

BOARD OF ZONING APPEALS MEETING
THURSDAY, MAY 29, 2025 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, May 29, 2025 Board of Zoning Appeals Meeting to order.

Present:

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

2. APPROVAL OF MINUTES

Minutes of the April 24, 2025 meeting

Motion and second to approve minutes of April 24, 2025, motion passed by acclamation

3. OLD BUSINESS

APPLICATION BZA-25-06

Applicant: Sarah Arnold – Habitat
Owner: Habitat for Humanity Mid Ohio
Location: 47 Webb St.
Project: Twin Single Dwellings
Reference: 24.8

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

APPLICATION BZA-25-09

Applicant: Brandy Kellett
Owner: Brandy Kellett
Location: 19 Gilbert St.
Project: Shed
Reference: 86.3.1

Mr. Layman – I think we all have been down to visit you, and I think we are comfortable if you put a mirror on a telephone pole.

Motion to approve subject to placement of a mirror, Second, passed 5-0

4. NEW BUSINESS

APPLICATION BZA-25-13

Applicant: Brandon Clayton & Andrew Willis
Owner: Brandon Clayton & Andrew Willis
Location: 259 Merchant St.
Project: Short Term Rental
Reference: 16.4

Brandon Clayton, 190 N. 11th St. – I'm the owner of the property at 259 Merchant St.

Motion to approve, Second, Motion passed 5-0

APPLICATION BZA-25-14

Applicant: Floyd Barcus
Owner: FA Barcus LLC
Location: 354 Union St.
Project: 1st Floor Apartment/Special Exception
Reference: 150.7.3

Floyd Barcus - I just bought the property at 354 Union Street, which is the old Park Pizza building. And the pizza shop's already been removed and I'd like to make the pizza shop an apartment. Just one unit, working space.

Mr. Carter - Point out to the board, there is an upstairs unit apartment already.

Mr. Barcus - Yes, it has an apartment upstairs. That's why I thought I'd just go ahead and put an apartment downstairs and be like the rest of the houses down there. It would be a duplex. It already has a kitchen. All I have to do is make a living room and a bedroom, because it has a kitchen and a bathroom downstairs. It has a kitchen and a bathroom in the upstairs apartment.

Mr. Carter - The struggle with this area is that we rezoned all those properties on Union Street, limited commercial. At the point in time, there's a large amount of existing duplexes there. No one's really come to try to redevelop that in a large amount. The next case on the agenda too is struggling with trying to put a commercial business on those lots out there. So, Mr. Barcus is here to ask for a special exception to forego the business on the first-floor requirement and turn it into an apartment.

Mr. Layman - You got the other apartment upstairs. You're asking for one downstairs, so a total of two units.

Mr. Barcus - Yes, sir.

Leslie Scaffide, 352 Union St. - We're all neighbors. We're just a little nervous that it was going to be more than one apartment downstairs.

Mr. Layman - He is on the official record of saying one unit upstairs, one unit downstairs, and that's what the variance will be for.

Mr. Barcus - Right.

Mr. Carter - The city of Newark has been very clear with Mr. Barcus that any more than two units at that location is not permitted. That if you wanted more than two, you would need to go through a zoning change.

Ralph Keller, 347 Union St. - We heard when it first started, it was going to be four apartments in that house. We didn't want that. One upstairs and one downstairs sounds alright. The place needs fixed up a lot. Okay? The grass needs cut every once in a while, and the leaves (inaudible). He's got a sign on the sidewalk and in the front door, the old covered porch. It's

falling, and on the side, there're birds are stuck in the attic. You can see that because the siding fell out. I'm just concerned that everybody around here is trying to fix up their house, and we don't want somebody to come in there and do that.

Mr. Barcus - I can reassure you, I've covered the first things (inaudible), and I'm going to remodel the inside and outside. I've already been over there and mowed the grass. I just bought the place, so yeah, the grass was three foot tall.

Mr. Keller - Now, we did see him going around the house and digging up around the foundation. And they were putting cement down, filling the cracks or whatever. I don't know what that was, but when they found out that the zoning commissioner was going to come down and looked at it on Monday or Tuesday, he was over there in the rain on Sunday, putting the dirt back. So, I don't know. It's going to be all right, I'm not a speaker, so I'm just letting you know.

Mr. Barcus - I went in and re-grouted all the concrete, just to make sure it's sealed up and no air gets in those places.

Mr. Layman - Protecting the foundation.

Mr. Barcus - Yeah, and you got animals running in and out, so anywhere I see a hole, I put concrete. Everything out, and I put in blocks, straightened everything up. The first thing I'm going to do is put a roof on it, because you got animals and whatever. It's been empty for like five years. So, there's a lot of work, and I know that.

Mr. Layman - Got some work to do.

Mr. Barcus - Yes, sir.

Mr. Layman - You're not shy.

Mr. Barcus - Right.

Motion to approve as submitted with one unit up and one unit down, Second, motion passed 5-0

APPLICATION BZA-25-15

Applicant: Vanessa Beneze
Owner: Quinn & Miguelina Michael
Location: 4 Riley St.
Project: Commercial Building
Reference: 54.8/125.2

Vanessa Beneze - Thank you. I am representing the potential buyer at the property to be The Bike Doctor and we are simply requesting some variances on the setbacks as well as the parking.

Mr. Wood - I have some concerns about the garage door on both the front and rear. At a minimum, I think we want to ask for a condition that it is not a drive-thru. That protects this user and any future users should they decide to sell. Secondly to that, the garage door on the front, close to the intersection of Riley and Union Street could be a concern, but that would be covered and handled during the engineering review.

Unknown speaker 1 - I'm not set on the garage doors.

Vanessa Beneze - - So you're fine with it not being garage doors?

Unknown speaker 1 - I was just thinking two for flow. When you open them up, air can go through. So, I mean, that could be easily one garage door. It's just easier to kind of get things in and out, but I ran business before without a garage door.

Mr. Wood - We don't have a problem with the two doors. We just don't want it to become a drive-thru service.

Vanessa Beneze - So they'll put a condition to say it will never be a drive-thru.

Mr. Layman - A prohibition against drive-thru use.

Gloria Pettet, 344 Union St. – What kind of business are we speaking about?

Vanessa Beneze - - So we're talking about the bike doctor. He presently is sitting on 30th Street, so he repairs bikes and sells bikes. Bicycles. I'm sorry. Bicycles. Regular, like you have to pedal it, not motorized, although electric could come into it.

Ms. Pettet – So, it wouldn't be a high-traffic area.

Vanessa Beneze - It's not a high-traffic area at all. Typically, his business has two, maybe three individuals at a time that come at any one point in time. A lot of appointment only. A lot of people specifically have set out, hey, will you be there type thing. It's not a high-volume business as far as traffic goes.

Unknown speaker 2 - Question about parking. It used to be a through alley. It's a dead-end alley now, but it goes to the back of my house, and it goes to the back of the apartment building and her house. That runs through the back. So, the parking would be up towards Riley?

Vanessa Beneze - Actually, the parking would be in the back of the lot of Riley instead of the front of Riley. So, the alley is not vacated. The alley is still in place. The alley would remain.

Unknown speaker 2 - Because isn't there some amount of easement on each side of the alley or something like that?

Vanessa Beneze - The easement's been vacated, so it's no longer in place.

Unknown speaker 3 - How far back to the fence, the city owns some of that land?

Vanessa Beneze - So the land that we're talking about, the city does not own. The city owns the alley, but not the land.

Unknown speaker 3 - How wide is the alley?

Mr. Layman - Sixteen and a half feet.

Unknown speaker 4 - There is some question as to whether an apartment will be included in this upstairs apartment above the business.

Vanessa Beneze - Based upon the current zoning rules, it would actually be acceptable, correct? There's not a plan immediately, but it's within (inaudible).

Mr. Layman - You haven't submitted that?

Vanessa Beneze - No.

Mr. Layman - Right now, all that's being submitted is for a 2,000 square foot commercial building, one story. Correct?

Unknown speaker 5 – Can they use Riley Street for parking?

Mr. Carter - They can but it just from a zoning technical standpoint it can't count towards their off-street parking requirement. So that's kind of why we're here with a board meeting because if I go to the letter of the law, he needs 13 parking spaces for his business which I don't think he needs 13 parking spaces. So that's why we're here tonight to kind of come up with what is the reasonable amount of parking spaces that he needs for his business and that would also satisfy the neighbors to make sure there's no kind of disruption and their living spaces for that. So, if he's got six in the back, if you feel like, hey take that last one off I'd feel better, that's your guys' discretion to it. Advise the Board.

Unknown speaker 2 - I don't know it's just making me nervous. I've lived on that corner for so long and I just can't imagine traffic back there besides me and the neighbors.

Vanessa Beneze - He's my business neighbor right now and typically I don't see more than two to three people at a time at his location.

Unknown speaker 2 - I guess because I always park back there too, so now it's going to interrupt my flow but I mean it is what it is if it's allowed.

Mr. Carter - The zoning code states for the limited commercial zoning district that a building can have a residential component on the second floor as long as the first floor is a commercial business. That's also why Mr. Barcus was here tonight. So, for a similar reason, he wants to go the opposite direction. But what we're looking at is... So, for a two-bedroom unit, we would require two and a half parking spots for the apartment. So, you could take it into consideration.

Motion to approve with a prohibition on a drive-thru business, Second, motion passed 5-0

APPLICATION BZA-25-16

Applicant: Ben Olney
Owner: Ben Olney
Location: 2115 Dustin Ct.
Project: Fence
Reference: 88.1

Ben Olney, 2115 Dustin Ct. - Hello. I live on a corner lot in a low-density residential neighborhood. Basically, that means I have essentially two front yards. I have three daughters, ages two, four, and six, that obviously play in the backyard. I feel the need for a six-foot privacy fence in what I would consider my backyard, but due to the code, the back part is also considered front. I have some concerns with neighbors, one in particular, which is about 20 feet or less from the corner of my backyard. For all intents and purposes, I would like to put the six-foot fence in my backyard, again, for what I would consider my backyard, but it's not up to code because I have two front yards, which you have to do the four-foot fence in the front yard.

Mr. Layman - We have received some communications opposing the six-foot fence.

Mr. Olney - I have talked to the two adjacent lots in particular that are okay with this, my two neighbors.

Mr. Wood - Do you have a picture of the type of fence?

Mr. Olney - It would just be a six-foot standard wood cedar privacy fence.

Mr. Wood - So it's an opaque fence, you're not going to be able to see through it?

Mr. Olney - No, I desire the privacy and safety of not having seen through it. I also don't want it to go all the way up to the road and the sidewalk on that side, so I did draw out where.

Mr. Wood - Typically, my biggest concern when you look at these is, like you mentioned, a double frontage lot, that if you put a fence clear up to the sidewalk, that blocks the view of the traffic at the intersection, right? And when I look at your map, your map is very specific about where you want the fence. Just from my perspective, when I kind of analyzed it, somebody that pulls up to the stop sign is still not blocked by the fence.

Mr. Olney - Right, I agree.

Mr. Wood - So, to me, the layout of your fence personally is acceptable from an engineering perspective, not to speak for the rest of the Board, but I would be very specific about the location of the fence if this was to be approved.

Mr. Layman - Some of us, I can't speak for the whole Board, would like you to consider taking it off the corner of your house straight down.

Mr. Olney - I have concerns about that. There's a tree that would essentially interfere with the fence.

Motion to approve a six-foot wood fence with the restrictions that it's finished on the outside and that it runs parallel to Brooke Way 20 feet off the sidewalk, Second, motion passed 5-0

APPLICATION BZA-25-17

Applicant: Kori Caughenbaugh – Northpointe Ohio
Owner: Chris Green
Location: 1140 Sunrise Dr.
Project: Single Family Dwelling
Reference: 16.8

Kori Caughenbaugh - Hi, I'm Kori Caughenbaugh. I'm here representing Chris Green for this property. We're working with a corner lot and looking to comply with the front 25-foot setbacks on each side and using the east side as that rear setback and asking for a variance to move that from 35 feet to 22 feet.

Gina Dow, 1125 Empire Dr. - I personally would love for this lot to be developed because developed property is worth more than undeveloped property and it's good for our property values. The neighbors around are a little concerned because this is a big setback for this lot and it's a big setback variance where it's 35 feet, it's an RM right zoning, so it's 35 feet setback in the rear. We're asking for 22. That's a lot. The lot is a funny shape. It says on the application that there was, there's precedence because there's other homes in the neighborhood that also have a smaller backyard, but not on Empire. Empire's RM and Sunrise, which was built like eight years before all the houses on Empire, Sunrise goes like this. All of those houses are zero lot line. I learned all of this from George Carter yesterday. So anyway, those are all zero-lot line. Those are like 91, 92. And then this lot and all the lots on Empire were RM. This lot was sold originally in 2001 for like \$25,000. They held it until 2016 when the previous owner bought it. They bought it in June for \$15,000. Came to this Board in August 25th of 2016 asking for a 10-foot variance for the same purpose of building a single story, a single-family home. It was not proceeded on at that time.

Mr. Layman - Did we give them the variance?

Ms. Dow - No, you did not because a lot of neighbors came and said it's too big for the lot. What they're suggesting is too big for the lot. They need to go up. And that's expensive. And I totally get that. So, this was sold in 2020 to the current owner for \$25,000. This is all on Zillow. I have all this. On Zillow, it says build your home on this lot. Didn't say anything about a previous denial. So, I'm sure that the previous owner said something, except on the application it says it was not asked for previously. Have you asked for a variance on this property previously on the application? It says no. So, I don't know if the previous owner didn't tell them. I'm sure they must have, but maybe they thought, did I ask for a variance? I don't know. But this came up in 2016. It's exactly the same problem. Actually, they're asking for more of a variance this time. I want people to build there. I grew up next to a vacant lot that we kind of thought was ours, you know, and I know it's not, but I would love to have a nice house there. The house next to it is beautiful. It's a prefab. It's enormous. Totally raised my property values, so thank you very much for building that. All of the houses on Empire, that part of Empire, are loaded mid-300s.

We can't have a little... Well, I mean, it would be damaging. It would look terrible. We do have a house across the street that maybe that's the one that we thought there was a variant setback variance asked for. It's a home by Licking County Coalition for Housing. It has a huge backyard. The side yard probably is tight, and it houses four disabled men and caregivers, and they're wonderful neighbors. They've been there since 2008. We've been in our house since 2002. We watched a lot of houses get built. Again, I would be delighted for an appropriate house to be built on that lot. These are neighbors nearby asking for this not to happen. I also have... This is kind of a better picture. I'm sure you have it, but this is kind of a better picture. So, this is the lot, right? This is the Licking County Coalition for Housing home. All of these houses are zero lot line. These houses, because they're on Empire, are RM. But even the zero-lot line, that's 25 foot. Maybe they thought 25 foot, you know, people must have been asking for variances, but they have a similar backyard requirement. And we just... It would look terrible. I personally would love an appropriate size house put on that lot.

Ms. Caughenbaugh – The owner is taking the extra step to hire an architecture firm to do this building. So, that's a step ahead of most of the houses in the neighborhood.

Mr. Paul – The current owner did not ask for a variance.

Mr. Layman – You're the only one that knew that.

Ms. Dow – The previous owner did ask for a variance.

Mr. Paul – The current owner did not.

Ms. Dow – The current owner is asking for it now.

Mr. Layman – Nobody up here knew that. You guys are the only ones that knew there was a previous variance. I looked at it. I signed it, but I don't remember it.

Ms. Dow – Of course. Why would you? If it was across from your house maybe, but why would a normal person know any of that? But I sure hope they didn't withhold that information.

Mr. Layman – So 1900 square foot house. Construction costs today are going to be in the minimum \$180/foot? It's going to be a \$300,000 house.

Ms. Dow – It's not going to sell in that neighborhood for that price. Not a chance.

Mr. Layman – I'm just telling you. You're worried about property value...

Ms. Dow – I'm worried about how it's going to look to be crammed onto a lot that's too small for it honestly. I am confident that you'll design a beautiful house and it will look very nice within the footprint that's allowed for the lot size for the zoning. It's zoned RM for a reason. You could have continued the zero-lot line zoning. That was first. Sunrise was first. Sunrise was 91, 92. Empire was 98, 99, 2000.

Mr. Layman - Let me ask you a philosophical question. They show up with a drawing of what the house looks like, with the materials on the outside, and it's a beautiful house. You're still against it?

Ms. Dow - If it fits the lot I'd be delighted. I'm going to be looking at the side of it, but I don't care.

Mr. Layman - You talked about supporting your property value. So, what we're talking about there is a 1500 square foot ranch. Okay. It's going to go the wrong way. That's going to be a \$250,000 house instead of a \$300,000.

Ms. Dow - And again, if it doesn't look like it's crammed on a lot... My uncle built a house and he got all kinds of variances so that he could build it with the tiny little lines, because he wanted to build it on Ellicott Creek in Tonawanda, New York, because he wanted to be on the water.

And it looked... I listened to my father. It looked terrible because it looked like it was crammed onto the lot.

Mr. Layman - That's what you're probably going to get there. You're going to end up with something that you really don't like by trying to enforce the setback. But really, next door to zero lot line. I mean, the setbacks are all crazy.

Ms. Dow - It's in an RM though.

Mr. Wood - You're saying two things. If you see something that would fit this footprint that we're asking for variance for, you still wouldn't approve it because it doesn't fit the law.

Ms. Dow - No, if it fits it. I'm so sorry. I misunderstood the question. If it fits the lot and you don't need a variance for it, God bless.

Mr. Wood - If we presented a full set of prints and rendering of a house that is this house and it doesn't fit the lot or it doesn't fit the setbacks, you wouldn't approve it.

Ms. Dow - No. No.

Mr. Layman - So your story is not about property value. You're trying to stop them from building a house.

Ms. Dow - No, no, no, no, no. I wouldn't approve it because if it doesn't fit what this body set for how big in this zoning area, we need a 35... but the baseline is 35 feet. It's the baseline for RM is 35 feet. Right? And so, any variation from that, you have to deliberate on. And does it fit the neighborhood? Will it have any deleterious effects? You know, you need to look at those things. I appreciate that. So even if it was beautiful, if it looked like it was crammed on the lot, it would look at that beautiful house crammed on that little lot.

Mr. Layman - So I'll go back to my original question. Beautiful house. It'll cost 350 to build. You would say no to that if it exceeds it, and when all you can get that fits that is a \$225,000 house.

Ms. Dow - Well, I don't know that I accept your hypothetical. I don't know that it costs...

Mr. Layman - That's reality.

Ms. Dow - Oh, and I don't know what's going to happen in the market. Currently, I doubt that a house... I doubt that it would be, you know, that low if it fits the neighborhood. I doubt that.

Mr. Layman - You're not talking about fitting the neighborhood. You're talking about fitting in a corner lot with specific setbacks.

Ms. Dow - Well, you're talking about, well, if they have a different house that fits it, it'll be worth less.

Mr. Layman - Because it'll have to be small.

Ms. Dow - No, it can be a one and a half story.

Mr. Layman - The market is a ranch.

Ms. Dow - Then find a lot that it fits.

Mr. Wood - This is his lot.

Ms. Dow - Well, I hope he knows that the last owner couldn't build on it either.

Mr. Layman - That's totally irrelevant.

Ms. Dow - I don't know. I think that's material concealment.

Mr. Layman - It's totally irrelevant. I'm just telling you, it's totally irrelevant.

Unknown speaker - The ranch that she's talking about across the street, that the Housing Coalition have, they had to come to you and buy two lots to get approval for that.

Ms. Dow - Because they didn't have a backyard.

Unknown speaker - They still shrunk the house. You guys really need to look at this lot. Because I live next door. It's going to be, if it's going by that, it's going to be sticking out. It's not going to look right.

Ms. Dow - It's going to be cockeyed on the street.

Ms. Caughenbaugh – It won't stick out on the street because we are applying the 25-foot front variances on both sides.

Ms. Dow - But when you drive down the streetscape, it's going to be cockeyed on the lot.

Mr. Layman – We're going to call this off. The applicant has requested a table. They're going to go back to the drawing board.

Mr. Carter - Every citizen here in the city of Newark has a right to apply and go in front of the Board. A previous owner went in front of the Board. This owner's going in front of the Board. That's why it's here tonight. I did present to the Board the information from the previous zoning hearing. So, it's been provided. It's been outlined. I provided her a copy of the minutes. These will be forward. But it is within her right to come in front of the Board and ask.

Multiple speakers – Thank you.

(Conversations in the audience while exiting.)

Mr. Layman - In the CSI district, church, school, institutional, assisted living is a permitted use. Front setbacks are established for everything except assisted living and there's a specific location that would work if the setback, front yard setback, was 25 feet. We're looking for the Board to interpret the appropriate front yard setback for an assisted living center in a CSI district is 25 feet.

Mr. Carter - Just to give you an example, a front yard setback for a church, a daycare, a museum, indoor rec, outdoor rec, and a school is 50 feet. A front yard setback for a live theater is 25 feet. Assisted living facilities, the permitted use in the Churchill Institute District, it's not... everyone else is laid out here except for... there's not an "other". We got private, public education, museums, theaters, indoor, outdoor, parks. You know, the parks really don't have any buildings (inaudible), etc. The assisted living facility is not specifically called out here in the zoning code.

Mr. Wood - Are the neighborhoods similar to what's developed?

Mr. Layman - There aren't any neighboring lots.

Mr. Carter - So that's a lot of frontage line, at the minimum of about 50 feet.

Mr. Layman - It's zoned for duplexes. So, the idea is to rezone it for CSI.

Mr. Carter - If we try to find assisted living facilities elsewhere in the zoning code, that's permitted use, we find it also in the multi-family residential district. That has a 25-foot required front yard setback. So, I think that's where that number is coming from. We're trying to find an apple to apples comparison.

Mr. Layman - Would the Board render an opinion on this question? Is the appropriate front yard setback in a CSI district for an assisted living unit, assisted living complex 25 feet? Unanimously, the Board agrees that the setback in a CSI district for assisted living should be 25 feet.

THE NEXT SCHEDULED BOARD OF ZONING APPEALS MEETING WILL BE HELD ON THURSDAY, JUNE 26, 2025 AT 5:30 P.M. THE DEADLINE FOR AGENDA ITEM SUBMITTAL IS JUNE 2, 2025, 4:30PM.

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

Chairman, Board of Zoning Appeals

Secretary, Board of Zoning Appeals