

BOARD OF ZONING APPEALS MEETING
THURSDAY, JULY 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- Brian Morehead, City Engineer called the Thursday, July 28, 2022 Board of Zoning Appeals Meeting to order.

Present:

Brian Morehead – Sitting in for George Carter Zoning Inspector	
Jack Gienger	Member
John Paul	Member
Phil Claggett	Member

Absent:

Steve Layman	Board Chair
Eddie Hunt	Member
George Carter	Zoning Inspector

2. APPROVAL OF MINUTES

Minutes of the June 23, 2022 meeting

Motion and second to approve minutes of June 23, 2022, motion passed by acclamation

3. OLD BUSINESS

4. NEW BUSINESS

APPLICATION BZA-22-34 and 22-35

Applicant: Beverly Builders LLC

Owner: David Beverly

Location: 418 Eastern/ 17 Mill.St

Project: Lot Split Combination

Reference: 6.12

Brian Morehead – The Engineers Office is in favor of approval of this item.

Motion to approve- Claggett, second - Paul, motion passed 3-0 variance approved

APPLICATION BZA-22-18

Applicant: Benjamin & Paula Rayburn

Owner: Benjamin & Paula Rayburn

Location: 2178 Ava Ln

Project: Single Family Dwelling

Reference: 16.8

Ben Rayburn, 56 Stonington Circle, Newark – This is a request for a variance because the structure encroaches into the 30 foot setback by 6 inches.

Mr. Gienger – Is the structure already started?

Mr. Rayburn – It's well over 50%, it's under roof, the cement's been poured, the foundation is in, the frame is up and the bank didn't do a survey until all of that was done. In order for the contractor to make a draw on their money, the bank had a survey done and that's when they found the 6 inches. There is a rep here from the contractor also.

Motion to approve - Claggett, second - Gienger, motion passed 3-0 variance approved

APPLICATION BZA-22-19

Applicant: Northpoint Ohio

Owner: Fera Abdullah

Location: 303 E, Main St.

Project: Building Addition

Reference: 48.8

Phil Claggett will have to abstain on this, so asking that this be tabled until next month due to not enough voting members

Michael Holmes and Donna Shaw, 136 East Main St. – We received a notice that whatever his plans are for his property is going to encroach on our property that sits adjacent.

Mr. Morehead – It sits adjacent to your property, but does not encroach on your property.

Mr. Claggett – If you would like to come up here I will show you exactly what he wants to do.

Mr. Holmes found that the addition is not adjacent to his property, and dropped his objection.

Motion to table - Claggett, second - Paul, motion passed, tabled until August

APPLICATION BZA-22-20

Applicant: Kessler Sign Co

Owner: John Roush

Location: A4 Ragtime Band Newark

Project: Freestanding Sign

Reference: 135.8

Mr. Morehead – The applicant has asked to table this until the next meeting in August

Motion to table - Claggett, second - Paul, motion passed, tabled until August

APPLICATION BZA-22-21

Applicant: Robert Kiger

Owner: Robert Kiger

Location: 1115 West Main St.

Project: Shed/Carport

Reference: 86.3.2

Robert Kiger, 1115 West Main St. – I apologize, I thought a foot was the variance and I was just trying to cut traffic down from the people behind me going through my yard, so I started building a tool shed off the side of my carport and it's only about a foot off the property line and unknown to me I did not know it was 3 feet, so I thought maybe I could get 2 feet and make my shed have a little more room and make my yard look a little better.

Tim Cline, 1111 West Main St. - I live next door to Bob. It's my property that's being built up against. I have some pictures if you want to see them so you know what I'm talking about. The shed is about 5 inches off the property line, it's not a foot because the fence line is not the property line, I put that fence in in 2006 and it's recessed back onto

my property, so my shed is there on the left, the yellow shed, it's 38 inches from the fence which makes it about 40 inches from the property line. If you go from where it's recessed back to the edge of his framing, it's only about 5 inches where he's got it. There's one picture that looks straight down the fence line, one that looks from my side, one that looks from his side and you can see at the bottom the 4 foot plastic tube and then there's about 2 inches to the right of that and then starts the building. There's no way you can side and maintain that wall without having access to my property, there's only 7 inches between my fence and that wall. I was never informed that this was going to be done, it was just one day it wasn't there and the next day it was. When I put my shed in, I got my permits and was told I had to be so far from the property line, so far from the alley, I did it. When I put my fence up, I was told how far I had to be from the alley and the sidewalk

Mr. Kiger – I thought the fence line was the property line, I did not know that I am taking care of part of his property. I've been mowing and taking care of part of his property unknown and I did go up and knock on his door and ask him about the shed, it was after I had started it, but he said, no, it's good. I didn't know there was a variance until he called in and an officer showed up and said you've got to be 3 feet from that fence line. I said okay, I'll try to get maybe 2 feet. I've got a lot of money invested and that's my fault for not looking into things further. I just didn't even think of it and it's not that I don't know it because I had a construction company for 35 years. Usually when we pulled permits the secretary did that and I didn't think on a tool shed it was any big deal.

Mr. Paul – Did you contact the building code department and they approved this?

Mr. Kiger – Yes, but they won't approve it until I get a variance or no variance.

Mr. Paul – So you've had no inspections for this?

Mr. Kiger – No, for a shed I didn't know, no. It's built to code, it's framing is 16 inches on center, it's not something that's made out of skids. I submitted a drawing to code and they said we can't do anything until we find out if you've got a variance and then we'll make a decision on it you may have to add or take away, so I haven't done anything to it since all of these people have come out.

Mr. Paul – To reduce your setback from 36 to 7 inches is almost a 90 some percent variance request.

Mr. Kiger – I was just saying if it's 3 feet, can I get a foot and make it two feet off the property line? I agree it is close and it would be hard for me to maintain that wall.

Mr. Paul – I guess if you are the one opposed, would 2 feet satisfy you?

Mr. Cline –No, the procedure wasn't followed. If he had got a permit from the beginning someone would have come out and looked at it and said you have to do this, you have to be here and he wouldn't have built what he built, now it's already built and he's asking for two feet.

Mr. Paul – Is it possible to get it set back three feet?

Mr. Kiger – Yeah, I mean, the only thing it just cuts down on my building and I wasted 3 feet of real estate.

Mr. Paul – The setback is required.

Mr. Kiger – I understand that and I wasn't trying to be a criminal, he's making me out to be a criminal, I'm not, I own a lot of property here in Newark, I just didn't know it and didn't think much about a shed being a big deal, I understand there's rules and codes and that's why I'm here trying to get you to work with me instead of 3 foot, let me be 2 foot.

Mr. Paul – I understand it's a process to get a variance. As far as being one member, I am not in favor of giving the 3 feet, I may be in favor of giving you a 6 inch variance just because that's the ratio of typically what would be asked for. On 30 feet you ask for 5 feet and I can understand that. Three feet and you ask for one foot and it's a third. I don't know that you're going to have all three votes. You can ask, but whether it's approved or not.

Mr. Kiger – Just do the three votes, whatever you tell me to do, I'll do.

Mr. Paul – Are we in agreement the concrete can stay? It's just a matter of sliding the structure back.

Mr. Kiger – I can take it loose and move it back, it's just the idea of all that wasted area is all I am saying. I understand whatever you say to do, I am in agreement. I've got to keep my neighbor happy that's the main thing.

Mr. Paul - Are you going to change or withdraw your application? It's probably going to be denied.

Mr. Claggett – I'm going to make a motion to deny the application. Not to be callous, but not a single proper step was taken along the way, that's my problem with this. I would've been more lenient if we would've followed another path.

Motion to deny the request - Paul, second - Gienger, motion passed 2-1, variance denied (Claggett-no vote)

[APPLICATION BZA-22-22](#)

Applicant: Lisa Canfield

Owner: Board of Education, C-Tec of Licking County

Location: 150 Price Rd

Project: Multiple Signs

Reference: 135.8

Mr. Morehead – We did receive a couple of emails formally objecting to the request:

Mr. Victor Bucci at 1572 Price Rd, formally objecting, stated “although I support the school we need to respect the precedent that would be set.”

Emily Jursek, no address, stated “I object to putting 7 large signs on the CTEC property this is excessive for safety reasons. I would happily defer my voice to the school resource officer.”

Stephanie Precnil, 138 Auburn Dr. Newark, Carolyn Price 776 Candlewood Ln, Columbus – We work for the school and represent CTEC, unfortunately the letter may have led people to believe we were putting up 7 large signs, we're actually just replacing the current signs on our property. We have 2 electronic signs in front of the building, unfortunately I don't think those meet your current requirements. We are replacing like for like, our signs don't stay on past 10pm and don't start again until 7am. So there's only 2 actual what I would consider monument signs, replacing those two electronic ones and then replacing a sign that notes that it's our Board of Education Office, and then signs that note the entrances to our building. I feel bad that it led people around our property to think we were putting in all new signs or large signs around our property. We spoke with George and he's the one that understood we were replacing but suggested we request the zoning for anything going forward.

Mr. Morehead – For the record, George did not have any issue with these signs.

Mr. Gienger – So, it's not a new footprint you're just refreshing.

Ms. Price – Yes and in terms of size they are the same if anything a bit smaller.

Ann Marie Orlando, 127 Price Rd. – I live right across the street from CTEC and there is a lighted sign out there it does stay on late at night past 10pm and it is lit up in the morning as far as like 6:44 or something like that. I'm up real early so I do see the sign. I came here because I understood that it was going to be 7 more signs. I didn't want there being so much advertisement right across the street from me. I understand what the lady said that they are just re-doing the signs that are already there, but I did want to correct the time on that because the sign itself is directly across from my front door. And I wanted to state that I just didn't want any more signs up, so because of someone on Price Road had, I guess you are the ones who sent me the letter, I thought it was someone opposing it. I guess I am the only one here, I just wanted to state that I didn't want any more advertisement out there and that the times the young lady said are incorrect.

Motion to approve - Claggett, second - Paul, motion passed 3-0, variance is approved

APPLICATION BZA-22-23

Applicant: Terry Powelson
Owner: Carolyn West
Location: 996 W. Harris
Project: Detached Garage
Reference: 16.7

Terry Powelson, 996 Harris Ave., Newark – I am putting up a detached garage to store my RV and that's the reason for the variance for the height for my RV. I'm trying to reduce on the other two doors, but it's going to be a 3 bay for my personal vehicles, but the one door and the pitch on one side has to be higher for the RV.

Mr. Paul – You say the peak of the ridge is 23'3"?

Mr. Powelson – That's what they're saying, they're calling it from finish grade level and I always thought that was when you had concrete in it and they are saying from dirt. I got this from George and they are saying from grade level to the peak is right now 23'23". George has been out and looked at the setback and I have my zoning permit and everything.

Motion to approve - Claggett, second - Paul, motion passed 3-0, variance granted

APPLICATION BZA-22-24

Applicant: Tonya McAlear
Owner: Tonya McAlear
Location: 567 Highland Blvd
Project: Fence
Reference: 88.1

Tonya McAlear, 567 Highland Blvd – Basically we had followed all procedures, however I did deviate and put fencing on both sides of my yard. After I talked to George he told me about the 4 foot, so we did take part of the fence down on the side that would be most viewable from the street. Basically the fence on the other side is barely visible, however, it does keep us from seeing the highway. The fence is professionally built and painted. I really don't know what else I can say about it.

Mr. Morehead – We got one email, phone call comment:

Gregory Jackson, 38 Highland Blvd. - he is not happy about how it looked and shouldn't have higher than 4 foot in the front yard and taller fence allows for mischievous activity. There are no more fences on Highland Blvd. with 6 foot fences in the front yard and we'd like to keep the neighborhood neat.

Ms. McAlear – I do have a testimony from at least one other neighbor to give you that contradicts that. She provided a letter from Vicki Engle, 1255 Kreider Blvd in support of her fence.

Mr. Paul – Are those your pine trees behind the fence to the south?

Ms. McAlear – No, those are my neighbors. His house is set pretty far back. We have it according to all the property lines and all that.

Madeline Martindale, 582 Highland Blvd. – I understood she was putting a 6 foot tall fence at the front of her yard, is that true?

Ms. McAlear – Do you mean at the street? No, the fence where I have it right now is all I am going to do.

Ms. Martindale – Well then, I have no problem.

Motion to approve the fence as it stands - Paul, second - Claggett, motion passed 3-0, variance granted

THE NEXT SCHEDULED BOARD OF ZONING APPEALS MEETING WILL BE HELD ON THURSDAY, AUGUST 25, 2022 5:30 P.M. THE DEADLINE FOR AGENDA ITEM SUBMITTAL IS AUGUST 1, 2022, 4:30PM.

5. ADJOURNMENT

Motion to adjourn - Claggett, second - Paul, motion passed 3-0, meeting adjourned.

Chairman, Board of Zoning Appeals

Secretary, Board of Zoning Appeals