

**Newbury Township**

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Newbury, OH 44065

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**Board of Zoning Appeals Meeting Record of Proceedings**

**Date**

3/31/2026

7:00pm

**Zoning Hearing regarding: CASE NO. BZA-2026-03**

**Zoning Certificate Application No. BZA-2026-03**

**Property Address:** 12060 Kinsman Rd Newbury, Ohio 44065

**Board of Zoning Appeals Members present:**

Mike Fenstermaker

Lewis Tomsic Jr. Chairman

Dave Fabig

Scott Koller

Albert Hehr

Jay Jones (alternate)

**Board of Zoning Appeals Members absent:**

n/a

**Staff / other officials**

Nick Bellas- Zoning Inspector.

Amy Lydan- secretary

Greg Tropf- trustee liaison

**Applicant/Guests Present:**

Cathleen Mathews

Donna Hawkins

Raymundo Soto

Ken Moses

J.L. Holden

Nick Goris

Larry Green

Jonathan Tiber

**Roll was taken and attendance is reflected as stated above**

**Board of Zoning Appeals (BZA) Chairman Lewis Tomsic Jr. called the meeting to order at 7:00 p.m., and stated:**

*“Good evening. This is a meeting of the Newbury Township Board of Zoning Appeals. Before proceeding I will read a brief overview of tonight’s hearing. The Board of Zoning Appeals is a quasi-judicial body, and as such, its role is similar to a Judge – in a court case. We hear evidence and make decisions based upon the facts presented, the rules set forth in the resolution and the principles of law. As a quasi-judicial body, we keep our procedures relatively informal. However, in order to conduct an orderly meeting and allow all interested parties an opportunity to present the evidence necessary to assist us in making our decision, certain procedures will be followed.*

*Please keep in mind that the applicant has the burden to produce evidence in support of the application, and the burden to persuade the Board that the evidence justifies the action being asked to take. The Board will not make the applicant’s case for him.*

*This meeting will be recorded. In order to prepare appropriate meeting minutes, any person who speaks will slowly state for the record his/her name and address.*

*Both the Board and the applicant may request to continue a matter to a future date.”*

**Mr. Tomsic asked the audience member(s) present, if they wanted to speak - to raise their right hand. Mr. Tomsic swore in:**

Cathleen Mathews

Donna Hawkins

Raymundo Soto

Ken Moses

J.L. Holden

Nick Goris

Larry Green

Jonathan Tiber

**Mr. Tomsic asked if all of the interested parties were notified**

**The Board Secretary and stated that yes, all interested parties were notified.**

**Notable minutes as to what transpired at the hearing.**

**Hearing for applicant St Helens**

**Mr. Tomsic-** St Helens is next

**Ken Moses-** My name is Ken Moses , Im the project manager at St Helens. Were asking for a variance for a setback according to section 505 in the zoning regulations. We are building a playground. It will not be any closer to the road than the existing structure. It is currently a legal non conforming lot.

**Mr. Fenstermaker-** and your asking for 75 feet instead of 100?

**Nick Gorris-** I'm Nick Gorris, I'm the engineer for the church. So, its going to be about 58 feet from the record right of way, but if you know the history of Kinsman Rd through there , the existing right of way, we had a portion of that released from ODOT for our sign. So if you were to actually measure the sign is actually inside what is considered the record right of way but on the church's property. The existing property that was built in 1949 is 41 and a half feet from the right of way. So its an existing non conforming.

**Mr. Gorris-** showed board on projected map the location of the new playground.

There will be a retaining wall, a landscaping wall, but its no further than the front of the existing structure.

**Mr. Tomsic-**it will be separating the playground from the parking lot?

**Mr. Gorris-** correct, so the retaining wall , plus it will have a fence on top of it. There is also going to be a treated timber guardrail thats going to wrap around the front of the parking lot with some landscaping trees. Also a chain link fence on top of the wall to prevent kids from climbing on it.

**Mr. Koller-** So the retaining wall is like 3 foot and then 4 foot?

**Mr. Gorris-** The wall will go from 3 foot to 4, 5, and then 6 foot as it runs along the existing parking lot to the concrete stairs. Basically its going to make a bowl. The playground will be recessed and motorists wont be able to see it.

**Mr. Gorris-** we are kind of restricted with the lot we have.

**Mr. Tomsic-** this is considerably smaller than the existing playground?

**Mr. Moses-** No, square footage size it will be the same size, but a different shape, more rectangular now. (showed a picture of size on map and photos of equipment) We will have 3 pieces of equipment and padded turf with drainage, fall pads under the entire thing, not only under equipment, kid safe.

**Mr. Gorris-** The old front of the building is 33 feet from the right of way. (showing board the area on projected map) Thats where we received the release to put the sign.

**Mr. Koller-** so, not allowing 75 feet from the right of way

**Mr. Fenstermaker-** so which number should we go by Nick

**Mr Gorris-** because its an existing non conforming not, no closer than the existing building

**Mr. Moses-** the front of the building from the road is 47 feet from the center line

**Mr. Gorris-** from record right of way the old barn is 33 feet so we would be 35

**Mr. Moses-** were really like 58 feet from the edge of the road to the front of that building , then our first piece of playground equipment will be at 75 feet.

**Mr. Tomsic-** so it may be best to go off existing building so it is not more non conforming.

**Mr. Bellas-** I had a difficult time and had to contact a lot of people trying to find out . I think like your suggesting is good.

**Mr. Gorris-** (showed property lines on projected map)

**Mr. Moses-** it will be no closer to the road than the existing

**Mr. Hehr made a motion to approve continuance of the current non-conforming lot at the existing numbers as March 31, 2026**

**Mr. Fenstermaker seconded the motion**

**Chairman Mr. Tomsic called for a roll call vote regarding the motion on the table.**

**The Board Secretary conducted a voice vote roll call.**

**Mr. Kollar – yes**

**Mr. Tomsic- yes**

**Mr. Fenstermaker – yes**

**Mr. Fabig- yes**

**Mr. Hehr- yes**

**Motion Passed**

**All were in favor, and the Motion was approved.**

**Mr. Tomsic and the BZA went over the Findings of Fact for this hearing, to review the issues related to the facts for this case.**

**A. Whether the lot in question will yield a reasonable return or whether there can be any beneficial use of the lot without the variance?**

**Applicant-** without the variance, relocation of the playground would not be feasible due to the planned construction of a school addition on the current playground site. The property is fully developed with existing buildings, parking, drainage infrastructure, and required open space. Denial of the variance would significantly limit the schools ability to provide required recreational space for students, thereby impairing the reasonable and beneficial institutional use of the property. The variance enables continued safe operation of the school consistent with its long standing use.

**BZA Review:** agrees

**B. Whether the variance is substantial?**

**Applicant-** The requested variance reduces the front setback from 100 feet to 75 feet , however, the proposed playground will not extend any closer to the right of way than the existing front edge of the school building. The reduction is limited in scope and applies only

to a fenced playground area- not to a principal structure. Therefore, the variance is not substantial in practical effect.

**BZA Review:** Its closer than that. From the center of road its 75 feet. Its 33 feet from the former right of way

**C. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance?**

**Applicant-** The essential character of the neighborhood will not be altered. The property has functioned as a church and a school campus for many years. The proposed playground is consistent with this established institutional use. The area will be enclosed by existing building, retaining wall, guard rail and a chain link fence to ensure safety and containment. No additional encroachment into the right of way is proposed and the playground remains internal to the campus. No substantial detriment to adjoining properties is anticipated.

**BZA Review:** Agreed, nothing will change, it will be better

**D. Whether the variance would adversely affect the delivery of governmental services**

**Applicant-** The variance will not adversely affect governmental services. The proposal does not increase density, traffic flow beyond normal school operations, utility demand, or public safety burdens. Emergency access to the site will remain unchanged. The relocation simply shifts an existing accessory use within the campus

**BZA Review:** agree, should have no effect

**E. Whether the lot owner purchased the property with the knowledge of the zoning restriction?**

**Applicant-** The property has long been established as a church and school campus under existing zoning regulations. The need for the variance arises not from ignorance of zoning restrictions but from the necessity of relocating an existing playground due to planned improvements that enhance the campus. The request is driven by practical site constraints rather than speculative development

**BZA Review:** agree

**F. Whether the lot owner's predicament feasibly can be obviated through some method other than a variance?**

**Applicant-** Due to site constraints- including existing buildings, parking areas, drainage patterns, topography, and required access drives- there is no feasible alternative location on the property that would meet the 100 foot setback while accommodating the playgrounds required safety zones. Redesigning the addition or eliminating the playground would not be practical and would negatively impact the schools educational operations. The variance represents the minimum necessary relief.

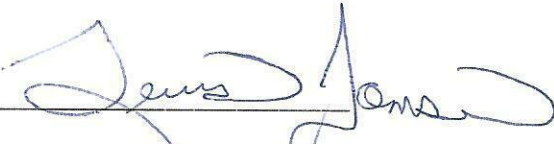
**BZA Review:** agree

**G. Whether the spirit of the intent behind the zoning requirement would be observed and substantial justice done by granting the variance?**

**Applicant-** The spirit of the setback requirement- to protect the right of way, maintain visual consistency, and preserve neighborhood character will be upheld. The playground will not project beyond the existing building line toward the road, ensuring no additional encroachment into the setback plane. The request allows continued safe use of the property consistent with its long standing institutional purpose while maintaining neighborhood integrity. Granting the variance would achieve substantial justice without undermining zoning intent.

**BZA Review:** existing non conforming will not change

**Meeting adjourned by Mr. Tomsic at 7:50pm**




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Lewis Tomsic, Jr., Chairman



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Mike Fenstermaker



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Scott Koller



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Albert Hehr

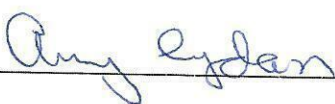


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Dave Fabig

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Jay Jones



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As approved by: Amy Lydan, BZA Secretary