

BOARD OF ZONING APPEALS MEETING
THURSDAY, JANUARY 26, 2023 5:30 P.M.
COUNCIL CHAMBERS
40 W MAIN ST, NEWARK, OH 43055

MINUTES
PUBLIC HEARING

1. CALL TO ORDER

CALL TO ORDER- Phil Claggett acting Board Chair called the Thursday January 26, 2023 Board of Zoning Appeals Meeting to order.

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

Absent:	Steve Layman	Board Chair
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2. APPROVAL OF MINUTES

Minutes of the December 22, 2022 meeting

Motion and second to approve minutes of December 22, 2022, motion passed by acclamation

3. OLD BUSINESS

4. NEW BUSINESS

APPLICATION BZA-22-42

Applicant: Steve Daye

Owner: Steve Daye

Location: 949 Shaw Dr.

Project: Home Business

Reference: 16.4

Steve Daye, 949 Shaw Dr. - This is a home based business, firearms business. Gun shows, internet and special orders only, there is no foot traffic, so signs, no parking, no anybody. What I do is, someone buys a gun on the internet, they have to send it to me since I'm a firearms license dealer, then I do the background check on them and I send them the gun if the background check is approved. That's done through ATF. That's all I do is just transfer guns really.

Mr. Gienger - Do you collect money?

Mr. Daye - I collect \$20 for the background check. They pay for the gun on the internet themselves and the gun broker would send it to the closest FFL Dealer in that town, which could be me. I go from there, do the background check, once it's approved, he comes and picks it up and that's it. It has to be delivered to my house because that's where my office is on my FFL sheet. It doesn't get opened or anything, as soon as it gets there, I call and tell them it's in, I do the background check, they fill out the paperwork, it's done within like 5 minutes. I collect \$20 for doing the E-check and away it goes. If it's denied I have to send it back to wherever he bought it from. If he's rejected for a felony or something, I've never had that happen because most people who buy a gun on gun brokers aren't felons because they don't want to get rejected. I've never had to send any back and I've been doing it for 5 years already. I don't store any guns there except for my personal ones.

Mr. Paul - What's the frequency of your drop offs, how many shipment do you get?

Mr. Daye - Sometimes it will be a month and I don't have any. I have a regular job too. I think I did 15 or 18 last year. I can't afford to buy the guns and then try to sell them to somebody, I let the internet do that.

Mr. Carter - I'll speak in regards to Mr. Daye here, difference in opinion between me and my predecessor. Five years ago Mr./ Daye contacted the zoning office and got the nod to go ahead and with it being internet based it wasn't a big deal. The ATF is requesting documentation from the City of Newark that he is permitted to do so. Difference in opinion with my predecessor is I feel he should've come to the BZA to get approved whether internet based or not. That's why we're here today, we've had zero complaints it's just a matter of getting paperwork to protect Mr. Daye here in the future.

Motion to approve, second, motion passed 4-0

[APPLICATION BZA-22-43](#)

Applicant: Erik Lambert

Owner: David Grigsby

Location: 539-545 New Haven Ct.

Project: Two-Family Dwelling Units

Reference: 26.8

Erik Lambert - In regards to four contiguous lots 539-545 New Haven Ct. I'm here to request several variances on the properties, in regards to the overall lot square footage, side yard setbacks and parking requirements. It's a property I have a purchase agreement with Mr. Grigsby on, we'll be purchasing it contingent on zoning variance approvals. Our plans are to build twin single duplexes, four, one on each lot. You guys have the papers there in front of you, we don't quite meet the side yard setbacks, each one is slightly different.

Mr. Carter - You did meet side yard setbacks after reviewing your plans, you did meet side yard, you still need the rear yards. 40 is required for rear yard and he's reducing it to 32 and he needs 10,000 square feet of lot space area, there are

8,000 currently. He needs lot frontage of 80 feet and he totals 60. This backs up to the school off of New Haven which is next to Crispins. Currently there were originally 12 lots and they only built 8 duplexes out there, this was years ago, so the lots were intended to build duplexes out there. They were built to the standards of the previous code.

Mr. Claggett - Again George, all we are going to do is put this back to where it originally was if we approve it. Correct?

Mr. Carter - Yes.

Motion to approve, second, motion passed 4-0, Variances granted

APPLICATION BZA-22-44

Applicant: Donald Dunlap

Owner: Donald Dunlap

Location: 963 Wells Ave.

Project: Accessory Structures

Reference: 86.3

Donald Dunlap, 963 Wells Ave. - I'm using the shed for storage because I'm going to get my house re-built.

Mr. Carter - The variance is for the number of structures and the location. Mr. Dunlap and I have had some conversations if you look at the photos here, the one with 2022 on it. He's got four structures on the lot and one of them I do believe is in the right of way and we discussed some options on relocating that one. The number 4 one is certainly going to need to be relocated and the Board needs to address the number there because it exceeds two.

Mr. Dunlap - I can move the one over, that's not a problem.

Mr. Claggett - How about the number of units?

Mr. Dunlap - I didn't know anything about that. There's 3 lots there, so there's plenty of room.

Mr. Carter - If you draw an imaginary line from the rear corner of his house you kind of start running out of property in the rear yard. I know you and I had discussed they are relevant for the repair project to your house.

Mr. Dunlap - I'm re-building half of the house.

Mr. Carter - The one thought I did have for the Board was a condition of time. According to Mr. Dunlap they are a priority for him to repair his house. The City required him to repair his house he pulled a building permit to do so, the City does want to see the house repaired and to become compliant with the number of structures there.

Mr. Paul - How long do you think it will take to repair the house?

Mr. Dunlap - I've got my two boys working on it, they put me on full disability, I got diagnosed with lung cancer in 2019 and I'm working part time now so I can pay to do it. Probably not this summer, but next summer. I can guess on next summer.

Mr. Paul - I obviously have a lot of concerns. Two of these structures are not even on this property, George, am I correct?

Mr. Carter - Number 4 for sure and number 1, maybe.

Mr. Dunlap - I don't understand you guys saying they aren't on my property, I don't understand.

Mr. Paul - They're in the right of way. All I can go on is this aerial view and it shows the lot line. What is he legally allowed to have?

Mr. Carter - He is legally allowed to have 2 structures and they must be in the rear yard.

Mr. Dunlap - The white garage has been there all along, there is concrete foundation under that.

Mr. Carter - I can go back to 2015 and there were zero buildings in 2015 and there hasn't been a permit issued going back to 2014 for any of the units.

Mr. Dunlap - I put a shed and a shipping container on there, I didn't know I had to have a permit to do that.

Mr. Carter - The code does say 35% of the rear yard can be allocated for accessory structures.

Mr. Paul - All of these are movable?

Mr. Dunlap - All but the garage and the house.

Mr. Carter - My thought would be to keep 1 and give him a variance for that being in the side yard, relocate number 4 and now he's got 2 compliant structures.

Mr. Paul - Before we make a motion, I don't have a major issue with what he wants to do as long as there is something getting done on his house, but if we don't ever see any progress then I think he loses the privilege, if we can put it that way, because I get it, but what day did you pull the building permit?

Mr. Carter - October, 2022, he got approved 10-14-2022.

Mr. Paul - That's good for one year, so 10-14-2023 would be the deadline.

Mr. Dunlap - They told me I could apply for an extension and I told them I'm probably going to have to. It would be a six month extension they told me. I don't know if I can get it done next summer, I've got my two boys helping me.

Mr. Carter - My thought would be 6 months and at that point in time see if you've gone through enough material to start reducing the number of accessory structures as they empty, that way we have a tiered plan, as we empty one, we remove it, we could do 6 months at a time and keep bringing him back and keep granting conditions and altering it as need be.

Motion to approve the variance conditionally for 6 months to show progress on building permit and, at 6 months at least one of the structures will be removed. Also, when weather is appropriate move brown shed number 4, shed number 1 will remain as is and shed number 5 will remain as is, the remaining 3 sheds will be approved conditionally at 6 month intervals and we will see him in 6 months, second on motion, Motion passed 4-0.

[APPLICATION BZA-23-01](#)

Applicant: Michael Lee

Owner: Four M Manufacturing Group

Location: 1851 Tamarack Rd.

Project: Building Addition

Reference: 64.6.2

Justin Koeppel, Project Engineer with International Paper, 1851 Tamarack Rd. - and Michael Lee, Architect with Casco out of St. Louis, 12 Summon Dr. St. Louis, Mo. 63143 -

What we're doing that requires a variance is we're constructing an exterior new part of the building which is a maintenance shop. The reason for this is because with everything that's going on inside the plant, the maintenance shop is going to be dismantled, we're going to take the wall down between it and the corrugator. What this is 4 M Manufacturing is the real estate entity but this is the International Paper facility here in town and we're putting in a fan fold machine and that's a big word for something that basically will take flat card stock and you can use a computer program and make this work into any size or shape of box. So, we'll be able to do smaller boxes, I guess what is happening nationally with the standards is we're trying to get away from the large box you get from Amazon and is essentially full of nothing but air, essentially we can make smaller boxes, it's much more efficient with the cardboard and the whole line of the product. So, from the manufacturer side we can do what the end user wants and it takes less material for them to take a large sheet and cut it up and they have less waste and when you receive your package or whatever it's a smaller box that's appropriately sized for the product that you're buying so you have less waste, so from the production of it to being used to being recycled there's less waste, so that's the main reason for this. Currently this plant will only do 3 sizes of boxes. It was Box USA and was acquired by International Paper, they've done some work on the interior. So, again the whole reason for the variance is we're displacing an interior piece and we're using the side layout that we have, we're trying to take a non-obtrusive place to locate this building, we're putting it between two extensions, nobody will ever see this from any of the sidelines around the facility and we're going to keep it below the roofline, so again, sight visibility is not going to be an issue and it really brings the plant up into the future of production.

Mr. Koeppel - So to elaborate, currently our machines just make a standard size board and it goes through our machines to make the product. Right now with this fan fold you're adding another machine to our corrugator, and it's a continuous sheet so we're lengthening it. Pretty much by doing that we're taking out the existing maintenance shop. Also, all of the new equipment we're putting in is going to be more efficient.

Mr. Lee - So, we're not taking parking or any area that's of real use, we're just taking a lawn area.

Mr. Koeppel - It's going to add to the capacity of our customers, more customers, more staff.

Mr. Lee - The challenge from a variance standpoint is we're landlocked with this site and this building and as more modernized equipment comes into it it's very constrained.

Mr. Claggett - You've been to Planning Commission and it's contingent on us?

Motion to approve, second, motion passed 4-0

INTERPRETATION

7668 Licking Springs Road

Home Business/Legal Non-Conforming Use

Mr. Carter - I bring this in front of the Board for interpretation, similar to BZA Case 22-42, another property reached out from the ATF department regarding Licking Springs Road, however the difference is, they are already a non-conforming use up there. Watson Co., he's got his business address there, he's got his farm, it's been a business for some time, it's considered legal non-conforming as is. So I'm asking the Board for an interpretation if this is an extension of that non-conforming. He does the same thing that Mr. Daye does regarding firearms. It's internet based there's no people going there for that, so I just want to get is this an extension of what he is currently doing out there. If the Board interpreted that it is a permitted use out there, it would carry forward until all the use out there ceased for a year, then current code standards would come to the top and have to be met. This cleans paperwork up for me in the office.

Motion that it is a permitted use at 7668 Licking Springs Road, Second, Motion passed 4-0

Mr. Carter - The last act of business tonight that needs to be done is the Board needs to elect a President.

Motion to appoint Steve Layman as President of the Board for 2023, Second, motion passed 4-0

Motion to appoint Jack Gienger as Secretary of the Board for 2023, Second, Motion passed 4-0

Mr. Carter - I will read the meeting dates for 2023: 1/26, 2/23, 3/23, 4/27, 5/25, 6/22, 7/27, 8/24, 9/28, 10/19, 11/16, 12/28

Motion to approve these dates, second, Motion passed

THE NEXT SCHEDULED BOARD OF ZONING APPEALS MEETING WILL BE HELD ON THURSDAY, FEBRUARY 23, 2023 5:30 P.M. THE DEADLINE FOR AGENDA ITEM SUBMITTAL IS FEBRUARY 1, 2023, 4:30PM.

5. ADJOURNMENT

Chairman, Board of Zoning Appeals

Secretary, Board of Zoning Appeals