

BOARD OF ZONING APPEALS MEETING
THURSDAY, JULY 24, 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, July 24, 2025 Board of Zoning Appeals Meeting to order.

Present:

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

Absent:

Phil Claggett	Member
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2. APPROVAL OF MINUTES

Minutes of the June 26, 2025 meeting

Motion and second to approve minutes of June 26, 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

Mr. Layman - Anyone here about that? This has been tabled twice.

Motion to deny, Second, Motion passed

4. NEW BUSINESS

APPLICATION BZA-25-24

Applicant:	Jim Dorenbusch
Owner:	Mary Smith
Location:	873 Idlewilde Ave
Project:	Front Porch
Reference:	16.8

Jim Dorenbusch, Junction Architecture and Design – We are in the process of doing additions and renovations to the house at 873 Idlewild. The variance application is just to enlarge the front porch to make it more usable. The request is to make the porch 12-foot-deep, which would place it 4 foot 9 over the current required setback. Obviously, this street was developed before the zoning regulations were in place. If you go three doors to the left and three doors to the right, their porch is 4 foot 9, or sorry, ours is 4 foot 9, theirs is 4 foot, and the other one is 5 foot 8 over the current setback line. So, we're just trying to go kind of right in between those, just to make it an even longer spacing, 12 foot.

Mary Smith - This is my property. All I'm looking to do is to renovate it and hopefully spur my neighbors to want to improve the area. I do have a gravel setback already from the street in front of my house. So, it's not like I'm asking for the house to be right up against the road where the cars are. So, I'm hoping that you'll consider it. Thank you.

Motion to approve, Second, Motion passed 4-0

APPLICATION BZA-25-25

Applicant: Devon White
Owner: Devon White
Location: 15 Vogel St
Project: Outdoor Music Venue
Reference: 150.4.1

Mr. Carter - The purpose for tonight is that the zoning office has made a decision that an outdoor music venue is not a permitted use in this zoning district. Said applicants themselves have challenged that ruling and are therefore here tonight. That is the purpose of tonight. There're no other variances, district changes or anything like that transpiring. It's simply whether or not my decision is correct or my decision is wrong. Because that is the purpose of tonight's hearing. The applicant will get a chance to talk first and then we'll open it up to public comments.

Craig Moncrief, Plank Law Firm 411 E. Town St., Columbus, OH - Good evening, board members. My name is Craig Moncrief. I'm an attorney with the Plank Law Firm. 411 E. Town St., Columbus, Ohio. First order of business, I just want to verify. Did everyone get a copy of the letter I drafted dated July 20, 2025? Thank you. Good evening, both of you. Residents, thank you for coming out. The purpose of what we're here for today is to appeal a violation that was issued by the zoning inspector involving the use of the property at 15 Vogel Street. This is about a 24-acre parcel. The violation was about an outdoor music venue. Which we believe when you look at the code, this is a permitted use. I will get more into that here in a second, but I also want to provide a little bit of background here with Devon White, who is the property owner and the applicant. The business is called Roost on the River. This is a concert venue that has been operating on this site for over seven years. It does concerts, festivals, things of that nature. This is not the first time the city is hearing about this operation. Like I said, it's been out there for over seven years. There're a couple instances. I attacked with this letter two Newark Advocate letters. The first was dated August 20, 2019. In that, this was talking about noise ordinances for the city. In that article, there's a quote from Newark Safety Director Steve Baum, which stated, and this is regarding this specific venue, I quote, "It's their property. They own it. The city doesn't sign off on you starting a business. You're either zoned for it or you're not. Even

if the zoning was changed, it doesn't matter. Their grandfather did.” There was another Newark Advocate article dated October 20, 2022. Once again, discussing noise ordinances and it specifically mentioned this business. In that article, there was a quote from the Newark Law Director that stated our point is not to shut businesses down. This is a business that the city is familiar with. Our client has had conversations with the city about this, dating back seven years. At no point has the city tried to shut this down. He has relied on that. He has invested in this. He has a good operation going. This has affected him. He has spent money, time, and effort building this business with the understanding that the city approved this. Now, going back to the zoning document as far as the use that's permitted. This property is in the CD Conservation District. I listed seven different uses that are permitted under the code. I'll bring up the one that is pertinent here. Number two says permitted any public or private recreation facility including lakes, golf courses, swimming pools, softball, baseball fields, country clubs, riding stables, parks, and other similar uses. Now I'm going to emphasize the term and other similar uses because that shows an intention. An intention in the zoning code to have broad language that's flexible and incorporates anything that could be considered a recreational facility both public and private. So not only the examples that are there but anything that can fit within that definition. An intention to have broad language. Now, when you think of public or private recreation facilities, that is not defined in the code. So, you have to turn to secondary resources. I include some examples. Merriam-Webster defines recreation as refreshment of strength and spirits after work or means of refreshment or diversion. Encyclopedia Britannica defines recreation as something people do to relax or have fun or activities done for enjoyment. This clearly fits those definitions. This is an activity that people do after work. This is a way people relax. Under the definition of recreation, similar in nature to a country club, to a golf course, to a private recreation facility where people pay money to relax and enjoy themselves, and this is no different than any other. With that, we don't think there is any ambiguity, especially with the fact that it says for other similar uses. If there was thought to be even any ambiguity, then Ohio case law has been adamant that that favors the property. Zoning is derogation of common law. It's retracting property rights, and with that, the idea that the Ohio Supreme Court has long upheld is that if there's ambiguity, you rule in favor of the property owner. In this case, like I said, we believe there is no ambiguity, but even if there is, look, this should be ruled in favor of the property owner. It's not exact, but we think it fits under the recreation facility definition. So, with that, I think we've gone over, I'll emphasize again that this has been an operating business for seven years. It's done well in the city and people love it. It's (inaudible) we believe that reviewing the code, this is a permitted use in the conservation district. Thank you.

Mr. Layman - Any questions? I would just make an observation that live music is not like those other things. Just an observation. I don't know if you have a comment to that.

Mr. Moncrief - I think it is, as far as recreation goes.

Mr. Layman - A lake, a golf course, swimming, softball, country club, riding, stables, a park are pretty unobtrusive on the neighbors. A music venue by its nature is intrusive on its neighbors. I just offer that as an observation. So, I'm not sure that it follows, that it's the same as those other permitted uses.

Mr. Moncrief - I think a golf ball going into somebody's window can be pretty intrusive.

Mr. Layman - Yeah, I get that.

Mr. Moncrief - There's nothing about noise levels here or anything like that. I think the point is, it's recreation.

Mr. Wood - I'd like to, if I could, point out that while the CD district has that specific other uses notation, there is reference in other zoning districts specifically to outdoor live music venues. So that the specific use that you're asking as an "other use" is noted in other zoning districts as a level of use. **Mr. Moncrief** - I get that. I don't think that necessarily retracts from fitting under other uses.

Mr. Wood - No, that's it. I agree with Mr. Layman that the difference between a recreation and an entertainment is substantial.

Mr. Moncrief - I believe I saw parks and golf courses also listed as individual uses in other districts, which are listed here.

Mr. Wood - But the fact that this is specifically omitted from the CD, just my observation.

Mr. Layman - Okay, you have anything else, Craig?

Mr. Moncrief - That's it.

Mr. Layman - Thank you. All right. It's a public hearing. You're all entitled to speak. However, I don't want you all to speak if you're all going to repeat yourselves. So, if you have something new to add that hasn't been said, please say it. If you're repeating what three other people have said, you're going to make this meeting last a lot longer than we want it to last. So, we might just do a show of hands. We get a comment. We could ask a show of hands. We'll find out. I suspect I know what'll happen, but fire away.

Devon White, 15 Vogel St. - I'm the owner of 15 Vogel Street. Is a concert considered a recreational activity? Yes, attending a concert can be considered a recreational activity. Why? Leisure time. Recreation refers to activities engaged in during leisure time, time free from obligations and work. Concerts fall under this category as are typically enjoyed in one's free time. What's the meaning of a recreational facility? A recreational facility is a place or area, either indoor or outdoor, designed and equipped for leisure activities and recreation. These facilities serve as spaces for individuals to relax, socialize, and engage in various forms of entertainment and physical activity. So back to, is a concert a recreational activity? Yes, it is.

Mr. Layman - Thank you.

Tom Brunner, 419 S. 2nd St. - I've lived in Newark 70 years. I've lived where I've lived at for 40 years. The only time anything has went on down that field on Vogel, is since they have started the concert. When you're in your house and you can't hear your TV, then that's invasion of person. You should be able to enjoy your time at your house. You should be able to sit on your porch and be able to talk, not have to scream. There is a noise ordinance in the city of Newark. I know for a fact. And it's just disrespectful when you don't respect your residents around the neighborhood. And that's all it is. It's just disrespectful. The residents have a right around there too. I have nothing against somebody making money, but respect the residents around the neighborhood. I've lived there 40 years, and this is the first issue I've had this last four or five years. Thank you.

Scott Carruthers - I live in Reynoldsburg, but I was one of the initial investors in Roost on the River. One of the purposes of this was to bring some commerce in to Newark. We had, for example, animal charities that were trying to give back to the community. And, you know, it's trying to just help the community, not be a bother to them. But going back to the recreation thing, if there was no crowd and it was just a couple of people playing music, that's recreation

for them, is it not? They're playing music. It's a hobby. It's recreation. So, whether there's a crowd there or not, people playing music is recreation.

John White, (inaudible) Rd. - I'm the original owner of some property there on Vogel Street. Sometimes I think the authority oversteps their bounds a little bit. Here's for example, I've owned the property for almost 40 or 50 years. About 20 or 30 years ago, there was nothing but a field there. I heard some minister come down and wanted to know if they could mow the field, if they could put up a tent and have a revival be sitting in it for an hour or two in the evening, and that's it. And the city come down and shut them down. Now, under the Constitution, we're granted the freedom of religion. Now, this has been some time ago, but sometimes I just think the bounds of what the intended purpose of property is in our basic rights. But it's nothing but a religious tent revival where people sang and somebody preached for an hour, and they got up and left. And that was it. The city come down and shut them down.

Sheri Mertz - I was with Devon White for almost 10 years. And I'm one of the original owners that developed the concert venue and come up with the idea. My family and I have used concert venues, festivals like that since I was a tiny kid growing up as a form of recreation, as a family outing. My grandparents and my great-grandmother's brother played banjo and entertained in our living room. It was a wide form of family entertainment and recreation. When you go to a concert, you're with like-minded people who enjoy the same type of music and celebrate that together in a harmonious type of an atmosphere. We have always maintained a safe environment where there is security. There's an EMT. There is always somebody available if you need help. We've come here without being questioned, but we decided to open this (inaudible) jump through every hoop, and we have not broken one rule. Now, whether I like Devon White or not has nothing to do with his right to have his business on his own property. Recreation does not say in that conservation district whether or not it can include noise for disturbing your neighbors or not. It does say recreation can be a gun range, which he didn't decide to do that. I've been to the lake and tried to fish and there're motorboats going by, loud. All over the lake. You can hear them for miles. So, I advise you to turn your TV up if you can't hear your TV or get a hearing aid because sometimes that might have to do more with age than with music because I can hear the Moose Lodge clear down the river. I can hear the ball fields clear down the river. I live on the corner of Summit and Smithview. So, I hear a lot of things on the river. It carries a long way, just like banjos. That's all I want to say.

Joshua (inaudible), 240 S. 2nd St. - I'm the property owner at Spring and 2nd Street. I'm here on behalf of my two tenants as well. I've owned the building for approximately seven years. We've had no issues with noise, traffic, no complaints. This is the first time it's been brought to my attention. You pointedly asked the attorney, speaking directly to Mr. Layman, you pointedly asked the attorney if there was any societal impact to any of the other venues mentioned on his list of acceptable uses. Yes, there are. There're great impacts. Geller Park often hosts big events, big things. Baseball, softball, traffic in and around Heath is impacted greatly by that. Don Edwards and the Little League Park as well, when they release traffic from there, there's impact at ingress and egress on 2nd Street and Ohio Street. Whether it's safe or unsafe, I don't know. Apparently, the cities and municipalities involved have deemed the recreations as safe in the impact of traffic. There're countless large outdoor venues across the state, and they speak highly to them. If you'd like me to pull up my phone, I can read about the Blossom Music Center

up in the Akron-Cleveland area. Ohio.org speaks to outdoor venues and music centers in high favor of the communities. There's plenty of evidence that accepted venues do impact the communities negatively as well as positively. And there is great evidence out there for music being recreational and beneficial for the communities. So, myself and my tenants are in favor of overturning the zoning rule.

Rebecca Walker, 133 Leonard Ave. - I personally haven't heard the music from where I live. My objection is with the inclusivity of the venue, of what they're presenting. I think it's important that as Newark looks to the future, that we think about what kind of culture we want to bring into the community, what kind of community we want to develop. I guess I'm looking more towards, like you mentioned, Blossom, maybe Riverfront Amphitheater where you have different kinds of music that attracts actual different kinds of people. This is not a family-oriented venue. This is not anything that I would go to. So, I can understand all the appeal. I'm not objecting to that. But I think it's important to think about what kind of people we're pulling into where we live. Thank you.

Melinda Molden, 494 Beacon Rd. - I'm speaking for me and as well as my husband. He can't speak tonight because he's having job problems. He has a mess. Our biggest concern is our property value. Because with this venue coming in and the loud noise, it's going to lower our property value. We bought our house in 2017, and we were told it's a quiet neighborhood, except for the school traffic. But after school, everything's normally quiet. When this venue started, at first, it was horrible. It wasn't where you could turn up your TV. We had two high-powered velocity fans going. We put our TV up as loud as we could, and we could still hear it. And we also had pictures rattling on the walls that fell off. That was when it first started. And I will give them credit, a couple times they did lower it, but it was still a nuisance. And my point is, yes, I loved concerts when I was younger, but I shouldn't be forced to listen to that music in my own home. I am a woman of faith, and I don't listen to that kind of music. So how is it fair that that stuff is being pushed into my house?

Jim Garibaldi, 540 Perry St. in Kent, Ohio - I've invested into the venue. I'm just like a numbers person. So, like, as it stands right now, we want to respect the 65-decibel limit. And just so we're all on the same page, I'm talking at 65 decibels. I have a decibel reader. So, this is as loud as we're permitted to be on any of your property lines. During my concert, we had one complaint that we had gotten too loud. It was measured at 67 decibels, and we lowered it immediately. We would do that every time. We have no problem abiding by that 65-decibel limit. I threw the concert that was in early June. It was a bluegrass bands and rock and roll bands. It wasn't anything like what happened originally in 2018. We brought in a sound system that was appropriately sized for the venue. And, again, I'm measuring this right now. I'm hitting 65 decibels. This is as loud as we're allowed to be. We are fine with that. We would consistently stay under that unless we were permitted through the variance. And I'll tell you what, anyone that lives around there, they can have my personal cell phone number. If it's 63 decibels and you don't like it, I will work with you. I'm fine with that. We also want to invest in walls that block sound. But regardless of that, we are fine at 65 decibels, which is what anyone is allowed to do on your home. Any business is allowed to go to 65 decibels. So, as it pertains to the volume, we're fine at that. The other number that I want to talk about is the economic impact. We threw a show that had about 1,000 attendees. Our estimations on the conservative side were that over \$125,000 were dumped into the local economy. So, if we consistently were

doing shows that were at 65 decibels or lower, working with everybody who has an objection, we could bring in millions of dollars into the community. So those are my numbers. And I know you may have some...

Unknown speaker - Yeah, that's pretty funny.

Mr. Garibaldi - Well, like I said, I am talking at 65 decibels right now.

Unknown speaker - Yeah, good luck with that.

Mr. Layman - Talk to us, not to each other. Talk to us, not to each other. You'll have your chance. Are you saying 55 or 65?

Mr. Garibaldi - Six-five, correct. And we're fine staying at that. We don't want to push that envelope at all. And if we did, it would be through Tim Hickman, and he would either approve or unapprove louder than that. Also, we stop music at 10 o'clock on Thursday and 11 o'clock on Friday and Saturday. So, we don't want to push any of those limits. We want to stay under 65 decibels. We want to work with the community. We want to bring money into the community, and that's kind of where we're at.

Paul Wilson, 107 Leonard Ave. - I've lived there for 19 years. And the last five years, since they've been there, there's been multiple times where I can't get my kids to sleep at night. I mean, because it's so loud. They can hear it. We can feel it in our house. So, for him to say that it's below the 63 decibels, that is BS.

Mr. Garibaldi - It was measured by the police.

Mr. Layman - Talk to us. Talk to us.

Mr. Wilson - Yeah. Like, I don't care what he says, but if I can feel it in my house from a mile and a half away, that's BS. So, I mean, I have neighbors here. Everybody's saying the same thing, so.

Mr. Wood - We're not here to debate the sound.

Mr. Wilson - That's all I have to say. I'm sorry.

Unknown speaker, 418 South 2nd St. - I live at 418 South 2nd Street, probably a good quarter of a mile or more away. And if he's 65 decibels talking, I'll walk out that door right there. I can't hear a word he's saying. I'd sit in my front room watching TV, and I can hear their music coming through my house with the doors shut. Now, he's not telling you the truth about 65 decibels. And we've called the law several times.

Mr. Carter - I'm going to address the crowd here again. One second, please. Again, tonight, we know that there're sound complaints. We know that there're sound variances being requested. We understand that. Unfortunately, that is a separate issue tonight. Tonight's issue is whether or not, as the attorney has spoken, whether this falls underneath recreation. And that's what this board here is to affirm or deny. So, if we can, yeah, I know everybody's frustrated from both ends. So, if we can kind of come back and focus on that singular point, I'd appreciate it.

Peggy Dunlap, 418 S. 2nd St. - I guess my biggest thing, you can say what you want about your music, okay? I grew up in the 60s, 70s. Been there, done that. The words that come out of your songs, I have on a recording, and the F word is used constantly. That is not what I want my grandkids to hear in my house.

Mr. Garibaldi - I'm with you.

Ms. Dunlap - Well, it happened.

Mr. Garibaldi - Not in my show.

Ms. Dunlap - Well, the last one we had, and I don't know whose show it was.

Mr. Garibaldi - Not mine.

Ms. Dunlap - Don't care whose show it was. In my opinion, in my opinion, that is not recreation. For my grandkids to hear music like that. The lights, I mean, it's way out of hand, guys. And it's not the venue to have it. That is not on a river.

Robert Cassidy, Second Baptist Church National Dr. - I'm the pastor at Second Baptist Church on National Drive. Part of our property butts up against part of your property. I don't think it's a large part, but it does. And I think the river is sort of in between when it's actually a river. And I don't mean that other than sometimes in the summer it's not real hard to get across. Couple of concerns I have, I guess I'm thinking in a broader sense and more down the road. The first question I have to ask is, what does Newark plan to do with this part of our community? In other words, are we going to develop this more as a residential community? Are we bringing business in? So, from that standpoint, I'd be interested in the business plan in terms of what Newark wants to do. The second thing I would ask is, what is this organization's business plan? What are they planning to do over the next five to ten years? And I think that greatly impacts and influences what we may be doing and what they may be doing. I also want to say it does impact the community, not just from a sound level, but we've had people come into our property on the other side. And let's just say some of the things that, and I have to confess, I have not seen, I've only been a pastor of the church now for a year, but some of the things I've been told happen, some of the song words. I'm sorry, I don't want my kids hearing that at night. I don't want anybody hearing it at night, or anytime for that matter. So, from that standpoint, I'm concerned. I'm also concerned with the reality that there are many things to be learned from other venues similar to this, not one that's terribly far away from here. There have been a few problems there. I guess, again, thinking future, if we're going to deal with things, let's deal with them now, not in retrospect to something that happens. So, I think some of the planning needs to be brought into this in terms of what are the intentions down the road. Thank you for your time.

Ms. Mertz - If I can speak on that real quick. We did have a Marlina Medrano car show down there before the pandemic. And we had talked about having that get bigger and have more car shows. And other events, I thought, said we should add music and events that are because other type of events like orchestral music or a jazz festival or other types of events as well. Not just music type events, but car shows and other types of festivals. And that are maybe even like a swapper's day type thing, a community art sale, other things like that. The property can be used as such. And right now, the investment to, there's not really money being made as being invested in the property. So, the more we're able to invest, the more likely these other things will be able to happen and be able to happen safely, like having another access, to 2nd Street instead of just the one access that we have right now. So, there are other plans and ideas and we have been looking forward to speaking with community and with the city about other ideas that we could do as well down there, or move on, I'm sorry.

Unknown speaker - I would just suggest, before you make your decision, that you just get online and listen to some of the performances that they had. Then you'll know what we're talking about. So, I'm saying, think in the future, what kind of a culture do you want to create in Newark? What kind of people do you want coming into the city and spending time there?

Mr. Brunner - The thing of it is, the city is no place for a concert venue. Legend Valley is out in the country. Okay? This is in the city. You've got the residents here, most of our houses were

built in 1800. Okay? Most of us have lived here. And that hasn't been there for 40 years, I know for a fact, because I bought the land at the back of my property off of John Lucerio back in 2007, and Lucerio owned the land down over the hill. So, the thing of it is, this is a city, not the country. If you want to have a venue, move out to the country where there's no housing.

Rob Evans, 22 Summit St. - I love the city of Newark. I love this town. It's a quiet community where somebody would be glad to raise their children, grandchildren, whatever, new neighbors moving in. You're proud to call it home. With something like this, that's not going to happen. I can honestly tell you, I was working third shift, trying to get some sleep when they had these concerts before, and it was totally, I mean, I had pillows on both sides of my head, could not get sleep. It wasn't so much the loudness of the music, it was the droning of it constantly, and you can't get away from it. So, at my place, it's not so much the loudness of it, even though it is, but it's that drone, and it just constantly beats in your head, and beats in your head. So, I prefer to stay where I'm at. Like I said, I love my community. I love the city of Newark, and I hope that we get this straightened out to where we don't have to put up with this kind of stuff. Thank you.

Beth Bline, 33 Summit St. - Thank you for everyone for coming tonight. I just had a few points. The first was recently there was a variance request from the Roost on the River sent to our safety director, and it was for 80 decibels. Now, the concert itself was not denied, but the decibel level was, and it is not 65, it is 60 that is permissible, okay? So, 20 points above what is permissible, and that demonstrates a pretty clear motive. Now, beyond that, the variance was denied, largely because of zoning, because a decibel level would have been too much of an impact on the surrounding community. And so, as our safety director...

Unknown speaker – Mr. Layman, I think you said that this isn't about sound ordinances.

Unknown speaker – She's talking.

Unknown speaker - How could you interrupt her?

(interjections from the audience)

Ms. Bline - To my point, part of the reason for that, it was declined because it was not zoned properly. And to speak to the income demonstrated...

(phone ringing in the audience)

Ms. Bline - I know it's crazy, isn't it? That's probably 60 decibels right there. But on the nights of the concerts, the NPD had, I charted, at least 20 calls. Now, that was between different venues. We have the Sheriff's Department and we have NPD, and the calls are sent to separate sites. Now, all that costs money. Our officers are paid. And to spend those evenings chasing around with a decibel meter instead of doing what they need to do, that costs money. That costs the city more money. And I'd like to speak to, quickly, to 10-2 of the Conservation District, which the gentleman spoke to. The context of these things, it says, lakes, golf courses, swimming pools, those are all physical activities. When we're thinking context, we have to think to what is written there, because if we go on certain things that is not written, it puts the whole process in danger. Not only for this, but for other things, where people might try to change it to what they think benefits them. If I decide to put a horse in my backyard, a four-legged animal, I could possibly manipulate it. Now, let's go to the other part on the CSI Church School Institutional District. Just to reiterate, in Section 34.4, it is listed in there as a conditional use. Outdoor live music venues. Now, that area is not zoned for this right now. I just wanted to bring us back to why we're here. This is the concert venue from 395 South 2nd Street. It's very, very close to these folks' property line. Very difficult. So, you can see where the zoning takes place. And this

is the spotlight that I see from my house from the concert venue. And it just goes to show that, you know, there are things that cross over. Whether or not you intended to, it does cross over. So, we need to stick with what we have as written. It's very, very important. Thank you.

Mr. Garibaldi - For one, we've had six concerts in seven years. You guys are way confused because you're hearing the Moose Lodge, which is zoned...

(interjections from the audience)

Mr. Garibaldi - We've had six concerts in seven years. The police showed up, we weren't even playing music. It was the Moose Lodge. You are way confused. By the way, they're zoned exactly the same as me, and they have music every Friday and Saturday night.

Unknown speaker - I don't hear them.

Mr. Garibaldi - Well, I'm sure you don't because you don't want to. I want to reiterate again, I met right here with city officials before all you people were here and I don't know if any of you were here. Mr. Baum clearly stated and zoning stated, we fell within the confines of that zoning. I didn't wake up yesterday and decide to do this. And I know you personally are against me. I've got videos of you going house to house trying to shut me down. And I know you tried to buy my property too. And you really don't like me. So, you can stay out of it. I was granted. It's grandfathered. This is about zoning. You can bitch. You got your decibel limits. You got your sound coordinates. If you don't like it, go somewhere until 11 o'clock once a year.

(interjections from the crowd)

Mr. Layman - Hey, hey, hey, hey, hey, hey. Speak to us. Speak respectfully. I would tell you, and George doesn't want me to say this, but the board has some powers. Among our powers are conditionals. We could put a condition on this. We could say 10 o'clock. That's a condition. We could say 65 decibels. That's a condition. We could say not more than, you said seven concerts in seven years?

Mr. Garibaldi - That's strictly because of COVID. Ideally, we were talking about 21 days a year. That's what George and us were talking about.

Mr. Layman - We could put a condition on so many days. We have the ability to do that.

Matt (inaudible) - I'm a resident of Akron, Ohio, but I represent the production company here. This is a fire safety blanket. We were told by the fire department that we were not permitted to have campfires or any type of open flame devices, so as a sort of... I didn't get a petition signed, but I got over 250 attendees to sign this blanket saying that they would come back and do business in this town again with you guys. I also want to bring this conversation back to zoning and highlight that our company JSG Live, we don't throw concerts, we throw music festivals. Camping is a major element of that and we are dedicated to providing a safe outdoor camping concert experience. Camping is 100% a recreational activity. I dare you to find somebody that says (inaudible). Thank you.

Unknown speaker - So this is directly from ohio.org at the top of the page. Anyone with a phone or device can go there and read it. At the top of the page it says an official State of Ohio site. So, the title is Ohio's Unique Outdoor Music Venues. The author is Mary Kelfner, posted on May 20, 2025. And she writes, nothing quite says summer like enjoying warm weather while listening to your favorite artist's live music with family and friends. From venues on Ohio River to the Columbus Arena District and everywhere in between, Ohio's outdoor music scene is truly unparalleled. Check out some of Ohio's best outdoor music venues on this.

Mr. Garibaldi - There's a, what is it, Sean? A live concert right down here at the State, or your outdoor venue right here this evening? On the square where we have live music right down here, right? And there's one over at the campus. Live music. One right here where they have the farmer's market. Live music. I think a couple years ago you had, on top of the parking garage, you had a rock metal show right there for the Jailhouse Rock. Right on top of the parking building in the middle of downtown Newark.

Unknown speaker - And to Mr. Layman's point, the conditional use or things that you might place as restrictions, we want to work with you. We really do. And we want to respect the 60-decibel ordinance and any conditional that you, I'm talking at 65, so it's not too much. We would respect any of that. We don't want to be a nuisance. As contentious as this is getting, like literally, we want to build with the community. We want to work with people. We want to respect the laws and any conditions that you might place, we want to respect. Because ultimately, we want to do business for a long time. And I hope that, like, you know, again, I didn't throw the concert. I know about the one where people were swearing. I throw like bluegrass and rock. And the concerts that I throw, there are no cursing. And a conditional use, you could put, could speak to that or could say no hard metal. I don't know. But, like, ultimately, we would work with you with the conditions that you put in place to make this a long-term thing where the community benefits through the financial impact. There's a lot of possibilities here. I don't think we should just throw everything out. And I know that there's been some bad concerts there, louder concerts, maybe not bad, maybe loud is the right word. We're not trying to do that. So, I threw one concert there. It was in June. We had one noise complaint. The police came. They went to that property. I think it was 65. It was supposed to be 60. I think someone mentioned it's 60. We turned it down immediately. We're not here to argue with anybody. We're not here to impose loud. And we put an hour between each band so it wasn't constant. And we want to respect the end times. And I just wanted to say that.

Mr. Brunner - Just to sum things up, when the concert venue first started, not one person came around and spoke to the residents in the area that they were for or against the concert venue in the city. Not one person. And I think the residents in the area have just as much input as he should down there. That's all there is to it. I've got great-grandkids. Again, like he said, two of them live there. Two of them don't, but we watch the other two. And we try to put them to bed at night, and they won't go to sleep because of the noise. So, the residents need to be informed about all this, not just be left in the (inaudible). But they need to respect the residents in the area.

Mr. Wood - You mentioned campground, right? Campground is a permitted use. Become a campground. You're allowed to play music at a campground, at the decibel limit, right?

Mr. Garibaldi - Yes.

Mr. Wood - Have you applied for a zoning change on this property?

Mr. Garibaldi - I did, but I didn't know I could do it.

Mr. Wood - So there's an avenue. I will fully support a zoning change. The zoning change allows your conditional use.

Mr. Garibaldi - So was the safety director wrong then?

Mr. Wood - You guys have avenues. Hold on a second here. Regardless of what we vote, you guys have avenues. We're only here to make a determination. Do we agree or disagree with George's assessment of recreation or not? That's it. I feel bad for you. I live close enough. I

hear, or I should say, I don't hear the venue. I drive by it four times a day. It's not a mess. I feel bad for you personally on this issue.

Mr. Paul - George, what exactly are we being asked to vote upon, just to be crystal clear?

Mr. Carter - So, I have determined that this is not a permitted use in this zoning district. They are appealing, whether or not...

Mr. Layman - The question is, does a live music venue qualify under other similar uses, under paragraph two, that's the question.

Mr. Garibaldi - New information based on what Mr. Wood said would be. Let's say we just said we're going to do a campground. What if people play music from the campsite? What are we actually talking about here?

Mr. Wood - You're allowed to play music up to the decimal.

Mr. Garibaldi - So, yeah, I think that's kind of what all we're asking for is the ability to have music played up to the decimal.

Mr. Wood - You're not saying, you're not presenting a campground use, you're presenting a live music use. I'm trying to give you some options here.

Mr. Garibaldi - Thank you.

Mr. Brunner - I would just ask the question, are you equipped now to be a campground?

(comments from the audience)

Mr. Wood - There are very specific Ohio Department of Health regulations for campgrounds. I'm very familiar with those.

Mr. Garibaldi - We were able to pass those through the inspection through the county. We received a temporary campground license. Those are done per event. We satisfied all of those conditions.

Unknown speaker - I'll just reiterate, recreation is recreation. We're threading a thin line here. I think there's a couple good points. Look, you got a campground that plays music. At what point do you become a music venue? Things like that. I know there's parks. Schiller Park has live performances. Look, we go with the code that you have. The code says, a little bit of private recreation. It says, and other similar uses. Frankly, so without that, I still want the definition of recreation. It meets the definition. Playing a dangerous game trying to police, you know, oh, this is a venue because it's got 20 people, but this isn't because it's got 200 people. So, it comes down to the code. I know there's emotion here. This is why we have noise ordinances. This is why we have restrictions. But we're here because this comes down to the use. Simple as that.

Mr. Layman - That's the first time I've heard 21 shows in the summer. 21 shows in the summer?

Mr. Garibaldi - That's not shows. Its total days that we would be able to operate at all. There's 21.

Mr. Layman - When you phrase it like that, it makes me think it's a business. Which then means it's not recreation. It's a business.

Unknown speaker - What's a golf course?

Mr. Layman - The impact, what we're talking about, loud music is not like any of those other things listed in paragraph two. It's just not. Now, could you stretch it? Could you find a way to do it? Yeah, and I would, you know, once again, I would tell the community that they could rezone this. They could rezone it at CSI, which is Church School Institutional. They could rezone it at Downtown Commercial, all of which make it a permitted use. And once it's a permitted use, they can do pretty much what they want as long as they don't violate the noise ordinance.

If, on the other hand, you say, look, there are certain situations under which we would accept what they're trying to do. We may not be thrilled with it, but there are certain situations that we would accept it. I haven't been down there. Do you have some way to move the noise away from the residents? Is there a bandstand? Is there a stage? Okay. We could say, for instance, if they want to have 21 events a year or whatever you're talking about, they have to build an eggshell or whatever you call it that channels the noise away from it. We can put a time period, it said you can't play music after 10 o'clock. The decibel thing is already there. We could put a limit of, they picked the number, 21 events. We can do that. And now you know what you're getting. If they are able to get it rezoned, you don't have any control. It's gone. So, I would just throw that out to the audience and you can say, well, okay, we can live with it under certain restrictions. Or you can say, no, hell no, we don't want it at all. Make it go away. So, I just ask you to think about it for 30 seconds and tell me what you think.

Various audience members - Go away.

Unknown speaker - I've got one more comment. He's got somewhere over 20 acres there. He's paid taxes on it all these years and it's just vacant land. He could sell that property. And I know that personally, there're developers who want to buy that place. And they could come in and do something a lot worse than this. Now, I don't particularly like their music. I'm his dad. I'm on his case all the time. Especially when it first started. I don't like the stuff you're talking about either. The last event, I wouldn't even go around there. The last event I had to go down to my shop to get something, and they had a group there. I said, I hate, I detest that music, loud music. And I sat right in the front, very front, for a few minutes and there was no trouble. The music wasn't loud. Not as loud as the Moose is. I know that he could sell that property. He has an access to 2nd Street that could be opened up and there'd be a lot more traffic than what's there now. I don't particularly like his music. I don't like a lot of other industries that come in either.

Unknown speaker - I think to Mr. Layman's point, he's saying that this is the way to control what we do the most. If this is denied and then we rezone, there are no restrictions. So, this is us coming to... No, he literally just said it's not we'll see. If it gets granted, we have no restrictions. You can't do anything. We can do whatever we want. We actually don't want that. Everyone's trying to work together to come up with a solution that works for everybody. Whether it's 11 o'clock, 10 o'clock, 60 decibels, we're fine. We want that. But to Mr. Layman's point, this gets denied, he gets granted a rezoning, then it's all bets are off. He can do whatever he wants. So, I think if I paraphrase it, that's what you're basically saying, right?

Mr. Layman - I'm saying we can put conditions on approvals.

Unknown speaker - When this all started, a lot of us said 10 o'clock was fine. But they wanted to go to 12 o'clock because the light shows and everything else. I mean, we would've been fine with 10 o'clock.

Mr. Moncrief - Is there anything you want to propose?

Mr. Layman - I did, and this side of the room said no. This side of the room said yes.

(arguments in the audience)

Mr. Wood - I'd like to make a motion on this case. I'd like to put a stay on George's order until the end of the calendar year. That gives you enough time to get through your rezoning process. Continue on as you are, with no vulgarity, at the sound level, to the end of the calendar year, 10 o'clock stop time. That gives you time.

Mr. Garibaldi - I'm listening. The sound ordinance is till 11, so why 10?

Mr. Wood - That's our offer.

Unknown speaker – What happens at the end of the year?

Mr. Wood - You have until the end of the year to come up with a different use. So as in section 150.7.6, temporary uses, the board may authorize the temporary use of a structure or premises in any district for a purpose or use that does not comply with the regulation prescribed elsewhere in this code for the district in which it is located, provided that such use is of temporary nature and does not involve the erection of a substantial structure. A zoning certificate for such use shall be granted in the form of a temporary and revocable permit for not more than a 12-month period subject to the conditions and will safeguard the public health, safety, convenience, and general welfare.

Unknown speaker - So is the motion to deny the appeal with the condition and he can temporarily keep operating?

Mr. Wood - Correct. With conditions.

Mr. Paul - With conditions. Such as vulgarity is not going to be tolerated.

Mr. Wood - We affirm George's decision, granting a temporary use to the end of the calendar year.

Ms. Bline - So for clarity, they're going to be allowed to operate, the concert stops at 10, and they're going to stay at the 60-decibel level meter reading, correct?

Mr. Wood - At the approved level.

Mr. Layman - It's 60?

Ms. Bline – Yes. So, if indeed they go over the decibel meter reading and if an officer is called and finds it 67, what occurs?

Mr. Wood – That's not a zoning issue.

Ms. Bline - No, but the consequence of.

Mr. Wood - There are consequences in place for that.

Ms. Bline - Okay. All right. I just want to be sure. So, the consequence will stay within the noise ordinance. However, will it reflect on what happens by the first of the year knowing there's been a problem?

Mr. Wood - That gives substantial time for your zoning application to be completed.

Mr. Carter - I think Beth's question is if they violate the conditions set by this board, will the board revoke temporary use? That's what she's asking.

Ms. Bline – Yes.

Mr. Paul - I can promise you if the vulgarity and anything that's offensive to the community happens, I absolutely bring it back. I can tell you that for sure. That's not going to be tolerated from me at all.

Mr. Garibaldi - We like family-friendly shows, John.

Mr. Carter - Councilwoman, correct me if I'm wrong. The process, Mr. Gibralti can as well. Sorry for butchering your name. The first is a warning. They come out, they say warning, and you turn it down, right?

Ms. Bline - That's at the discretion of the officer.

Mr. Carter - Okay. Because I heard the police chief in here said that warning, like on the third one, we're putting you in a cruiser.

Mr. Garibaldi - And then they would shut the event down.

Mr. Carter - So, I know that there is procedure in place to literally arrest the individuals for the sound stuff.

Mr. Layman - The question is if that happens...

Ms. Bline - Does it impact your decision at the first of the year?

Mr. Layman - Then the permission to stand until the end of the year goes away. Right?

Mr. Wood - Correct.

Mr. Carter - Also, in Brian's motion, there's no review hearing on January 1st from this board. This is just temporary. Either he has his district changed or he doesn't have his district changed. If he doesn't have it, it's the end of the story. If he has his zoning district changed, then he's within his zoning district permitted rights. But there's no review on it from this board. We're not going to come here and be like, oh, how'd you guys do? How'd you guys like it? That's not going to transpire come January 1st. This is clearly a temporary provision from the zoning board for X amount of days.

Mr. Garibaldi - And I think just to reiterate to the community, this puts us on the path to try to get the zoning changed, which then would make no more conditions. So, the best thing to do here is to approve what we're asking for under conditions permanently. Otherwise, the venue has the opportunity to rezone without restriction. So just throwing that out there.

Mr. Layman - I think it would be automatically revoked by the second violation. One event, second violation, your permission is revoked.

Mr. Garibaldi - My only question would be, as it stands now, the process is the first violation, the police would go to the property, they'd make that measurement, they'd let us know it was over 60. If it happened again, we would then get a ticket, like a fine. The third time is when they shut it down.

Mr. Layman - What we're talking about is if you violate it a second time, you get the ticket, you're done. You're done. There're no more concerts until you get it rezoned.

Mr. Garibaldi - I'm good with that. Let's make this clear. Also, as a resident, I can sit on my back porch and listen to my radio at 60 decibels until 11 o'clock, which the noise ordinance is, until as long as this isn't loud music. I can still play loud music as long as it's under the noise ordinance, correct?

Mr. Layman - That's irrelevant.

Shawn (inaudible) - Just a question. (inaudible) The church that I tend to, we've got a praise band. They play heavy metal, guitar, strings. You all going to call on that?

(comments from the audience)

Mr. Layman - I'm going to bring this to a conclusion. I'm going to try and clarify it for you, and you can say, no, that's not what we agreed to. We're upholding the zoning inspector's opinion that this is not a permitted use in this district. We are further granting permission for the applicant to continue his business until the end of the year under two conditions. One condition is that the music stops at 10 o'clock. The second condition is that it meets the noise ordinance. If it violates the noise ordinance and the police are called and the police say you are violating the noise, you've been warned, and on that same event, same night, they come back a second time and they're in violation of the noise ordinance and they get a ticket from the police department, then our permission to have further concerts until the end of the year is revoked and they're done until they get it rezoned. Everybody understand?

Mr. Paul - And lastly, the vulgarity, offensive language of any kind is not acceptable, is not acceptable, period. If I want to take my grandchildren there, I want them to be not upset. So that will not be tolerated at all. Just so we're clear on that.

Mr. Layman - Motion's been made and seconded. Any discussion? One of us wants vulgarity removed and the others say there's no way for us to possibly police that. So, it's not in there.

Motion to approve the temporary approval under the conditions stated, Second, Motion passed 3-1

THE NEXT SCHEDULED BOARD OF ZONING APPEALS MEETING WILL BE HELD ON THURSDAY, AUGUST 28, 2025 AT 5:30 P.M. THE DEADLINE FOR AGENDA ITEM SUBMITTAL IS AUGUST 1, 2025, 4:30PM.

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

Chairman, Board of Zoning Appeals

Secretary, Board of Zoning Appeals