, I believe and a little help on a side yard setback on building 5 in the back of the project. The zoning code is also a little more strict on density than surrounding communities, so I feel it's another good case for a hardship.

**Mr. Carter** – Ryan and I talked a little before he left and I might have the square footage of the property a little bit off. The boards capacity is restricted to 5%. I had calculated that as 6.35%, so if there is a little bit more land there than I was thinking then it's not an issue, but we're going to need the exact total of that land. I had total land at 581,961 square feet. For the number of units you were wanting to have you need 618,000, which put you at 6.3% over the requirement. If this number is not accurate then it changes a bit. This is what I pulled off the County Auditor.

**John Roush** – He doesn't give me that answer here.

**Mr. Layman** – The zoning code is organized by intensity of use for density. Any number in the code is varianceable. If the board has no limits then we could effectively rezone property by changes in density. We didn't want to have that power. So, my number and Georges' research don't agree. I thought they had limited it to 10%, he says he looked it up, it's 5%. So we cannot do anything that would increase density more than 5%. We just don't have the power.

**John Roush** – I guess I'll ask for 5%, we'll make adjustments to the unit variations, if we can do that.

**Mr. Layman** – Or check the numbers.

**Mr. Carter** – I get 13.375 acres on this plan, which shows a little different than what the auditor says, I've already give you another 1,000 square foot of property.

**Mr. Layman** – To get what you needed you need 618,534 square feet and you only have somewhere between 581 and 582.

**Mr. Carter** – If you took a couple three bedrooms and changed them to two bedrooms, then you would be at 5%. I think best case scenario is for you to ask for the 5% and look at reconfiguring those units.

**John Roush** – Lets go that route.

**Mr. Layman** – Ryan also said that he misspoke on parking, I guess that was just for the 2<sup>nd</sup> phase.

**John Roush** – When we did the initial variance I think we took into consideration both phases in the thought of this. Because this second parcel had to be brought in separately.

**Mr. Carter** – With your original variance for phase one you were at two spaces per unit and when you combine you're coming down to 1.65 spaces per unit.

**Representative** – And we have 65, I believe, one bedroom units as well. I forget what the mix is, but it's pretty decent on ones. And if we're going to reduce the three's into two's.

**Mr. Layman** – How many parking spaces do you have for the whole project, do you know?

**John Roush** – I don't know off the top of my head.

**Resident** – Why do they have that code for parking, why does it exist and if you are not following it, what are the negative outcomes. You don't want vehicles parking on the grass, you want emergency vehicles to be able to get through.

**Mr. Layman** – It is impossible to write a code for all circumstances. Every piece of property is different. Every development is different. They have a general rule of thumbs and then you look at the specific instances and say does the general rule of thumb apply, or is it not quite as important. That's why this board exists, because otherwise nobody would do anything because you write a rule that covers one thing and everybody is trying to do something else.

**Resident** – One and a half has been the standard since I've been doing this for 50 years and here you're at one and one third.

**Mr. Layman** – We're over one and a half. We're at 1.65. The application is confusing between the two phases. What's the total.

**Mr. Carter** – The total required is 441 spaces, what's provided is 277 total spaces. I apologize, that was an oversight by me when I sent out the letter. So they are required by code to have 441 parking spaces, they have 277 provided, which equates to 1.65 spaces per unit for both phases combines.

**Mr. Layman** – For the whole project is 1.65 parking spaces per unit.

**Resident** – Are there going to be any garages in this next sections?

**John Roush** – Yes.

**Mr. Layman** – How many garages are there?

**John Roush** – Four buildings with, I think, 7 or 8 per building. I think they are in the calculations. I think it's 4 garage buildings with 8 garage units, but I'm fairly sure those are in the calculations. Columbus apartment requirement is .4 or .5 per bedroom, so it is significantly lighter than what Newark's is. I think for the first three years we'll have construction workers here. High level robotics workers from around the world, possibly Japan. I've talked to some people at Intel and I think this is going to be a good spot. We may furnish all these units. I think there's going to be a huge demand for the 4 or 5 years they are going to need to house people to do this work. We fell into this with the first section that was going to be a laundry mat, but for us to make this make sense we needed to add this other piece to it and blend the projects together. So it's taking a while to get through the process because we had to rezone to multi-family which we did through Council the last two readings. Then we found out we needed this variance to keep the same density plan.

**James Timms, 261-B Goosepond Rd.** – My speech was going to be that somebody much wiser than myself made these zoning laws and I was going to ask you guys to vote against it, but since the local board has the discretion to change that, I'm not going to say please vote against it, but please vote for it. If you have the authority to make decisions over what the zoning ordinances are.

**Mr. Layman** – I don't know if you're done with Planning Commission or not.

**John Roush** – Planning Commission approved, pending this tonight.

**Mr. Layman** – So, this is the final hearing.

**Resident** – One of the revisions they are asking for is a revision of the required setback of the front. Is that the distances from the back of the garages to that property line?

We were thinking it was the garages, so that's all set 30 feet.

**Resident** – The original plans showed a set of garbage dumpsters back in I think the northwest corner. I see no additional dumpsters with the new addition Is there any requirement about how many dumpsters you have per unit.

**Mr. Carter** – Not in the zoning code, maybe in the Health Department regulations. It's regulated under the Property Maintenance Code of having to have ample trash containers per unit, I don't know the calculation of the top of my head, if they are not compliant with that then they can be in violation of the Property maintenance Code of the city of Newark.

**Motion and a second to grant variance, motion passed, variance approved**

#### **APPLICATION BZA-22-04**

**Nicky Jackson**– I don't know I you remember me or not, but I was here a few months ago for car detailing and you gave me a conditional approval and said I had to come back in three months, which would be June.

**Mr. Layman** – Are you sure it wasn't six months?

**Nicky Jackson** – It was three months because I wasn't sure, but went back and read through everything and it was three, which would be June. The only people that seems to have an issue was the couple that were concerned about the chemicals I use. I told them here they could come over and see. A month later they were at my house, they were paving my yard, and I said hey while you are here do you want to come in and see what I'm using? They said, no we don't have time. I think they are just wanting to complain, I've tried to show them but they never want to come over to look. My neighbor right beside me asked me what was going on and he said if I have an issue I'll let you know, and I haven't had an issue.

**Mr. Layman** – Normally we grant those things for six months, it's odd we said three.

**Mr. Carter** – Do you know what month you were?

**Nicky Jackson** – It was March I believe.

**Mr. Carter** – 236 Green Meadow Drive

**Nicky Jackson** – That's it.

**Motion and a second to grant variance for 236 Green Meadow Dr, Motion passed, variance granted**

**THE NEXT SCHEDULED BOARD OF ZONING APPEALS MEETING WILL BE HELD ON THURSDAY, JULY 28, 2022 5:30 P.M. THE DEADLINE FOR AGENDA ITEM SUBMITTAL IS JULY 1, 2022, 4:30PM.**

#### **5. ADJOURNMENT**

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Chairman, Board of Zoning Appeals

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Secretary, Board of Zoning Appeals