

AV02c-160405

**Michael Forster  
11264 Whites=wood Dr.  
Newbury, OH 44065**

The Newbury Township Board of Zoning Appeals public hearing was called to order by Mr. Lou Tomsic Chairman, a 7:05 p.m. on April 5, 2016 with board members Mary Lee Brezina, Ed Meyers, Karen Endres and Chris Yaecker present. All in attendance who wished to speak at this hearing were duly sworn and asked when testifying to state their name and confirm being sworn in. Mr. Tomsic said the BZA procedures would be followed and that the hearing was being recorded.

Mr. Tomsic stated this was the continuance hearing of the March 22, 2016 hearing with the applicant submitting a site plan (Exhibit A) documenting the property line pins that were not known at the 1<sup>st</sup> hearing.

Ed Meyers verified that a rear setback variance would be required **noting that Susan Weiland confirmed the applicant could amend his application to establish this change. The application was duly amended by the zoning inspector and confirmed by the applicant.**

**Karen Endres noted that if the advertised notice stated only an Area Variance was being sought, amendments could more easily be made. Ms. Hrabak said she always advertised the hearing so that readers would know exactly what variance was being requested.**

**Michael Forster requests an Area Variance to construct a detached 42 ft x 40 ft garage to store antique motor vehicles (per Art. V, Sec. 5.02A-b, 1680 sq. ft. vs. 1280 sq. ft. permitted) on parcel 23-318000 at 11264 Whitewood Dr. in the R-1 Residential District.**

Mr. Tomsic verified dimensions from the new site plan: the new building would be 36 ft from the West side line but only 38 ft. from the rear lot line where 50 ft. are required. The owner of the large vacant parcel to the rear is now in England. Mrs. Forster showed that position of the buildings on the site plan. Mr. Tomsic said he would accept the new site plan as it satisfied the previously BZA request.

Ms. Endres verified that no side setback was required; the request was changed to a rear setback Area Variance. Mr. Yaecker acknowledged the photos (Exhibit B) showing the stakes in the ground marking the property pin locations.

Mike Joyce revised the Area Variance request to include the 38 ft. rear setback and removed the side yard setback request.

Mr. Yaecker confirmed the position of the well and septic on the east side of the house.

Mr. Tomsic asked Mr. Forster about utilities in the new building. He replied there would be electricity but no heat, water or sewer. Ms. Endres asked Mr. Forster if the building would be used only for residential purposes, not for business – Mr. Forster agreed.

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Mr. Forster was advised he could also have a small free-standing shed - less than 120 sq. ft. – no permit is needed.

The board agreed with the applicant’s Findings of Fact:

- a) There is value of the lot with or without the variance,
- b) The variance is not substantial for either size or setback,
- c) There is no substantial impact on the neighborhood,
- d) There is no affect on delivery of government services,
- e) Applicant says he was unaware of the zoning restrictions,
- f) The applicant’s predicament cannot be obviated through some method other than a variance,
- g) The spirit and intent would not be observed by granting the size and rear setback; there were no objections from the audience.

Mr. Tomsic called for a vote. Mr. Meyers moved to grant the area variances: for 1680 sq. ft. garage with the 38 ft. rear yard setback; Mr. Yaecker seconded the motion. Mr. Tomsic said a yes vote would grant the variances.

Ed Meyers	yes
Chris Yaecker	yes
Mary Lee Brezina	yes
Karen Endres	yes
Lou Tomsic	yes

Mr.Tomsic read to the Appellants and audience, “Within 30 days after service of the minutes granting your request, if someone wishes to challenge this decision through the court, he or she may. The required permit can be issued once all requirements regarding this application are satisfied, although if you plan construction it is recommended you wait the 30 days before proceeding. The challenge could reverse or negate our decision. At the time you receive your permit you must also comply with all other requirements of Newbury Township zoning”.

The board agreed to hold hearings on the first and third Tuesday of the month. These minutes will be signed on April 9, 2016.

Mr.Tomsic adjourned this BZA hearing at 7:30 p.m.

Marge Hrabak Secretary

Signatures of the Newbury Board of Zoning Appeals:

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Lou Tomsic, Jr., Chairman

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Chris Yaecker,

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Karen Endres,

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Ed Meyers, V. Chairman

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Mary Lee Brezina

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Marge Hrabak, Sec'y BZA  
Date: \_\_\_\_\_