

BOARD OF ZONING APPEALS MEETING  
THURSDAY, OCTOBER 24, 2024 5:30 P.M.  
COUNCIL CHAMBERS  
40 W MAIN ST, NEWARK, OH 43055

## MINUTES

### 1. CALL TO ORDER

**CALL TO ORDER- Steve Layman, Board Chair, called the Thursday, October 24, 2024 Board of Zoning Appeals Meeting to order.**

**Present:**

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

**Absent:**

Jack Gienger	Member
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**Mr. Layman** - We normally have five members, Jack Gienger has retired, resigned, so we're down to four. The way our bylaws work, it takes three affirmative votes for any variance to be granted. We'll hear these cases in the order in which they were submitted to the city. Anyone is free to speak for or against any application. All that we ask is that you give your name and address for our minutes. And we are being recorded.

### 2. APPROVAL OF MINUTES

Minutes of the September 26, 2024 meeting

**Motion and second to approve minutes of September 26, 2024, motion passed by acclamation**

### 3. OLD BUSINESS

### 4. NEW BUSINESS

#### **APPLICATION BZA-24-38**

Applicant: Collin Kirk  
Owner: Collin & Stacy Kirk  
Location: 858 Craig Parkway  
Project: Conditional Use  
Reference: 16.4

**Mr. Layman** - What is it you want to do?

**Collin Kirk** - Conditional use to have a home-based FFL license.

**Mr. Layman** - A home-based business?

**Mr. Kirk** - Home-based business.

**Mr. Layman** - Okay. And that home-based business is?

**Mr. Kirk** - Firearms.

**Mr. Layman** - Online firearms sales?

**Mr. Kirk** - Mm-hmm.

**Mr. Layman** - You're going to have inventory at the house?

**Mr. Kirk** - Very minimal.

**Mr. Layman** - You have to be more specific.

**Mr. Kirk** - Whatever gets ordered, somebody orders off my website, I order it from a wholesaler, it comes to me, and then it goes out. Okay. I won't be having like racks of things, no.

**Mr. Layman** - Okay. And generally, at our conditional uses, there's no customers, no signage, none of that stuff.

**Mr. Kirk** - Correct.

**Mr. Layman** - Anyone here to speak for or against this application?

**Rebecca Zeller, 1362 Krebs Dr.** - Ammunition, is that involved in that?

**Mr. Kirk** - No. I won't be selling or dealing any ammunition.

**Mr. Layman** - You will not be selling ammunition?

**Mr. Kirk** - I won't be dealing any ammunition. I won't have, people will not be ordering ammunition from me, they can get that anywhere.

**Mr. Layman** - Okay. So, you would be willing to accept a condition on your conditional use that included no inventory and no ammunition?

**Mr. Kirk** - Absolutely.

**Mr. Layman** - The standard conditions, what are they?

**Mr. Carter** - No signage. No inventory. No customers coming to the house.

**Mr. Layman** - No employees?

**Mr. Kirk** - No employees.

**Mr. Layman** - Essentially, you're looking for a place to have a phone number and your mail.

**Mr. Kirk** - Right. Something the ATF requires to have a home-based FFL.

**Mr. Hunt** - I applaud you for coming in and doing it the right way.

**Mr. Kirk** - Thank you.

**Mr. Layman** - Okay, so what's approved so we're clear on this thing. A conditional use for home-based occupation where you're selling firearms via the internet. You have no signage, no inventory on the premises, no ammunition, no customers, and no employees. That's what was approved.

**Mr. Kirk** - Sounds good. Thank you.

**Motion to approve, Second, Motion passed 4-0**

#### **APPLICATION BZA-24-39**

Applicant: Sarah Williams  
Owner: Ben & Sarah Williams  
Location: 540 Pinehurst Ct

Project: Setback Reduction  
Reference: 16.8

**Sarah Williams** - We purchased the house last year, and during part of the survey, it was found to be the back corner of our garage encroaches two and a half feet. We just wanted to see what we could do now, so we didn't have trouble whenever we go to sell it in the future, which won't be for a long time, hopefully, so we didn't have any trouble getting it, but I didn't know if things would change by then.

**Mr. Layman** – So you bought a house that encroached on a setback and you're trying to make it house legal.

**Ms. Williams** – Correct.

**Motion to approve, Second, Motion passed 4-0**

#### **APPLICATION BZA-24-40**

Applicant: Jessica Gauthier  
Owner: Donald & Jennifer Hughes  
Location: 212 O'Bannon Ave  
Project: Single Family Dwelling  
Reference: 16.8

**Jessica Gauthier** – With Caldwell Banker Realty and I am agent representative for the sellers of 212 O'Bannon Ave. I also represent the buyer interested in the property. The buyer is interested in bringing in a modular home onto the property and is requesting a variance to the road frontage.

**Mr. Carter** - Much less than a variance for the front yard setback reduction off (inaudible).

**Ms. Gauthier** – Correct.

**Unknown Speaker** - Yeah, the current requirement is 20 by 84 would be the required building size. We would like to go 30 by 56. It had previous city water septic hookup, and those lines need to open back up. And then they said there was a requirement of a concrete like apron is I think the requirement is what she asked.

**Mr. Carter** - Regardless of what the board does, I want to hold you to all the manufacturing home requirements for installation by the state of Ohio, which involves putting it on permanent foundation...

**Unknown Speaker** - Yes, sir. It is. Concrete foundation, four foot. It's going to hook up to city water and sewer. We're actually going to put a porch around it. It's efficient. It's very nice. Modern. It's very looking.

**Mr. Carter** - I think the big thing on that one is the minimum size on that one is going to be 20 feet to meet the state requirements for the manufactured home. And like I said, we're 19 foot across by the time we take setbacks, so this is why I directed them to the board. You said you were looking at putting a porch around it?

**Unknown Speaker** - In the front, which would be on... I have a drawing if you guys would like to look at it.

**Mr. Layman** – Is that the nine foot off the porch or off the...?

**Unknown Speaker** - It would be off the back. I have a drawing. Do you guys want to look at it to see if that helps?

**Mr. Carter** - Is it a porch or a deck?

**Unknown Speaker** – It's like a deck. It's going to be a nice deck.

**Motion to approve as submitted, Second, Motion passed 4-0**

#### **APPLICATION BZA-24-41**

Applicant: Verdantas – Amanda Spencer  
Owner: EM Land Holdings  
Location: Horns Hill Rd (Parcel # 088-297090-00.066)  
Project: New Subdivision  
Reference: 16.8

**Amanda Spencer, Verdantas** - I work for Verdantas. We are hired by the developer. We are asking for a lot width variance. So, the specific home builder that the developer is working with typically uses between a 60 to 68-foot lot width for their homes. So, we're asking for a reduction. We submitted a site plan with our variance application. Not all of the lots are reduced down to 60 foot. Some of them are up around 68, and there's one that goes around a curve that's quite a bit larger than that even. We are maintaining the setback requirements, and we are maintaining the square footage requirements of the lots themselves. We're just asking for a reduction in the width of the lots as they're platted. It would be 21 total lots, which includes a stormwater lot for the stormwater basin.

**Mr. Layman** - Let me tell you, Amanda. Let me tell you my problem before we let the nice people in the audience tell us why they want you to get the variance. Effectively, your property is zoned RL, and in an RL, the frontage requirement is 70 feet. You're asking for 60 feet, which happens to be the requirement in the RN. So de facto, what you're asking us to do is to rezone the property to RN. I'm going to say it. I do not believe, I don't know what my fellow board members believe, I do not believe that Council expects the Board of Zoning Appeals to effectively rezone property, which is what you're asking us to do. You're asking us to change it to an RN zoning.

**Ms. Spencer** - Could I respond? We did have a meeting with Mr. Carter and Mr. Morehead and discussed whether we should go about rezoning or asking for a variance. And since we were meeting all the rest of the requirements, we discussed coming for a variance on the lot width since we were able to meet everything else. So, we did discuss the rezoning. That was certainly not our intent to try to skirt around that. That was an option that we were talking about.

**Mr. Layman** - Let me ask a philosophical question because I really didn't study the engineering. Did you pick up an extra lot or two because they're 60 foot?

**Ms. Spencer** - We picked up three lots.

**Mr. Layman** - So I'm going to tell you again that I will not vote in favor of this because I perceive this as a rezoning. You increase your lot count. Now, I totally understand that you want to have a 60-foot lot. I don't blame you. It's very expensive to build roads. But I don't think... I personally don't believe this is the correct venue to do what we're trying

to do. If you had told me that the lot count was the same as it would have been if you had 70 lots. In other words, what you're doing is adding green space and shortening the road, but not picking up extra lots, then that would be different.

**Ms. Spencer** - Okay.

**Mr. Layman** - But because you're picking up lots and going down to a different zoning classification, even though the setbacks might work, setbacks might work because you build a smaller house. They could work for a lot of different reasons, but you need four votes. I'm sorry, you need three votes. Okay. So, you've got to convince the other guys.

**Ms. Spencer** - I have a feeling these people behind me are going to try to convince you to not do it anyway, so.

**Mr. Layman** - Well, they don't need to convince me, they need to talk to these guys.

**Mr. Hunt** - I'll be honest with you, I don't think I can do this either.

**Mr. Layman** - You guys are here, you drove down here, you probably want to say something. You're welcome to say something, or you could just say, put your hand up if you're not in favor of this. All right, let's do the flips.

**Unknown Speaker** - Can we just speak?

**Mr. Layman** - If you want to speak, sure. I just, you know, there's a lot of you, and I wanted to go home and have dinner.

**Nancy Welu, 7441 Stewart Rd.** - That property is just north of us. Some of my neighbors are also here, Snellings. I thought the same thing, because I'm on our Board of Zoning Appeals for Newton Township, that it looked like an RN, not an RL. So that's one concern I have, the same you did, Mr. Layman. They're putting more houses. It's like six and three quarter acres that they bought. And they're putting, you know, 21 houses on it.

**Ms. Spencer** - 21 lots, I believe that includes the stormwater. So, it would be 20. I believe it's 20 homes.

**Ms. Welu** - And this probably doesn't go before zoning appeals, but I'm going to get it out there to make sure you're aware of the drainage.

**Ms. Spencer** - Yes. I have all the records for that.

**Ms. Welu** - There's several of us that all of our drainage goes across that property. And it dumps into the creek. So, my question was going to be, if you approve this, you know, is the creek going to stay? You know, all these conditional uses. So that was my, it's going to be developed. That's where I'm at. We know this. It was going to be developed by Mr. Cranor 18 years ago, or however many years ago. So, we understand that. Oh, I understand that. I don't know about my neighbors. On Stewart Road, we understand that. I just want to protect my drainage, and would like it to be RL. So, I guess I'm more in favor of it being RL than RN.

**Mr. Layman** - I want to make sure my remarks are clear. If you were not picking up more lots, let's say in an RL you're entitled to 16 lots, and you asked for smaller lots, but only had 16 lots, but they were small. So that you've now added green space. Because what you want to do is not build as much road because the road costs \$1,000 a running foot. So that's a different story. So, I just want to make sure I'm clear on that.

**Ms. Spencer** - I completely understand what you're saying, Mr. Layman. Absolutely, I understand.

**Ed Clark, 2080 Sheryl Lynn Dr.** - I run our homeowners association there. We're also opposed to those lots. I'm very familiar with stormwater runoff and things of that nature. I do kind of want to see a set of plans, site plans. Do they hold their own stormwater? I think everybody here would agree, most of the people here and everybody else I've spoken to, they're opposed to the 60-foot lot (inaudible). I just wanted that on the record.

**Mr. Carter** - What was the total acres?

**Ms. Welu** - Of the whole lot? It's about six and three quarter.

**Ms. Spencer** - Yeah, I didn't have the number in front of me, sorry.

**Ms. Welu** - Yeah, it's a little bit less than seven acres that was sold a few years ago.

**Ms. Spencer** - Yeah, for the variance application, we submitted a site plan that showed what we wanted to do, but until a point in time where that's approved or denied and we're ready to move forward with construction drawings, we don't move forward with the design part of it yet. But there is a stormwater basin lot that's being planned for the area and will contain the stormwater runoff for that for those homes only. It's behind the homes right adjacent to the creek.

**Ashley Baker-Hunter, 1972 Sheryl Lynn Dr.** - Our yard frequently floods already as it is. We've also come home from vacation where the pipes off of Stewart had burst in the field because they had backed up into the creek. So, my concern is adding 21 more homes, 16 more homes, is going to put more pressure on that creek. If you look at that FEMA floodway map, it doesn't track that creek beyond Horns Hill at all. As soon as you cross Horns Hill, it shows the creek is there, it shows it's a flood zone, but it does not show that on their map. So, I just want to make sure all of that is taken into account, but also the thought of a retention pond being located there. Is there going to be fencing? What is that going to look like?

**Ms. Spencer** - So I can't speak to what the zoning code is for the city of Newark.

Typically, in residential subdivisions with wet ponds, which would be what we would call a retention pond, there's usually a fencing requirement. More often than not with residential subdivisions, we try to do dry basins that only fill up when it rains for the same concerns that you have.

**Mr. Layman** - That's out of our purview. The City of Newark Engineering Department is really pretty competent about that. I speak from experience as a developer and having held my feet to the fire to build more than I thought I needed. They don't listen to reason. They decide that water has a mind of its own and they're going to take care of it. They do a very good job with (inaudible). I'll just put that out there. We don't, we can't speak to that. If they come back and ask for something that we can approve, or if they rezone it, something's going to get built there. I would assure you it will be properly engineered and will work.

**Mr. Carter** - I can address the audience that, and Amanda's full well. No matter what plan they bring forward, that will go to Planning Commission for approval. That Planning Commission has a public hearing. The difference is you guys don't get an individual invite like you did for tonight. But it is certainly open to the public. You can come, you can speak, you can review their plans in full. There are council members that are part of the Planning Commission along with administration. And you can voice your opinion to

them and make sure those individual circumstances are taken care of at the Planning Commission stage.

**Mr. Campbell** - My wife is here also. We live next door to Levi. We have flood problems behind our home. The water from the field runs down into our home. When we build houses on the property, there won't be any place for the water to go. It's just going to come straight down.

**Mr. Layman** - I would suggest to you that your situation might improve. You're talking about the water coming off the hill, crossing the field, and then coming to your house. I think you might be surprised at what will happen is when they engineer this, they'll take that water into account, and your problem will go away. I think. I'll just give you an example of what happened. We developed Connors Pass, okay? And we thought we had a very reasonably sized detention basin, and the city comes back and says, no, you don't. Because you've got to consider all the water that's coming off the hill on the other side of Horns Hill that's coming down off that hill, hitting Horns Hill and crossing it into what used to be a cornfield. And since you're developing that, you have to deal with that water. So, they'll have to deal, when they put that road in, with the water coming off the hill that now crosses a field and comes to you. It'll go away. They'll have to control it.

**Jeff Kurzawa, 7365 Stewart Rd.** - The water that you're talking about coming across Horns Hill, every time it rains, it comes right across the road on Horns Hill. So, did it ever get fixed?

**Mr. Layman** - Yes, you should go look at the size of our detention basin.

**Mr. Kurzawa** - Oh, I know, but the water that's there just coming off the corner of Horns Hill as you make that turn. It's still coming across...

**Mr. Layman** - I just know what we had to deal with. And it's the same thing that they'll have to deal with. Their storm calculations will include what comes off that hill. It's now ending up in your backyard or your front yard, whichever it is.

**Unknown Speaker** - I guess we just, I think as a community, and maybe this will be at a council meeting, and hopefully it doesn't go to RN, but we want the same standard met that's already been established in our neighborhood to continue on through when this is a vote. Because we know it's going to be developed.

**Kris (inaudible) 654 Creeks Edge** - I'm right there at the corner as well. One of the requirements, because I've asked before and we've been told that we don't have enough traffic in our neighborhood, but with them building off of the current three-way stop, basically, but there's only one stop sign and everybody blows through it as it is, will that be required in this process to make it a three-way stop?

**Mr. Layman** - That's a city engineering call. It's above our pay grade.

**Kris** - Okay, no worries. Just wanted to ask a question.

**Mr. Carter** - You can call the office and ask for it.

**(inaudible) Snelling, 7373 Stewart Rd.** - One of the things I'll say, people have already addressed most of what I was going to say, but I will say this. Hey, don't call that area Licking Springs for nothing. My house was, I live along Stewart Road on the Newton Township portion. The area involved tonight is right behind my property. When my basement was dug in 1998, the contractor hit a spring. And the night that the basement

was dug, in the evening, water had filled clear up to the brim of the hole. So, they installed a sump pump area. It still hasn't completely, and that's my issue, it's not your issue there, but we've had a flooded basement at least three times in the 26 years we've lived there. This past spring, I would say probably from nearly the end of March up until the first part of June, when we were getting all the rain, which we can't seem to get now, our backyard had overflowed with water into the lady's backyard and that whole back southern part of that field where the land that we're talking about was all underwater as well during that time. And in the winter, the water collects back there, it freezes, and that. But I was going to say something about the drainage ditch back here, we're already aware of that. We're still having water issues back there, because my property and Welu's are on about the lowest property along Stewart Road there, because as you go towards Horns Hill Road, the land begins to rise until you've got two homes up on a hilltop there right by Horns Hill Road.

**Mr. Hunt** - I appreciate what Stoneworks is trying to do. You buy it by the loaf and you sell it by the slice. So, they've got an RL, and with density, you just look, George, three lots per acre. You do the math and it gets you up to about 20. Steve asked you a question, did you gain any lots? You gave an honest answer, you said three.

**Ms. Spencer** - Yeah, 21 with the stormwater lot.

**Mr. Hunt** - The way I look at it, you're allowed 20. So, I can't do 21, but I can do 20. So, I guess I can't make a motion to approve this.

**Mr. Paul** - I'll tell you, my thoughts were, if, and I said if, it were to go 60, it would be, the first line item would be that we would never grant a variance of any kind on any of those lots, if it even got that far, because we're not going to grant a variance and then grant another variance on a variance, because I'm not going to do it that way. So, I don't really think that a hardship is occurring here, in my opinion, and I think you need to..., I would like to just make a motion to deny this request.

**Mr. Layman** - Will you ask to table? Because clearly, you've got to go back and do some work. We can either deny your request or you can ask the table.

**Ms. Spencer** - Yeah, if you don't mind I will. I can go back and speak with my client and explain all of the concerns. If there's another plan that we can come up with that is more palatable for you all, then we'll definitely present it. Otherwise, we'll look at other options, whether that be rezoning, which was a discussion, or whether that would be moving forward with the 70-foot lots. I can't speak to what his decision will be, but yeah.

**Mr. Layman** - Do we have a motion to table? You did ask to table, right?

**Ms. Spencer** - Yes, sir.

**Mr. Layman** - It's been moved at the applicant's request to table.

**Motion to table, Second, Motion passed 4-0**

**Unknown Speaker** - We would all be informed again of a re-communication, is that right?

**Mr. Carter** - No. I will inform Mr. Clark and let Mr. Clark inform the neighborhood. If you don't hear from Ed, you can reach out to Ms. Welu. She knows me real well.



### APPLICATION BZA-24-43

Applicant: Wayne Gore  
Owner: Wayne & Tami Gore  
Location: 586 Prior Ave  
Project: Carport  
Reference: 86.3

**Wayne Gore** - Thank you, Mr. Layman. I am requesting a variant for a carport. It will be 12 by 30 run alongside of my house. I have prints if you'd like to see them.

**Josh Gillis, 582 Prior** - I also have the lot 584 right next to where he's building. I just had a couple questions really. Is it going to hang into my yard?

**Mr. Gore** - No, sir.

**Mr. Gillis** - So six inches is where you're going to be at?

**Mr. Gore** - The variant that I'm asking for is to go two inches from the actual property line, because the driveway is only like 15 foot wide. So, the carport will be 12 foot. It'll go all the way to the house but not connect the property line. It will stop at the fence. There will be a gutter there and it will empty into my drive.

**Mr. Gillis** - Okay. So, it's actually two inches, not six inches?

**Mr. Gore** - Correct. That was the reason why I was asking for the variant.

**Mr. Gillis** - Okay. I got some other questions. Is that going to affect me forever building on that lot? I mean, is it like being too close to what he has already? I don't really know too much about the rules.

**Mr. Layman** - We're consulting. We understand your concern.

**Mr. Carter** - John and I spoke on this earlier. So, if you were wanting to build a house on your vacant lot, which you could. It's big enough. It's large enough. It's zoned properly. You could build a single-family residence there if you wanted to. For your zoning district, the requirement would be for a single story would be six foot from your property line. What he does on his property is not going to keep you from doing that from a strictly code standpoint. However, I do think you should think about it. It is a good conversation. You're the person we wanted to come to the meeting tonight and get your opinion on it, because there are typically side yard setbacks are for fire separation. So that's why they're in the zoning code, and as of today, no house can be built closer than, without variances, 12 feet apart from each other. So, in a normal circumstance today, you build your house. Wayne builds his house. There's 12 feet that the flames would need to jump across to get there. So, I don't want to say the code isn't going to stop you from building your house. But it is something to take into consideration.

**Mr. Layman** - What is your building material?

**Mr. Gore** - Actually, right on there, I have four by fours, but they're actually got changed from the county to four by sixes with a wooden structure and shingled roof. It would be a slant roof, not a pitched. That way the water does not run toward the house, it runs toward the gutter.

**Mr. Carter** - Whatever he does on his lot is not going to keep you from building on your lot, from a code standpoint. There's no such thing as like precedent, but I will say, I would think from a gentleman's standpoint that if you were all right with Wayne's

project, then Wayne should probably be all right with your project in the future. I think he's going to come support you on your request in the future, but there's not a precedent because Wayne get it, you get it.

**Mr. Gillis** - No, I'm just trying to make it right. So, I ain't going to argue.

**Mr. Layman** - So, you're all right if he builds his carport?

**Mr. Gillis** - Yeah.

**Mr. Gore** - There will not be any electrical. It'll be solar lighting as well.

**Mr. Layman** - And the gutter's two inches off the line?

**Mr. Gore** - Yes.

**Mr. Layman** - And the downspout's going to put the water on your property?

**Mr. Gore** - Onto my property.

**Mr. Hunt** - This is an open structure?

**Mr. Gore** - Yes.

**Mr. Hunt** - And you're going to be able to travel underneath it?

**Mr. Gore** - Yes.

**Mr. Hunt** - And it'll never be enclosed?

**Mr. Gore** - Never be enclosed. I have a question. During the wintertime, would I be able to put, like, what do they call those, the bamboo or the tiny little blinds up? Just to keep the weather off of the vehicles?

**Mr. Layman** - That's not a structure. I think what we're talking about is you can't turn it into a garage.

**Mr. Gore** - Oh, no. No, there won't be no tarps. I'm not doing that hillbilly stuff. Sorry. I don't want to offend anybody.

**Mr. Layman** - I think you've moved it conditionally on it not being a full garage but being a carport you can drive through. Gutter two inches off the property line and water coming back to you.

**Mr. Gore** - Yup.

**Motion to approve with conditions, Second, Motion passed 4-0**

**THE NEXT SCHEDULED BOARD OF ZONING APPEALS MEETING WILL BE HELD ON THURSDAY NOVEMBER 21, 2024 AT 5:30 P.M. THE DEADLINE FOR AGENDA ITEM SUBMITTAL IS NOVEMBER 1, 2024, 4:30PM.**

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

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Chairman, Board of Zoning Appeals

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Secretary, Board of Zoning Appeals