

BOARD OF ZONING APPEALS MEETING
THURSDAY, SEPTEMBER 28, 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 September 28, 2023 Board of Zoning Appeals Meeting to order.

Present:

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

Absent:

2. APPROVAL OF MINUTES

Minutes of the August 24, 2023 meeting

Motion and second to approve minutes of August 24, 2023, motion passed by acclamation

3. OLD BUSINESS

4. NEW BUSINESS

APPLICATION BZA-23-32

Applicant: Jeff Kovalik
Owner: Licking Memorial Hospital
Location: 1320 West Main St.
Project: Freestanding Sign
Reference: 135.8

Jeff Kovalik, Assistant Vice President of Engineering for LMH -

Currently the hospital has a large monument sign on either side of the main drive, we would like to remove both of those and replace with a single sign on the east side of the drive that is the same height as the current sign on the east side of the drive, a little bit wider, but the new sign would be smaller than both of the existing signs combined.

Mr. Layman - You're doing away with the message board.

Mr. Kovalik - Yes, we're doing away with the message board, there would

be no flashing lights, internally lit.

Motion to approve as submitted, second, passed 5-0 Variance approved

APPLICATION BZA-23-33

Applicant: Ted Hanawalt
Owner: Soho Property Management LLC
Location: 1525 West Church St.
Project: Gravel parking Lot
Reference: 125.3.2

Ted Hanawalt - We originally had asked for a variance for right away frontage to help to sustain growth at our dealership there, today I'm here to ask about the existing gravel, but to see if there is a chance we could maybe pick up a little bit more, I know kind of what I was going to ask, if I could bring it up to you, if that would be fine. Originally we were going to go here, but I wanted to ask if I could gravel that far, anything would help.

Mr. Layman - Who has the title to that ground?

Mr. Hanawalt - Soho

Mr. Layman - So, what's the variance?

Mr. Carter - He would be graveling this instead of making it pavement, that's the variance request. The official stance is for parking for 4 or more vehicles it must be on durable dustless surfaces. Mr. Hanawalt has requested that in lieu of concrete or pavement that he use gravel for parking surfaces.

Mr. Layman - How many cars are you going to put on that?

Mr. Hanawalt - I'm figuring 12.

Mr. Claggett - Are you opposed to asphalt grindings?

Mr. Hanawalt - I'm not totally opposed to them, but I personally think gravel looks better.

Mr. Claggett - It's been an alternate for the City of Heath, just because it's less dust. It's as close to asphalt as you can get.

Mr. Hanawalt - Either way, if that's what it takes, that would be fine.

Mr. Layman - Do you have fences?

Mr. Hanawalt - Originally I have a permit in and was asking, It is something we could fence, wouldn't want to do it right away, but we have had some theft. Right off the bat, catalytic converters, if it happens again we would like a fence, but we've got a lot of cameras up, so I would like to have that possibility if you're okay with that, but quite frankly with that small of an area I don't know that I would fence it.

Motion to approve as submitted, second, passed 5-0 Variance approved

APPLICATION BZA-23-34

Applicant: Roger Boucher
Owner: Roger Boucher
Location: 927 Wells Ave.

Project: Fence

Reference: 88.1.2

Roger Boucher, 927 Wells Ave. - I'm not sure if you know, it's not the best street in town, we've had problems with theft before, I used to have a shipping container behind my house with no problems for years, that's getting moved. I just feel a six foot fence is easy to climb, easy to see over, I'm on a fairly busy alley due to a group home. I just want to keep myself safe and secure.

Mr. Carter - I will tell you that the Property Maintenance inspector made him move his shipping container, he did have to move his shipping container to meet code.

Motion to approve as submitted, second, passed 5-0 Variance approved

APPLICATION BZA-23-35

Applicant: Northstar Towers

Owner: Kroger Co.

Location: 1155 N. 21st St.

Project: Transmission Tower

Reference: 50.4/88.2

Michael Long, 511 N. Broadway, Milwaukee, Wi. - I am here on behalf of Northstar tonight. As you guys know about 8 months ago Northstar was here seeking to put a tower in what would be the southwest corner of the Kroger shopping center property on 21st Street and after the hearing with the comments of the public it decided to , the application was tabled and Northstar went back to Kroger who is the property owner and has made an arrangement with them to move the tower approximately 600 feet close to 21st Street. Does everybody have the plans? The site itself is the same as the one that was presented back in February. The tower would be approximately 160 feet tall, Northstar would be leasing a 40x60 area of land from Kroger. The access would be off of 21st Street and off of Pierson. As I said the site would be 600 feet closer to 21st Street. There's a real need for Verizon wireless right now would be the initial carrier that would install their equipment on this tower. Verizon has done a significant amount of studies over the last number of years in evaluating the network in this corridor between Deo Drive and Granville. AS you know a lot of traffic on that road, people using a lot of stores, shops and restaurants in the area and there is a real need to improve Verizon's coverage in this area. The engineers have evaluated it and they need a site in this area in order to improve the coverage because there is a true need. I've got a letter from one of Verizon's engineers that manages the network in Ohio and they more or less say what I just summarized and that is the amount of traffic is really driving the need for a new site. Verizon and Northstar had started looking at sites in this corridor between Deo and Granville and initially they looked at the Kroger property, but before that Verizon had been looking at one of the schools to the south of the Kroger property and

that site did not come to fruition. Then there was some talk about possibly doing something on one of the towers to the north and to the east of the Kroger property, there is a big tower sitting on a hill. Verizon is one that tower now and they really could not do anything else or add any equipment to improve coverage in this area and so they really determined they needed to put a site in the area where the coverage deficiency was and so the Kroger property was targeted. The initial desire was to put the site on the north end of that building and unfortunately given Kroger's trucking operation, the trucks that go back in there, there really was not any room to put a tower where a tower could fit in that corner of the property and so Northstar and Verizon determined that the next best place was going to be in the southeast corner of the property. Obviously the public was not happy with that and so we've moved it 600 feet closer to the road away from the homes in the corner. The one thing I will note and I don't know if you've been out to the site and seen it, but there's a lot of trees around the south end of that property that really serves as a natural buffer and screen for the properties on the other side of that tree line. You're not going to see the base of this tower in this new location, you're not going to see the first 100 feet of the tower due to the trees. So, I'm here to answer any questions that you may have.

Mr. Layman - I am assuming that you are out of the flood plain and out of the flood way.

Mr. Long - Yes.

Mr. Layman - Is there anyone here to speak for or against this? Have you seen the map or the drawing, do you know where it's going to go?

Citizen - My question is real quick, there's a wooded area between this and the soccer field, you have a retaining pond, it would be out of the parking lot, so I don't know how a truck would be interfered with, why can't you put it in that corner?

Mr. Long - Kroger doesn't own that property and there is a significant drop off right here.

Citizen - Also, if you're on King Road and you look east to where Kroger is, that's all open field, acres, you can't put a pad in there?

Citizen, 1092 Sunrise Dr. - I live just to the west and so I do appreciate the fact that it got moved closer to 21st Street, that makes it better, I guess, I'm kind of like this gentleman, is this the best place for this? It was right in my back yard, now it's a little further away, but there are some apartments and condos that are further to the east, now it's in somebody else's back yard, you know I don't know if they care or not. I was curious, the language in the variance request is all related to the 7 foot high fence, personally I could care less about the 7 foot fence, it's the 170 foot tall tower that I can see above the trees. So, I was just curious, they need a variance for a 7 foot fence, but a 170 foot tower is okay?

Mr. Long - We need a conditional use permit from the Board as well as that fence.

Myrtle Frazier, 1112 Pierson Drive - I want to say something. I want to

say that I highly object. Right across the street from Kroger. I highly object to erecting a tower on the Kroger property on 21st Street. I'm sure it will not benefit the homeowners who have worked years for their homes. It will bring down the value of our homes and it will be harmful to all of the children. I say no, they need to find another location.

Mr. Long - I just wanted to provide this letter from Verizon's engineer, it more or less tells of the need. May I respond to Ms. Frazier's comments? There is a need for this site, not only for the commercial traffic in this corridor, but it will benefit homeowners in the area from the point of view in that almost 80% of the homes in our country have gotten rid of the landline, the traditional phone in the kitchen and everybody is using wireless phones now as a replacement and this will definitely go a long way in improving phone service for people living in and around the 21st Street corridor.

Citizen - I have a question, 1,000 feet to the north would make a big difference. I live there, you could just easily put the tower there as you could on 21st. I've got another question. Cell towers, does it bounce from tower to tower?

Mr. Long - No. It's terrestrial based so, the signal is basically sent to the ground for everyone using the service on the ground. So, the antennae are usually tilted a little bit in order to get to the ground.

Citizen - So, you're saying 1,000 feet would make a difference.

Mr. Long - Yes and one of the main concepts in this whole process of trying to develop a site, is finding a property that's leasable. We've found a property that's leasable.

Mr. Layman - We have a problem, you don't have three votes. Now, we really appreciate you moving it, it's a much better location, but I think the Board last time, were you here?

Mr. Long - No.

Mr. Layman - We wanted you to talk to the Newark Area Soccer Association who owns those fields.

Mr. Long - We discussed that very clearly, I said I was willing to move it within the Corporate property period.

Mr. Layman - What the Board is telling you is that hasn't worked for us.

Mr. Long - But that's not what we said at that last hearing.

Mr. Layman - At the last hearing we said NASA, go to NASA.

Mr. Long - Okay, I'll defer to my attorney, my attorney will handle this, it's okay. Mr. Layman, I would tell you that the law basically says that we can, a community cannot tell us where to go, we have to do our reasonable best to find a spot that's leasable and there's been a long process with Kroger to find a spot that sort of balances the needs of the community and of the service provider.

Mr. Layman - Let me just ask you one question. Have you approached NASA?

Mr. Long - I think the answer to that is no.

Mr. Layman - you know you're talking about 20 feet further than the north

corner of Kroger. It's an adjoining property, it's in the woods, it's not near anything.

Mr. Long - I can tell you this.

Mr. Claggett - Have you seen the property?

Mr. Long - Yes, I have, I know exactly what you're referring to, we have not approached the soccer association.

Mr. Layman - If you were willing to go on the north side of Kroger, which I heard you say you talked to Kroger and they said because of trucking you couldn't do it, you could go a little west of the north line of Kroger and you're talking 30 feet farther. So, here's what's going to happen.

Applicant - We complied with the Ordinance, we're not asking for any zoning relief in terms of the location or height.

Mr. Layman - You're asking us for conditional use and you're asking us for a fence. I'm going to ask if somebody is going to make a motion and then we'll find out if the Board is willing to approve.

Motion to approve, there was no second, the application dies for a lack of a motion

Mr. Layman - You have to do what you have to do.

Mr. Long - We will.

Mr. Layman - If you come back and are on the NASA property, it would be a yes.

APPLICATION BZA-23-36

Applicant: Dennis & Jessica Reynolds

Owner: Dennis & Jessica Reynolds

Location: 345 Granville St.

Project: Fence

Reference: 88.1.1

Jessica Reynolds, 345 Granville St. - we are asking for a variance to put up a 5 foot fence instead of a 4 foot fence. Our property sits on the corner of Granville St. and 13th Street. The driveway here isn't quite right it goes to the corner here. So, we want to put up a fence along 13th Street and Granville Street and the gates that correspond to the fence that we want to put up are 6 foot.

Mr. Layman - It's wrought iron painted black?

Ms. Reynolds - Yes.

Mr. Carter - We discussed about that corner and there are no corner visibility issues there.

Mr. Claggett - Will you accept a condition that it's metal which mimics wrought iron?

Ms. Reynolds - We can't afford it all the way around, so on 13th we were going to put posts and rail.

Mr. Layman - How far are you going to wrap the corner with that?

Ms. Reynolds - Probably not wrap the corner because the driveway will be here and then we'll start the post and rail here and we already have planted green giants here so the post and rail will probably disappear into

the green giants you won't be able to see it much, but the decorative fence will be on Granville.

Dennis Reynolds, same address - The idea with that decorative fence was an effort to improve the curb appeal, along those lines, I wanted to come back the east side of the property with the same design fence that you just saw maybe 50 feet back and along the west side of the property coming back an undetermined amount with the same decorative, but going all around the property because we want to keep some protective K9's in.

Mr. Layman - I was asking for 20 feet.

Mr. Reynolds - Yes, I'll give you more than that. We got a good price on this because Jessica worked them pretty hard, but it was expensive.

Motion to approve the variance with the black metal fence going across Granville, coming down the east line 30 feet and the west line 20 feet, second, passed 5-0 Variance granted

APPLICATION BZA-23-37

Applicant: Kathleen Miceli
Owner: Kathleen Miceli
Location: 589 Kenwell Dr.
Project: Conditional Use - Short term Rental
Reference: 16.4

Mr. Carter - I am going to ask the Board to Table this one due to a miscommunication I had originally told her October.

Motion to Table, second, motion passed 5-0 Item has been Tabled

APPLICATION BZA-23-38

Applicant: Shawn Murphy - Mid Ohio Development
Owner: Deer Valley Condominium LLC
Location: 1591 King Rd.
Project: Subdivision Sign
Reference: 135.7C

Shawn Murphy, 4353 Harbor Lake Dr., Groveport, Oh - Requesting a variance for the overall height of a sign and the stone finish on the bottom has a 2 foot planter and the sign is an overall 8 foot height, with the two foot planter the top of the sign sits 10 foot off the ground.

Mr. Carter - One of the main reasons why I had this brought to the Board is because subdivision signs are required to have a standard brick base and subdivision signs are restricted in height to 6 feet.

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

APPLICATION BZA-23-39

Applicant: William Kopp
Owner: William Kopp
Location: 827 Buena Vista St.
Project: Detached Garage
Reference: 86.3.1

William Kopp, 827 Buena Vista St. - I recently purchased another car and have been parking off the side of the driveway and it uglies it up a little bit, so I wanted to put a pre-built garage between on the right side, I think you've got pictures. Between my garage and the neighbor's property, it's about 25 feet from garage to the neighbor and I'm looking to put 12x20 structure in and I'll offset it 36-48 inches, pour a pad set it on there and adhere it to it. It'll just get the car protected and get it off the yard in the side of the driveway. I think it'll improve the looks of things and protect my car at the same time.

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

Mr. Layman - Were you guys just here for the show?

Citizen - We were here for the property on Kenwell. We're on the back side. Just had some questions, is this just going to be through the Air BNB program, how are they going to conduct this short term rental?

Mr. Carter - My conversation with her related to an Air BNB type rental, VRBO. Clientele she was hoping to attract were higher ups from Ohio State coming in. I've rented an Air BNB before and I don't know how you determine who is John Smith versus a frat boy.

Citizen - I know there are guidelines that the Air BNB program puts out there so, I didn't know, is she going to be the property manager, or like who do you go to if you do see a problem there.

Mr. Carter - So, if I was to have any code enforcement or zoning violations actions I would need to take, it would be against the property owner which would be here, so I would assume she would be liable for anything that happens on that property.

Mr. Layman - So, the City is playing catch up like everybody else with this stuff. It's been decided that within a residential area they need to get a conditional use. If she had been here and we would have talked about it, my suggestion would have been a temporary one, three months, six months, try it, see how responsible they are. I've done Air BNB's and it's worked.

Citizen - What about a privacy fence or something to just keep it contained to that residence.

Mr. Paul - I will tell you, just as an average guy, I have one right next to me and my wife and a lot of times it's professionals and they don't want the hotel and they want that comfort. We never knew they were there.

Mr. Layman - Anyway, we'll see. I can't imagine granting an unlimited conditional approval.

Mr. Carter - We did receive a few emails from other residents in the area

who could not make it tonight.

Citizen - Were they in favor?

Mr. Carter - They were not.

Citizen - We just got booted from our last home and we're liking where we are at now, it's been very quiet with no one behind us, so now, it could be very good and that would be our hope.

Mr. Carter - I will re-send notifications out for the next meeting, like I told the Board, she had come in and applied and I told her she had missed the deadline and would not make it until the October hearing, then I decided what's one more case to add to the agenda, I did send the letters out, but she said she did not receive it in a timely manner, so we'll call that a Zoning Inspector error and allow her to come back and properly discuss it.

Citizen - When will that be?

Mr. Carter - It could be October 19th, that's the third Thursday or it could possibly be November 16th.

Mr. Layman - You won't get notice.

Mr. Carter - I'm going to re-send the notices since I made the error.

Citizen - We don't want to be that picky neighbor and not let them do what they want, but we also want the disruption either. So, hopefully it will be a good experience.

Mr. Carter - Regardless, your comments have been recorded in the minutes and our official record.

THE NEXT SCHEDULED BOARD OF ZONING APPEALS MEETING WILL BE HELD ON THURSDAY, October 19, 2023, 5:30 P.M. THE DEADLINE FOR AGENDA ITEM SUBMITTAL IS October 2, 2023, 4:30PM.

5. ADJOURNMENT - Motion to adjourn, second, passed by acclamation

Chairman, Board of Zoning Appeals

Secretary, Board of Zoning Appeals