

BOARD OF ZONING APPEALS MEETING  
THURSDAY, MARCH 23, 2023 5:30 P.M.  
COUNCIL CHAMBERS  
40 W MAIN ST, NEWARK, OH 43055

**MINUTES**  
**PUBLIC HEARING**

**1. CALL TO ORDER**

**CALL TO ORDER- Steve Layman Board Chair called the Thursday March 23, 2023 Board of Zoning Appeals Meeting to order.**

<b>Present:</b>	Jack Gienger	Member
	George Carter	Zoning Inspector
	John Paul	Member
	Phil Claggett	Member
	Steve Layman	Board Chair
<b>Absent:</b>	Eddie Hunt	Member

**2. APPROVAL OF MINUTES**

Minutes of the February 23, 2023 meeting

**Motion and second to approve minutes of February 23, 2023, motion passed by acclamation**

**3. OLD BUSINESS**

**APPLICATION BZA-22-11**

Applicant: Melisa Bay

Owner: Cottage Barbershop LLC

Location: 401 Franklin Ave

Project: Storage Pods

Reference: 86.3.1

**Melisa Bay, Raymond Bay, 401 Franklin Ave. - Mr. Bay** - We're still working on getting our house ready to get sold. I work 50 hours a week, I'm trying to get everything together to get the house organized to get it ready and what needs to be done to get it sold. We're trying to keep the containers there because we've gotten rid of a lot of stuff that we're selling off to get it so we can downsize. The containers are a temporary structure they're sitting up on railroad ties they are not permanently mounted, they are basically a trailer that can be hauled in and out on axles and we're just trying to use those until we can get rid of all of our stuff. We're going to move there and live in that space, then once we get that situated to look for another property. We're going to move south and we want to go ahead and sell this place and move on. As it is now, I understand there has been 10 applications for these containers in the city of Newark, five have been granted, five haven't and yet there's probably hundreds of containers in the city

of Newark. I know of 15 between my property and down here and they are all over the place. I don't want to make this as a permanent thing, I don't want to build more stuff on the property, I want to make the property sellable so I can sell it down the road and my plan is to sell it and move on. I'm past retirement age, I'm still working, like a lot of us I'm at this point in life working and my plan is I'm going to Florida. You know I had an offer today, two hours ago I got a call from my attorney, I can have my opposition go away if I will pay him, he will go away and stop complaining. All of my neighbors have complied and signed there that they are fine with these containers being there, doesn't object to them, I've got a six foot privacy fence. The City asked me if I would paint them things, I sand blasted them and painted them and then put privacy fence around so that about this much is exposed that you'll see when you drive past there. All my neighbors complied, they signed the paper, except for one and I've been informed today, if I pay him he will stop complaining.

**Mrs. Bay** - We are a business and we have filed for an LLC and it was approved, we are a business and I do have the LLC papers. We are a company, we are an official registered LLC.

**Mr. Bay** - I don't want to make anything trashed up. I've lived in Newark here since 1959, lived in the east end, you know we've always kept our places up that we've had. I'm not planning on living at this location here.

**Mr. Layman** - You made a comment that they shouldn't be considered as permanent, that implies that you have a timeline that you'll have them out of there, what would that timeline be?

**Mr. Bay** - The timeline is I've got to get rid of the stuff. You know if I don't have that then I set the stuff, you know I throw it around the property on the ground, or call the trash man to come and get it. I've got too many things that I've accumulated over the years. The only thing here recent is we've had a lot of break ins, we've had a lot of problems with the homeless, we caught one down there about six months ago, which nothing was done. It's not just here in Newark it's everywhere. We're trying to keep our stuff secure. I have had to put alarms on everything, I've got alarms on the shop, alarms on the house, on the garages. When we had the break in down there I spent several nights down there until I caught the thief myself at night time there and then the next morning when I'm leaving to go to work, we find there's two more there trying to go into another building on the back part. I'd like to get rid of my stuff, I'd like to downsize, I don't want all this stuff, I probably should've started a lot sooner, you know looking back if I had I'd started several years ago getting rid of stuff and downsizing my personal property. I've got property, there's no sense in me going to a storage unit and renting a storage unit and then maybe can't pay it and I'd lose my stuff. We bought storage units, we bought 70 some storage units over a period of time.

**Mrs. Bay** - We did lose some of our personal stuff in there as well.

**Matthew Gayheart, 11 Franklin Ave** - The thing is these storage units started showing up over a year ago, there is two large pole barns that are being used for

storage, there are three storage containers on the property, there have been multiple extensions for the third one that's there. Enough is enough. They aren't being in and out, they're just sitting there.

**Mr. Bay** - The major problem is, Mr. Gayheart as broken onto my property, stolen from my property. Stolen and vandalized my property, I've filed a lawsuit against him and we're getting ready to go to court next month on that. He's the one who has offered this will go away if I drop my lawsuit on him. He came on my property yesterday, I had brought 14 dump truck loads of dirt to replace the dirt he took off my property while I was on vacation. When I came back I had a \$15,000 privacy fence broken and thrown down in my yard, he did it. He's admitted to doing this and he's brought all these different city people in here from Newark and said that they said this and they said that and he should go ahead and tear my fence down and he can do all these things. We have now since found out in depositions, he's lied. On every count that he's ever told, he's lied. He's a habitual liar, I've known him for 11 years and he's been nothing but a thorn in my rear all these 11 years.

**Mr. Layman** - We've got your point, we're not here to arbitrate.

**Mr. Claggett** - How many storage containers are there?

**Mr. Bay** - I have a 40 foot one that the city of Heath authorized me to bring in, actually they said I could put two over there by the building, I put one.

**Mr. Claggett** - So there is a 40 foot one in Heath.

**Mr. Bay** - And two 20's in Newark and we are trying to annex the rest of our property into Heath.

**Mr. Claggett** - One final thing, how long have these storage containers been on your property?

**Mr. Bay** - About a year.

**Mr. Carter** - I will make a statement to the Board here. As I mentioned to Mr. Claggett, the Zoning Division wants to look at making use of shipping containers and said related items part of conditional uses for residential neighborhoods. That legislation has not passed yet, that is just the wish of the Zoning Division. It might be a good ideas for the Board to decide what standards that would qualify for residential use. It's something to chew on for in the future.

**Mr. Paul** - Here's my concern. We aren't; really addressing getting any changes to this property. I feel like we've been fair, we need to start getting an exit strategy to start reducing the number of these containers and until that legislation comes in place, I don't really like them in a residential area. So, I feel like we've been lenient, bit I feel like we need to start to put an endgame to this thing.

**Mr. Layman** - You need three votes and you've just heard two opinions that I would interpret as being negative. I would ask you one more time, you implied there was a time they are not permanent.

**Mr. Bay** - Right. I'm working on getting some of my stuff sold and getting my house sold so I can move to this location down here and then I'm going to sell my stuff off and get rid of the property that is combined. I can't give a say I'm

going to have it tomorrow or next week because that's nothing I've got control of. I got control over nothing. I don't have control when I wake up in the morning. When I wake up in the morning, it's just a blessing that I'm up and it's the next day. I have control over nothing, the weather or anything else. I'm just trying to get everything as quickly as I can get this done. I want to get this resolved, I want to get the property sold and move on.

**Mrs. Bay** - And we are trying to get annexed, we've met with an attorney and that little piece of property is going to be annexed into Heath.

**Mr. Bay** - I've had the property for 20 some years and I've been working on that and I can't point fingers anywhere because it's not happening, it's just not happening. We're not able to get things done and the COVID came along and just put a hindrance on everything. I thought 3 years ago I would be done with the City of Heath so I would have one zoning instead of multiple zonings I've got and battle back and forth and this gentleman here, he calls the City of Newark and if they don't respond then he calls the City of Heath.

**Mrs. Bay** - It all is in Heath, the 2 are the only ones in Newark.

**Mr. Bay** - I'm not trying to get over on anybody.

**Mrs. Bay** - There's other containers around that's not been legally obtained.

**Mr. Bay** - There's at least a hundred containers in the City of Newark and they are used as restaurants and everything else. I'm not trying to do anything out of the ordinary I'm just trying to get it done and get my property sold so I can move on. At that time I can get rid of the containers, if the City doesn't want them there, I don't have a problem with that. It's just I'm being pulled different directions trying to get this done and that done, there's only so many hours in the day I can do these things.

**Mr. Layman** - You have a problem here because you need 3 votes and I know you have 2 no's and there's 4 of us. You've got to come up with half to get 3 votes and I don't hear anything that's different from the last time you were here.

**Mr. Carter** - I would recommend you throw an arbitrary date at the Board of your choosing here, we're not talking tomorrow or next week kind of dates.

**Mr. Bay** - I can't do this in 3 months or something, I'm trying to get things sold and we're posting all the time, we've got stuff on marketplace and all these places, we're trying to get rid of stuff.

**Mrs. Bay** - Well, it's probably going to be at least six months until we can get the property in those containers sold.

**Mr. Carter** - Like I said, give them a date and if they vote no then you're out here by the 31<sup>st</sup>.

**Mr. Bay** - I would like to have at least a year, in a years time then I'll get rid of those things one way or another.

**Mr. Layman** - We were here a year ago I think.

**Mr. Carter** - Ten months ago.

**Mr. Layman** - We were here 10 months ago, this should not come as a surprise to you that the Board is not overwhelmingly in favor of storage pods. So, we gave you I think, six months and you came back and we had this same discussion

and we gave you 4 months and now you just said you want another year. It's not going to work.

**Mr. Bay** - I came here and asked. Most people in this city have gotten these containers and have not come here and asked. There's a difference in priorities if you don't ask and put one in and you don't have a neighbor that complains then they can leave it in there it's not a problem. You go ahead and ask for permission to put it in, then you've got a problem. Or you've got a neighbor who wants to complain.

**Mrs. Bay** - We have jobs.

**Mr. Bay** - I have to work, I wish I didn't have to work. I wish I was smarter and had more money put away and I could just say I quit and retire and go to Florida, but I'm almost 69 years old, still working and I work 50 hours a week, drive an hour and a half a day back and forth to work. I wish that things were different, they're not. I have to apologize, I am what I am. I can't help that.

**Mrs. Bay** - We shouldn't just have to get rid of our personal stuff and our other stuff.

**Mr. Bay** - I shouldn't have to go out and rent storage from somewhere that I have to pay for storage. If you look at what my place looks like, I think it looks pretty damn decent.

**Mrs. Bay** - Everything that's been asked of us, we painted them, we put a privacy fence around them. Nobody else in our neighborhood, they signed a petition and we submitted it to you guys, they haven't had a problem at all with our containers.

**Mr. Bay** - I painted them grass green so they fit into the ting there. Like I said, there's this much above the privacy fence and that's it. If that's killing somebody, I'm sorry. I've tried to do everything, I've tried to go beyond, we even had them sand blasted and painted. I don't do something half ass, when I do something I try to do it right and that's what I think I've done here. You can disagree with me, I guess that's on you guys to say that you don't agree with me.

**Mrs. Bay** - I don't understand how everyone else can have containers, there's one down there across from the Millwheel on an empty lot, just sitting there.

**Mr. Paul** - We're not talking about down across from the Millwheel, we're talking about your property okay. We can talk about a lot of different things a lot of different places a lot of different problems people have, we're only concerned with your property at this time. So, we don't need to hear about all the other.

**Mr. Bay** - I came here and asked for the thing.

**Mr. Paul** - You came here for a year asking and it's the same story over and over and over.

**Mr. Bay** - That's all I can say, I won't go any farther, I won't waste anymore of your time then.

**Mr. Claggett** - It's pretty common in most Zoning jurisdictions you get one year. I guess if I could make a motion, I would make this retroactive from the last submission of 4 months ago and you have one year from that date to clean it

**up, rearrange what you've got, get it in the buildings and get rid of the storage containers.**

**Mr. Paul** - Mr. Claggett, can I make a suggestion on what you just mentioned, if it's been 10 months and they usually allow a year for it, should we allow him 2 months to have it out then? Does that fall into your parameters?

**Mr. Claggett** - I was just trying to give an extended, a little more time just based on the struggles that are real.

**Mr. Paul** - I just have a feeling that they will be back here with the same.

**Mr. Claggett** - I guess I'm going to make it an end all be.

**Mr. Carter** - The Board can put the condition on that no more extensions can be applied for. You always have a right to appeal to the Board. But, based on what Phil is saying, I don't know exactly what he is saying, but at that point in time they would have to re-apply for a new appeal to the Board, it cannot be used off of old business anymore.

**Mr. Paul** - Just a quick question. So, if they are temporary storage and they did get a special access for the second one, does the year fall in for the first one?

**Mr. Claggett** - I'm throwing it in on the first one.

**Mr. Paul** - Okay, so both of them then would need removed.

**Mr. Claggett** - **Retroactive from the date of the last extension, which was 4 months ago, so if that was November 31<sup>st</sup>, they've got until November 31<sup>st</sup>, 2023 to have them removed, both of them. Non extendable.**

**Mr. Paul** - In reality, we've extended it and then we're done. My thoughts are if we follow Phil's lead, in my mind, if that were to happen, I don't care how many times you re-submit it I would never agree to it again, ever, it's done. I feel like we're going nowhere forward. **I would second that motion with the understanding that we're done.** You can be as mad as you want, but what I'm saying is if you come into me and ever ask me I will tell you that we are done talking about these storage containers.

**Motion to extend it to 6 months past the last extension in lieu of the 12 months for both, second to the motion, motion passed 4-0**

#### 4. NEW BUSINESS

##### APPLICATION BZA-23-06

Applicant: Timothy Roux

Owner: Timothy Roux

Location: 474 N Cedar St

Project: Garage Addition

Reference: 16.8

**Timothy Roux, 474 N. Cedar** - I just bought the property next to me, 480 and I want to put a garage on it. I want to use the garage for my vehicles.

**Mr. Layman** - For personal use?

**Mr. Roux** - Yes.

**Mr. Layman** - You'll accept that as part of the motion? Not for commercial use, only for personal use.

**Mr. Roux** - Yes sir.

**Motion to approve, second as long as there is no commercial use, motion passed 4-0**

#### APPLICATION BZA-23-08

Applicant: Branham Sign Co

Owner: Skipper Westfall Properties LLC

Location: 1303 Log Pond Dr.

Project: Building/Roof Sign

Reference: 135.7

**Mr. Layman** - Because of how this sign is located it sort of gets classified as a roof sign.

**Mr. Carter** - It just says roof signs must be approved by the Board, it doesn't give them a sign classification, but I think the intent of the code is to use wall sizing for any roof sign as well. So, I have classified it as a roof sign and made it follow the guidelines of a wall sign for size requirements, which is 60 square feet.

**Mr. Paul** - And they are asking for 99?

**Mr. Carter** - Correct.

**Motion to approve, second, Motion passed 3-1**

#### APPLICATION BZA-23-09

Applicant: Adam Kessler

Owner: Tim Malherbe Painting and Remodeling LLC (Bummies)

Location: 400 W Main St

Project: Freestanding Sign

Reference: 135.8

**Adam Kessler** - What we're doing is, everyone knows where Bummies used to be and they were fortunate to save their neon sign that was on the building, so the idea is to move it to this property and you're all aware of that intersection there, those streets is difficult at best. So, we've found a spot for the sign without disturbing any of the parking that's already there and projecting the sign back into the property with a pole near the fence that's out there now. The sign will be a 20 foot overall height so tall vehicles won't hit it. That's basically what we're trying to do. Bring back nostalgia.

**Mr. Carter** - They're required a 20 foot setback on a freestanding sign and are also limited to one freestanding sign, so the current one they have up there counts as one, the one Dan's used to advertise their specials on, they're going to reface that, correct? They want to bring back the classic Bummies sign, so basically they are going to have 2 freestanding signs.

**Mr. Layman** - So I'm confused by the orientation.

**Mr. Kessler** - you can see the fence. The pole will be near the fence.

## **Motion to approve as submitted, second, motion passed 4-0**

**Mr. Layman** -We have Tyler and Jacob Alexander here from the Newark Station, they are working on a sign package that is in violation of multiple ordinances and they are interested in placing orders so they wanted to talk to us about our thoughts. They understand we can't vote. I would tell the Board that I have had some input into this, if you remember Roger showed up here about 8 months ago with a sign that was pretty big, not up to standards. I think the Alexanders have taken those comments to heart and tried to be more creative with their sign package.

**Mr. Alexander** - If you just flip through, there is basically what you would call two traditional signs, one is on page 8, that is the existing Mid State Warehouse sign that we would just take the top of it off and replace it with something that is reminiscent of the old esso signs, the formed letters and if you look at page 9 you'll see it has a convex shape to it and so we would just repurpose that existing sign. If you look at page 10, the other what we would call traditional sign would take advantage of the connector, this is along with a vision of mine when we started to do Newark Station which is something reminiscent of the Columbus Dispatch sign downtown built on a framework and secured to the connector bridge. So those are the two kind of traditional signs we are looking for, the rest of the signs are basically painted on the building and some of them will be ghosted, which will mean we will paint them with an air that makes them look old, so if you look at the various different locations we have for that, if you look at page 3, we would paint 325 on the corner of the building, page 4, sign D would be future for Phase 3 and we're trying to get the whole signage concept put together so that we understand what we're doing. C takes advantage of an existing Newark Station sign that's on the building and just paints something over there that will harken to the history of the building. We're not exactly sure what it would say, but something that alludes to the history of the building. Then on page 5 you have a ghosted sign underneath the canopy. I don't know if you guys have seen it lately but we've torn off the existing metal paneling that they put on the loading side of the dock. We opened that up so it will be one of the main entrances into Earthworks Café Lounge, so that would just be a ghosted sign there. The n on the west side of the building we'd also have one on the other entrance to the building. If you went further to the south, you'll see the entrance to the Lofts Apartments, so that will have its own segregated parking area and you'll see the vertical sign, which we've already got within our construction of Phase 2, we've got three lights that will set on that canopy roof and cast upward to light that. Underneath the canopy we're going to create an area where some of the artwork that we have for our music festival, we've commissioned 5 or 6 artists to come and do live paintings, we would frame those and , mount those to the wall underneath, we would also have kind of a ghosted sign applied to the metal panel. So, that's our concept, we're really excited about it, it really takes advantage of this whole warehouse.



**Mr. Carter** - I'd like to tell the Board here that recently we extended the Downtown Zoning District all the way out to 11<sup>th</sup> Street and up to St. Clair. The Downtown Commercial District is very favorable when it comes to usage, however, it is not very favorable when it comes to signage and I've got 16 square foot for signage for Downtown businesses for freestanding signs, wall signs might be a little bit more. We look at downtown situation where you might have a 25 foot business frontage and maybe the sign's more acceptable for that versus where we have this 140,000 square foot warehouse where you have all these shops in there, it's very friendly to the shops, giving them bigger signs based on the square footage, so it is a tradeoff with the usage. So I would say the Downtown District is very unfriendly when it comes to signage. That said, that's just a little bit of history of the zoning district.

**Mr. Paul** - I like it. I love the fresh air you're breathing in over there and I think it looks nice and looks classy and I don't see an issue, in my mind you're not going over, you're just kind of doing what you're doing and you've got a lot of buildings, a lot of space, I think it looks really nice, that's my opinion.

**Mr. Layman** - They're not asking for permission, I think what they're asking for is if somebody finds something really objectionable that we're not going to approve, that we would just tell them so they can adjust.

**Mr. Alexander** - I'd like to have some kind of indication on the more traditional signs, I've already undertaken engineering for the structural for the Newark Station sign.

**Mr. Carter** - One thing I will do for you, is I'm not part of the Board, and I can go sign by sign and tell you what's going to be exempt from the zoning permit, what will require a zoning permit, I can go through there and tell you okay this one doesn't need to come to the Board, I can 100%^ do that for you, a zoning review and then we can break that down to alright now we have 6 signs left that are going to need a variance and what is that variance. I can have that for you the middle of next week.

**Mr. Alexander** - This is an important project for the City of Newark, I think the signage package we have submitted is extremely tasteful, I think it fits within the character of what this building is and will really create the cornerstone this building is within the community. I think it's a great package.

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

## **5. ADJOURNMENT**

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Chairman, Board of Zoning Appeals

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Secretary, Board of Zoning Appeals