

BOARD OF ZONING APPEALS MEETING
THURSDAY, June 22, 2023 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 22, 2023 Board of Zoning Appeals Meeting to order.

Present:

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

2. APPROVAL OF MINUTES

Minutes of the May 25, 2023 meeting

Motion and second to approve minutes of May 25, 2023, motion passed by acclamation

3. OLD BUSINESS

APPLICATION BZA-22-44

Applicant: Donald Dunlap
Owner: Donald Dunlap
Location: 963 Wells Avenue
Project: Multiple Storage Sheds
Reference: 86.3

Mr. Carter - Approximately 6 months ago you gentlemen issued a conditional approval for Mr. Dunlap to have multiple storage sheds at this location. Those conditions have not been complied with. Also, he was instructed to return here in 6 months for the June hearing. Since the conditions have not been complied with I am prepared to ask the board to revoke the conditional variance.

Beth Bline, 2nd Ward Councilwoman - I thank you gentlemen for this there have been many complaints from the residents.

Motion to revoke the conditional variance, second, motion passed 5-0, variance is revoked

APPLICATION BZA-23-22

Applicant: Jeanne Phillips
Owner: Jeanne Phillips
Location: 2127 Morgan Run
Project: Shed
Reference: 86.3.1

Mr. Layman - We tabled this at our last meeting, there is no one here to speak for or against this, would you like to leave it on the table?

Motion to leave on the table, second, motion passed 5-0

NEW BUSINESS

APPLICATION BZA-23-23

Applicant: Ashley Goldsmith
Owner: Ashley Goldsmith
Location: 412 Alford Dr.
Project: Shed
Reference: 86.3.1

Ashley Goldsmith, 412 Alford Dr. - I am just asking for a reconsideration of where we're putting the shed. We live on a corner lot, but our back yard is not very large. On the picture that I drew is the west side of the map. I do have two different letters from homeowners that couldn't make it tonight if you guys would like those as well.

Debbie Goldsmith, 635 Robin Ln. - I have no objections to them putting a shed on that property where they want to put it.

Donald Patton, 407 Alford Dr. - I'm right across the street and I am fine with them putting it there.

Blanche Rogers, 392 Alford Dr. - I am right across Canterbury from their property and I am definitely for them having the shed there.

Mr. Layman - There is a pattern here, anyone here against the variance? Everyone here that is for this raise your hand.

Motion to approve, second, motion passed 5-0, variance granted

APPLICATION BZA-23-24

Applicant: Steven & Connie Park
Owner: Steven & Connie Park
Location: 2267 Horns Hill Rd.
Project: Shed
Reference: 86.3.1

Connie Park, 2267 Horns Hill Rd. - My husband and I are building a house on this property and we were not aware that you could not have a shed before you have a main residence. We have signed a contract with Eric Shonebarger he's supposed to break ground in one week, so where the shed is, is on probably the flattest part of the property, we had to go somewhat up a hill for it to be placed there, but it's just for my husband to put his tools and tractor there. I believe one of our neighbors has a problem with it, but you would have to actually even step out of the shed

to see anything at his house. So, we're asking for a variance until our house it built.

Mr. Carter - I will mention this to the board, Connie is correct, I have been working with Mr. Shonebarger regarding a new single family dwelling permit on the property and discussing those plans with him and reviewing them it was determined that the rear setback of the house was approximately 6 feet short of the requirement of 50 feet. I think it's 44.6 feet for the setback, so in agreeance with Mr. Shonebarger we added that to you hearing tonight to try to take care of both items with one hearing.

Neighbor - I guess I'm okay if they get their variance with the stipulation that, where it's setting at right now, when they leveled it out, they set it up there when I was at work and cocked it looking down on my property, it's about 43 feet close to my property and it looks over and takes away my privacy in the back. I like Steve and Connie, I've known them for years, but who's to say they sell it in the next couple of years and I have to deal with somebody else looking down on me. I do believe it takes away from my property value being that close. So, my proposal is, if they turn it to where it's parallel with the road and about 10 feet over, I'm okay with it. But right now the way it looks, it's a big shed, we're not talking small we're talking 24x14 to where overhead garage doors and everything is looking down on my way. So, that's my proposal, if they would just turn it and move it over about 10 feet.

Mr. Paul - Is this a modular, I mean prefabricated.

Ms. Park - Yes, it was delivered and taken up the hill, it wasn't built there.

Mr. Layman - How hard would it be to move it?

Mr. Park - Do you have to have it at a certain angle? I've got it cocked a little bit, you've got to literally walk out the garage door to look over to the side to see his patio. I'm putting tools and my tractor in this shed, what am I 4 foot from being off the property line, I'll move it 4 foot or 5 foot whatever I have to do. I don't know that you have to have a certain way that someone can tell you that you've got to have your garage angled, I'm just saying.

Mr. Carter - Mr. Park, how far from the property line is it currently sitting right now?

Mr. Park - I would guess, I think somebody measured it and it was 44 feet.

Mr. Carter - How far is it from the side property line?

Mr. Park - I would guess 35 to 40 feet. I did not measure it myself, but that's what I was told. I did not know that there was a certain way, a thing for the shed that you had to be that far from your property line. Yes it will take a little bit to move this shed, it's already been leveled, I can move it 5 or 6 feet whatever it needs to be, but I probably will still leave it at the same angle because if I am in my shed and say I'm washing my tractor or something and say I've got my garage doors open, I can see #9 hole.

Mr. Layman - We're at a disadvantage because we don't have a drawing that shows the shed, we have a drawing that shows the house. We have

no evidence here of where the shed is or how far it's off any line, so we're totally at a disadvantage.

Mr. Paul - They're in non-compliance because the secondary structure is already there before the primary, but the primary zoning application has been done.

Mr. Park - I would also like to say this, the only reason I put it there is because it is on a hillside, there is no flat spot, we cleaned off a spot for this over a year ago to put a shed because I knew when we started to build, I would have to have it stick built because you could not move it up there for the hillside where the house is going to be.

Mr. Layman - I would make a proposal that we break these out and grant him the variance for the setback for the house so that Shonebarger can move forward and make it all contingent about an agreement this month that the shed, we have an accurate measurement. So, what's on the table is we don't know what we're talking about because we don't have a drawing or know the distances, we're guessing where it is, but you want to start a house. What the motion is to grant you approval to start the house, but it's conditional on next month submitting a drawing and Eric can do that for you, submitting an accurate drawing of where it is on your lot, we look at it like if you have to move it 5 feet, you have to move it an extra 5 feet, otherwise you've got to take it away, okay, but, we may say it's fine, we just don't have enough information. We're going to let them begin construction on the house, but the permit on their house is contingent on us resolving the shed, and we'll do that next month, in the meantime they can start it. But, if we tell them they have to move it, they have to move it, if we tell them it's okay, it's okay.

Motion to approve the variance for the setback for the house, contingent on resolution of the shed which we will have a drawing brought back to us next month and make that decision at that time. Second, motion passed 5-0

APPLICATION BZA-23-25

Applicant: Robert Wade
Owner: Robert Wade
Location: 1321 Granville Rd.
Project: Fence
Reference: 88.1

Robert Wade, 1321 Granville Rd. - A fence was built, it's on a corner of Granville and Country Club Dr., actually a car crashed into the west side of the house, the contractor added 18 feet of fence 6 feet high and it's effectively the side yard, but since it's on a corner there's two front yards and he just built that fence there to protect his tools there during construction. So, I'd like to leave it if I can, if I have to take it down I will.

Mr. Carter - I'll address the matter on this situation. As Mr. Wade mentioned part of his house and the fence was destroyed from a disaster, under the zoning code he is able to rebuild under the same footprint the

same use, therefore he put the 6 foot fence back up in the yard it was considered not conforming, the issue here is that as Mr. Wade said he added additional fence to what was previously there and that is why he is here in front of the board asking to keep that extra section of fence.

Motion to approve, second, motion passed 5-0 Variance granted

APPLICATION BZA-23-26

Applicant: Jon Henning
Owner: Storybook Properties LLC
Location: 909-931 Welsh View Dr.
Project: Altering Non-Conforming Structure
Reference: 7.2.3

Brian Lewis - I'm standing in for John. George can give you the background on it better than I can.

Mr. Carter - I will mention to the board, a rare section of the Code that you may not be aware of, anytime you alter a non-conforming structure, specifically on the exterior it does require board approval, so that is why Mr. Lewis is in front of the board, he has to seek your approval to alter a non-conforming structure.

Mr. Lewis - When the buildings were purchased they were in need of repair and we were in the process of getting funds set up for that and we got a letter from the City saying we had to repair them. The carport roofs were coming in they drain to the center and then sloped to the front so we put a shed roof over top of them, then we found out that was non-conforming and since then I've had the architect draw up the drawings for the building to be submitted for a building permit also.

Neighbors - I'm okay with it. I'm okay with it too, anything to make that place look better.

Mr. Paul - How many buildings are currently in process or being renovated?

Mr. Lewis - Two of them, the two that George took the pictures of.

Mr. Paul - And no inspections, no permits no nothing.

Mr. Lewis - Yes, we're doing it backwards. I was brought in on the back end of it.

Mr. Claggett - Since there was a building, I look at it as an improvement.

Motion to approve, second, motion passed 4-1, Variance is granted

APPLICATION BZA-23-27

Applicant: Brigitte Thomson
Owner: Brigitte Thomson
Location: 1224 Howell Ct.
Project: Conditional Use - Home Business
Reference: 16.4

Brigitte Thomson, 1224 Howell Ct. - I want to give you guys one more neighbor email, that's my neighbor directly across the street. I would like a variance for a home based business, I'm a dog trainer and I have an

unfinished walkout basement that has three kennels in it. Before looking into doing this I looked into Ohio law and I know that I can own up to five dogs without a kennel license and so I self -limited myself to no more than 3 dogs to be trained or boarded at a time beside my own 2. I have a fenced yard, I think you have all the photos there of what my house looks like from the front and the back yard and the fence. I did begin my business without a variance and I have neighbors that have complained to you, but I have no idea what their complaint is. I don't know that my dogs are any noisier than their dogs, or that, I don't know. I also know that in our neighborhood that we can have a daycare or a bed and breakfast with up to 2 guests. So, I don't see a traffic difference compared to those types of businesses. All business that I do is by appointment only and I don't know if I'm leaving anything out except what's there, I have business insurance that covers liability, doesn't cover me, I found out, but if I get approved I will be getting workmans comp.

Bonnie Vogelmeier, 1198 Howell Ct. - Three doors down from Brigitte right at the tip of the cul-de-sac before your reach the cul-de-sac. So, Brigitte said she doesn't know what we are upset about, so I came to tell you. Last week I received the notice of public hearing in the mail and I was confused as to why this appeal was happening since this is a residential neighborhood and since we're zoned residential I don't understand why a business of this type is even being proposed or allowed. So, I called the number in the letter and I spoke with George Carter and he said oh well most businesses in residential homes are online businesses, he gave me an example of Ebay. I thought to myself, this doesn't describe Brigitte's business at all and he went on to say well you can't have any advertising, you can't have any products for sale, he even used the example of a pet store, he said you can't have people coming in and out in and out in and out and I thought well this exactly describes Brigitte's business. So, I realized you may not have an accurate picture of what this business actually is, so I took the time to come down here to tell you what the business is actually like so that you can make an informed decision. Very large dogs are being dropped off at Brigitte's house every single day. Most of these dogs are very aggressive. When the owners get the dogs out of their cars they are barking, they are growling, they are lunging off the leashes. More than once I have seen a dog frag their owner across her yard either towards Brigitte trying to get to her or towards somebody that's in the street. These dogs are out of control, that's the whole reason they are being brought to Brigitte, so that she can train them. But, if Brigitte or one of their owners loses control of one of these very large, very aggressive dogs, we're going to get bitten. It's only a matter of time. When the dogs are being trained there's a lot of yelling and a lot of clapping, so you've got yelling going on, you've got clapping going on, you've got dogs barking. It is so loud, I've had to close my windows, I've had to turn up my TV and worst of all, I've had to tell people on business meetings on Zoom, I'm sorry can you repeat that, I missed that, can you go over that again.

My husband and I like to take walks on our lunch hour, well, we used to. We used to like to take walks up and down the street or around the block, but we had to give that up because as we walk down the street, Brigitte brings the dogs out into the street to use us as a training tool to train the dogs not to lunge at us, not to bark at us, not to growl at us. I did not volunteer to be a training tool for Brigitte's business. I did not give permission to be used as a training tool for Brigitte's business. Several times we have not been able to approach her house because one of these out of control dogs is either getting put into the car or taken out of the car and we're afraid to go near it. The traffic on our street is constant, multiple times a day, cars go up the street turn around in the cul-de-sac, they go down. They go up turn around go down up and down it's constant. If they can't find Brigitte's house, they stop and roll down the window, excuse me do you know where Brigitte lives and the whole time the dog is lunging out the window barking and growling. I did not want to live in a high traffic area with strangers coming and going driving past my house and constant noise. I chose our neighborhood because it was quiet. I could take walks, I could sit outside on my deck in the evening and drink coffee with my husband. It was full of families and homes. I paid a lot of money for my house, I continue to pay a lot of money for my house, I do not want my property de-valued because I have a dog business on my street. Now I don't think any of us neighbors begrudge Brigitte her business, but she needs to find the proper facilities in the proper location. I'm thinking of the Humane Society, they are removed from town, the dogs each have their own individual spaces, they have a great big area, they can run around and bark and make all the noise they want, yelling can go on, clapping can go on and it's not bothering anybody because it's removed. Our residential street in our residential neighborhood is not the proper facilities or proper location for this business. George said that most businesses are approved with conditions, I cannot imagine what kind of conditions would make this business acceptable. Are we going to allow 2 aggressive dogs to be dropped off every week, are we going to say oh the dogs can carry on in the backyard to maybe 10:30 at night, are we going to say no cars can only drive up and down up and down up and down the street Monday through Friday. I'm asking you to please not approve this business and to not approve this business with conditions. We do not want this business to set a precedent. If other people see this business was approved for a residential neighborhood, other like businesses will follow. Since this business was shut down a few weeks ago the neighborhood has returned to normal and it has been such a relief, it's quiet again, the traffic has stopped, my husband and I have been able to resume our walks. So, I'm asking one more time, please do not approve this dog business even with conditions. The business is unsafe, it's disruptive, it devalues our properties and the business is making the neighbors very, very angry.

Bill Cost, 1639 Krebs Ct. - I was just made aware of this a couple nights ago I had not heard anything about it, we live, our lots back up to Howell

Ct. we're on Krebs Ct. To me, this is a situation where you have a single family residential zoning and what's being asked for is essentially, spot zoning, which is something we've tried as a City very hard not to do. My outlook when I was on Council was if I didn't want this next door to me I didn't think somebody should have to put up with it next to them and I don't think it's a good idea for a single family residential neighborhood. Thanks you.

Ms. Thomson - Can I ask Mr. Cost a question because he is my back door neighbor. In the last year you are right back behind me. I've been doing this for over a year and a half, have my dogs ever been a problem with you, have you ever had an issue?

Mr. Cost - I can't say that I've heard your dogs, I was not aware that you were running a business. But, I can see where there could be a problem, I can see where there could be increased traffic, I can see where there would be deliveries and pick ups and drop offs and to be honest with you I wouldn't want it on Krebs Ct. so I can see where neighbors wouldn't want it on Howell Ct.

Robert and Michelle Brown, 1216 Howell Ct. - We are the owners that reside directly to the east of the applicant. We're next door to the applicant for almost 14 years, we have three children their ages are 13, 11 and 10 and each one of them have no diverse conditions. We are here to voice our objection to the applicants request to operate a dog boarding business. Our reasons are as follows: As Mrs. Vogelmeier and Mr. Cost have stated, we live on a residential street and we do realize that this application is not to change that, however, in appearance we believe that it would. It would change it from being a residential street in appearance. There are no fewer than 14 kids that live on our very short street with the majority of them being elementary school age and younger, these kids ride bikes, walk and play around the street daily. The traffic that exists due to a dog training business has created a threat, we believe, to these childrens safety in their day to day activities. There are unfamiliar drivers that may be distracted by searching for where the business is located and that's a further cause for concern. Next, an increase in unknown adults on our street is also a concern for the safety of our children on our street. AN increase in unfamiliar or possibly unsecured dogs is a concern for all the people that reside on our street. The threat of a dog biting or hurting someone should not be tolerated on our street. Safety for pet owners on our street is a concern as we are pet owners as well, on a previous occasion the applicants own dog came into our yard and attacked our pet. Increased noise with dogs being boarded is an issue, potential buyers as stated previously would not look favorably on buying a house in a residential neighborhood that has a dog boarding business on our street. The fencing in the back yard you can see that, we do not feel that the fence is high enough. Currently and as you've seen in the pictures the applicant does not have a front yard fence and as again as stated previously dogs are not leashed when being trained or otherwise. Dogs

not going to the bathroom in a proper location or being cleaned up is a concern and just as far as the proximity to our house being right next door, we don't want that business next door to our house. Dog toys for training have been thrown in our yard and dogs from the training have chased them into our yard. Dogs from next door jumped on one of our children when taking the trash out. Our yard has been used for dogs to relieve themselves and has not been cleaned up. Our children, as stated before, have no diverse conditions and it is a cause for stress on them, it is stressing them health wise. So, they've been pretty much kept inside sue to unknown dogs outside in an unfenced yard. Also, as stated, dogs are being trained in our street, that causes a concern for the dogs, the dog owners, Brigitte herself, as we're coming and going in our day to day activities. With that again, we do request that you deny this application. Thank you.

Mike Podesta, 1234 Howell Ct. - I live right next to the Thomsons. I'll start by saying I really like the Thomsons as neighbors, I respect their business and them being able to own their business, but what we don't like is when the business infringes upon our neighborhood and on our yard in general. We have a 9 year old and a 4 year old, when we have people come into our driveway to park and even one time someone came into our garage.

Mr. Thomson - Excuse me, that was a babysitter and you know that. Our trained dogs have never been in the neighbors yard getting toys, I'm getting tired of listening to, this is harsh, the traffic on our street is ridiculous, people drive up and down because they think it's a through street and then they realize it's not and they go back, it's been happening for years.

Mr. Podesta - Can I finish? Like Mr. Brown said there is at least 14 elementary age kids and the training doesn't just go on in the back yard, it goes on in her front yard, which she can do, but it also goes on in the cul-de-sac, throwing balls, her dogs run up and down the cul-de-sac. This goes on at 10-10:30 at night, so it's not limited. It's not just in the morning, in the afternoon, it's all hours. Again, I'll reiterate what Mr. Brown said, the dog clean up, dogs go to the bathroom in our yard and so consideration is what we would appreciate. Also, using our children and our dog as props for training because Jacob has been outside and they've gone hey run around, so the dog is trained not to. You've also told our child, Jacob, I'm training now you need to stop and get out of the way in the street. We don't want to be a part of training, if they continue training, we don't want to be a part of it. So, I would emphatically vote no on this. Thank you.

Citizen - I'll be really quick. I'm next door to Mr. Cost and just the biggest thing is noise. I haven't had any experiences as far as anything else that's going on, generally I would just ask everyone if you would not want that next to your home or near it then please don't vote for it. We've heard the dogs, I haven't had any other issues.

Keith Vogelmeier, 1198 Howell Ct. - My biggest issue with the business is it doesn't meet the criteria of acceptable use within the neighborhood. There are people coming and going, that's going to happen with the type of business it is. 16.3 item 3 says no customers can come to the dwelling. The business isn't simply boarding, she does train dogs, as you've heard, the training takes place in the front yard and the street and 16.3 item 8 says no space outside the dwelling shall be used. I think approving this request would set a dangerous precedent for the neighborhood, it would let anything else into the neighborhood as a business and I chose not to live in a mixed use or commercial area, for this reason I don't want the extra traffic or the noise and I don't want property devalued.

Mrs. Thomson - I would like to say, first of all, to my neighbors, that it would've been really nice to have had a conversation a year ago. I did actually ask my neighbor Jennifer Podesta, I talked with her about it long before I did anything, but I would say that hearing all of this I do not plan on going forward with boarding. But I do have families that scheduled with me long before this was on my calendar, schedule this July their vacations, their weddings, their whatevers. I also would like to say there has been a Great Dane that was aggressive and he is no longer aggressive because I was able to work with him and his owner. I have been able to work with people and get their dogs trained. I have 2 German Shepherds that I train every day and I will not stop training them in my front yard or in the street. I do not let untrained dogs off leash, I am not training any untrained dogs off leash. My one dog that is off leash is always on an e-collar and will come back on a deer, that's not even a question, but any of my client dogs I have never had off leash. They are always on at least a 30 foot leash that's attached to my ground, they're tethered. The in the fenced yard, 4 foot fence we complied with the City regulations and they are never ever unattended. I'm always back there with them and it's not for hours at a time and as far as traffic, we do have traffic. We have a lot of teenagers, not me personally, but there are teenagers represented that have their friends come up and down, we have a family of 6 children total and 4 adults and when they come tour house it looks like traffic. I have a neighbor across the street that appears to do a Bible study on Saturday mornings, they have more traffic than I bring in. we have a lively street, it happens, yes, but if you want to look at my planner, I don't put more than 3 appointments on my book and that doesn't mean 3 people coming to my house, that means 3 dedicated appointments.

Mr. Layman - I think I heard you say you have people scheduled for July, do you have people scheduled for August?

Mrs. Thomson - I do and one in August, it's a friends dog.

Motion to deny the homebased business effective August 1st, second

Mr. Thomson - I know you've already motioned, but is there any way I can reapply, if dogs were only picked up and brought to my house and no appointments on my street. I'm suggesting no appointments at my home,

no more than 3 additional dogs than what I already own. I am suggesting I will pick up the dogs, no one to bring them to the neighborhood. Excuse me, one more question, would you ask my neighbors if they have ever had to call the police.

Motion passed 5-0

Mr. Layman - Your application BZA 23-27 has been denied effectively August 1st. If you wish to submit for a business that is different from this you can, but this business as of August 1st is not allowed.

THE NEXT SCHEDULED BOARD OF ZONING APPEALS MEETING WILL BE HELD ON THURSDAY, July 27, 2023, 5:30 P.M. THE DEADLINE FOR AGENDA ITEM SUBMITTAL IS July 3, 2023, 4:30PM.

4. ADJOURNMENT

Chairman, Board of Zoning Appeals

Secretary, Board of Zoning Appeals