

BOARD OF ZONING APPEALS MEETING
THURSDAY, UGUST 25, 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 August 25, 2022 Board of Zoning Appeals Meeting to order.

Present:	Steve Layman	Board Chair
	Eddie Hunt	Member
	George Carter	Zoning Inspector
	Jack Gienger	Member
	John Paul	Member
	Phil Claggett	Member

2. APPROVAL OF MINUTES

Minutes of the July 28, 2022 meeting

Motion and second to approve minutes of July 28, 2022, motion passed by acclamation

3. OLD BUSINESS

APPLICATION BZA-22-19

Applicant: Northpoint Ohio

Owner: Fera Abdullah

Location: 303 E.Main St.

Project: Building Addition

Reference: 48.8

Phil Claggett, 19 N. 4th St., Newark, Oh – This is a request for the replacement of an existing yard barn they use for storage, we are proposing to build a larger one which will require a variance on side and rear yard. Side yard requested is 8 feet, required is 15, rear yard required is 25, requested is 18. Building code will require a 5 foot no build easement because they don't have a distance between properties, but that is handled through an attachment to the legal description.

Mr. Layman – It's not any closer to the property line than the building is now is it?

Mr. Claggett – No.

Motion and a second to grant the variance, motion passed and variance granted

APPLICATION BZA-22-20

Applicant: Kessler Sign Co.

Owner: A4 Ragtime Band Newark LLC

Location: 325 W. Main Sr.

Project: Freestanding Sign

Reference: 135.8

Mr. Layman – This application was tabled last time and the applicant has asked that it be tabled again until November because of the time lapse between the original hearing and

the request to table, unless the Board has an objection we are going to ask the applicant to re-apply so that people in the area get notice. Any objection? I just want to talk about that, is the Board comfortable if we have a maximum time limit of 60 days on the table before notices need to be sent out again? Everyone has agreed to this new policy.

4. NEW BUSINESS

APPLICATION BZA-22-25

Applicant: Jay Bernard
Owner: Louis Ream Inc.
Location: 1486 Granville Rd.
Project: ATM with Canopy
Reference: 40.8

Steve – I am replacing Jay Bernard for this, they essentially want to put in a drive up ATM at this location. I think the setbacks are typically 30 feet, but they are requesting for it to be closer to the road for basically two reasons, for signage they want to have signage exclusive to the ATM itself and also to the canopy that goes around it and the second reason is that with the setback it would be in the middle of the parking lot of the brewery.

George Carter – For the Zoning Division, it's not necessarily a yes or a no against the project, but Zoning would like to see this brought forward to the Temporary Board of Zoning Appeals to properly zone this building, I think it's zoned office, it has historically always been a restaurant and should be zoned business. It shouldn't be zoned General Office, it should be zoned Business. I believe this should be able to go to the Temporary Board of Zoning Adjustment, in a conversation with the property owner, the property owner does need to start that process, but the Zoning Division would like to see that taken care of.

Steve – That would be something the property owner would have to address and not necessarily our client.

Mr. Layman – You could do it on behalf of them if you consider that's part of your service, or they could do it. It's a pretty easy process, it's just the zoning ordinance changed in 2008 with 11 classifications to 22 and the uses got narrower. The Temporary Board is in place to deal with issues like this, it is the text book reason for its existence, it's not a public hearing, it's just us.

Mr. Paul – I assume they are going to get rid of the other ATM that is there, isn't there one across the street?

Steve – I can't speak to that, all I know is that this is going to be a new ATM in this location.

Motion to grant the variance subject to them taking the property to the TBZ, second and the motion passed, variance is granted

APPLICATION BZA-22-26

Applicant: Matthew & Savannah Schwartz
Owner: Matthew & Savannah Schwartz
Location: 0 Jefferson Rd.
Project: Fence
Reference: 88.1.1

Matthew Schwartz – Basically we would like a privacy fence, the code says that the side of our lot is considered the front of our lot, we would like to put a 6 foot fence there to increase the visual appearance, make it look better, to give us a little more privacy and a little more security as well.

Mr. Paul – You have an L shaped lot, right. Your driveway is on Mt. Vernon but your also on Jefferson.

Mr. Schwartz – Right, we have a pool there as well. It's just kind of a part of it to have a little more privacy when we are in the pool.

Mr. Gienger – Are they two separate parcels?

Mr. Schwartz – Yes

Mr. Paul – And the pool is on the parcel on Jefferson?

Mr. Schwartz – Yes

Rod Yost, 115 Jefferson Rd – There's no other fences that size on Jefferson Road from my perspective. I think it detracts from the appearance of Jefferson Road and I don't know that it would affect property values, but I think it's inappropriate.

Mr. Gienger – Has this fence already been started?

Mr. Schwartz – We did already start it, we weren't aware there was a limit that we couldn't put a 6 foot fence. If it's okay, I would like to add that we went around to neighbors and got signatures saying they have absolutely no issue with the fence.\

Mr. Carter – Our office received a complaint.

Mr. Layman – Let me make sure I understand, this is a vacant lot?

Mr. Schwartz – What do you define as a vacant lot, we have a pool on the lot, there is no structure.

Mr. Layman – It's thoroughly wooded, it looks like.

Mr. Schwartz – We've been working to cut down on that, we've been trying to improve the property, just one of those things trying to resurrect the property from years of neglect.

Mr. Paul – Where does the pool sit in relation to the houses on Jefferson, does it sit back behind them?

Mr. Schwartz – From where the property line is it's probably 30 feet or so back.

Mr. Layman – It's behind the leading edge of your neighbors houses?

Mr. Schwartz – Oh yes.

Mr. Layman – In general we don't normally allow fences in front yards. Would you consider moving it back to the leading edge of the neighboring house?

Mr. Schwartz – How far back would that be? I guess in the end if that's all you approve we would have to move it back. We really value our privacy and I've called several Realtors and asked could this detract from the neighborhood and everyone I've called has said they see no issue. I even called an architect and they said they see no issue.

Mr. Layman – Here's our issue. People don't like to have fences in the front yard as Rod has said. People like to look down the street and not have an obstructed view. I know you can drive around Newark and find fences in the front yard, but a 6 foot high fence that's solid, we are not subject to precedent, just because we grant it to you doesn't mean we have to. Just as a general idea, we are not wild about it.

Mr. Schwartz – This is a bit of a unique position too, most people don't have lots like we do.

Mr. Layman – I get that, that's why there is a Board of Zoning Appeals, every piece of real estate is different. You don't have three votes to get what you want. Your initial application will not be accepted as it's written. We will approve the house to the left, to the west, their front corner is how far you can come towards the road and it can be the 6 foot height.

Motion to approve if the southern edge of the fence is equal to the leading edge of the house to the west, second, motion passed and variance granted

Mr. Schwartz – All I will say gentlemen is I live here too, I've done my research with professionals in their fields, one gentleman doesn't like it, it seems that what I want and desire as a property owner doesn't really matter here.

Mr. Layman – Fences in front yards impact a lot of people, that's why we have a zoning code.

Mr. Schwartz – I guess I don't see that after I surveyed my neighbors and no one disagreed.

APPLICATION BZA-22-27

Applicant: Chris Griley
Owner: Chris Griley
Location: 2116 Ava Ln.
Project: Single Family Dwelling
Reference: 16.8

Mr. Layman – We have a letter signed by a number of people opposing it.
Motion to deny based on applicant not showing up and letter from neighbors against it, second, motion passed, variance is denied

APPLICATION BZA-22-28

Applicant: Blessed Sacrament
Owner: Diocese of Columbus – Blessed Sacrament
Location: 10 N. Cedar St.
Project: Fence
Reference: 88.2

Trevor Donaldson-394 E. Main St., Which is the address of Blessed Sacrament. Last year we tore down the old Methodist Church beside Blessed Sacrament to secure that property and so we have room for future development. For the last year there has been a temporary snow fence around that, to keep traffic from bicycles and vehicles out of it and for the safety and security of Father Alonzo's house which is the next structure. Our plan is to construct a 7 foot high courtyard style fence around our whole property at Blessed Sacrament for the safety and security of our children, parishioners and staff. As you probably know the area has a lot of foot traffic, unfortunately there is a lot of drug traffic just east of us. The task force is on our parking lot every day on surveillance and it's become a bigger issue every day. So, we want to help secure our property. We installed new fencing around our playground behind our property where an existing fence was already.

Mr. Layman – How tall is that?

Mr. Donaldson – It's 7 foot. It's very similar to what St. Francis has, it looks like wrought iron but is aluminum, 7 foot. I have pictures if you would like to see pictures of that and I also did a quick sketch of our property of what it would look like if we fenced it, the red dots are where electric gates would be and the yellow is the fence.

Mr. Paul – Have you started the project?

Mr. Donaldson – Just the playground. When I spoke with George he told me obviously since it's on the corner lot of Cedar and Main we may have to do a setback or an angle on the corner which we're fine with doing so. We just don't know how far we need to go back etc. If you look at the one picture on the map the front of the rectory which is Father Alonzo's house is where the fence would tie into the house into the brick and head straight west closer to Cedar Street then head north.

Mr. Gienger – It's going to go around the parking lot too?

Mr. Donaldson – Eventually we would like to. IN that picture it looks like a moon crater where the old parking lot is crumbled, our plan is just to make that green space for the time being, it would be fenced in so the children could use it for recess or gym class and then hopefully for future development as we are growing.

Mr. Layman – Would you consider a 6 foot fence on Cedar Street?

Mr. Donaldson – That would probably be a hardship because this fence has already been ordered and is setting in Swiss Valley's lot. I could check with them especially on the corner to see if they could taper it down some.

Mr. Layman – Everyone has said they are okay with the design of the fence. There are two other questions, one is the location setbacks and the other is the height.

Mr. Donaldson – You know the wood gates you have around your dumpsters, we just replaced those because the wood was rotten. Two nights ago our community partners as Father Alonzo like to call them already ripped off 4 of the boards.

Mr. Paul – I'm okay with the height. I think with it being a school and the kids and some of the riff raff that runs around down there, I'm fine with the 7 foot.

Motion to approve the fence at 7 feet high, second, motion passed, variance for 7 foot fence granted.

Mr. Carter – Our code talks about 25 foot point of intersection and that was how I originally designed what was submitted with the packet, which looks like you tried to adhere to as well on the drawing. The only thing I would add in rethinking this is should our traffic engineer look at it on that specific corner of where that 25 should be sufficient when we talk about these 25 foot point of intersection it's with the assumption that it's 4 foot tall. Since we are now at 7 foot tall I think the traffic engineer should weigh in and comment on this. I think it will be similar and worst case scenario you may be clipping that corner a little more.

Mr. Layman – Based on what the Zoning Inspector said, will someone make a motion to approve the proposed fence layout with a 25 foot point of intersection on the area west of the church; subject to the City Engineers approval and if he wants more it will go with what he says.

Mr. Gienger – How far does it have to be from the sidewalk?

Mr. Carter – Maintaining the 25 foot point of intersection on a triangle, with a 4 foot fence he could go to the property line. We will have to determine in the field where that property line is but the majority of the time they are right next to the sidewalk.

Mr. Paul – Are you proposing a buffer between the sidewalk and the fence?

Mr. Donaldson – On Cedar Street there will be a little bit, I don't know how big.

Mr. Paul – Can we say it's got to be 4 feet on that?

Bob Boyle, Diocese of Columbus – That's okay. Can I point out that the visibility with that fence is 100 percent better than when the church was on the corner.

Mr. Layman – We understand that.

Mr. Carter – If you guys were putting on a marketing campaign for enrollment and wanted to hang a banner, there are processes within the City of Newark that would require temporary sign banners etc., so as John mentioned here everything like that is still going to have to meet standards.

Mr. Layman – What if we just say there is no banner within 50 feet of the intersection?

Mr. Paul – That's all I'm saying if we allow them to do banners then we are allowing them to do something that isn't really safe anymore.

Mr. Layman – **Let me see if I can fashion a motion that maybe someone can make.**

That we approve the proposed fence layout with the clarification that the fence along Cedar Street be 4 feet from the east edge of the sidewalk; that the fence at the corner of Cedar St. and East Main St. be no closer than 25 feet to the corner, provided that is blessed by the City Engineer who may make it more stringent and you would have to follow his guidelines and no banners within 50 feet of the intersection.

Motion, second, variance passed

[APPLICATION BZA-22-29](#)

Applicant: Guy Manos

Owner: Guy Manos

Location: 1449 Wright Dr.

Project: Single Family Dwelling

Reference: 88.1

Guy Manos – There is a garage currently on the property, we want to build a house that fits esthetically with the garage so that the front edge of the house is in line with the garage.

Mr. Carter – In this zone they are required to have a 30 foot front yard setback, he has in his site plan 25 foot to the front of the house but he does have an 8 foot porch on there, so it is realistically 13 feet front yard setback.

Mr. Layman – Some history might be useful here. About maybe a year ago someone tried to put a double wide house on this lot. It came before the Board and the Board used language to deny it that said the zoning code prohibits a garage to be in front of a house because the doublewide was going to sit behind the garage and on that basis that

variance was denied. I think what we would be telling this particular piece of real estate if we don't grant this variance or something similar to it that nobody can build on the lot and I don't believe we should render the lot unbuildable. My recommendation is that this or some variation of this be approved.

Mr. Paul – We have no opposition and I think we did last time didn't we?

Mr. Claggett – Yes, he had already put the double wide on the property.

Mr. Paul – That's what I thought, it was just a bad situation all the way around.

Mr. Manos – We've spoken to the neighbors and I have built this house on another lot, it fits in with the neighborhood, it's a 3 bedroom 2 bath ranch so it's not going to be an eyesore.

Motion to approve as submitted, second, motion passed, variance granted

THE NEXT SCHEDULED BOARD OF ZONING APPEALS MEETING WILL BE HELD ON THURSDAY, SEPTEMBER 22, 2022 5:30 P.M. THE DEADLINE FOR AGENDA ITEM SUBMITTAL IS SEPTEMBER 1, 2022, 4:30PM.

5. ADJOURNMENT

Chairman, Board of Zoning Appeals

Secretary, Board of Zoning Appeals