



Newbury Township

14899 Auburn Road

Newbury, OH 44065

Phone: 440 564 5997

Fax: 440 564 7512

—

Board of Zoning Appeals Meeting Record of Proceedings

Date

April 21, 2026

7:00pm

Zoning Hearing regarding: CASE NO. BZA 2026-05

Zoning Certificate Application No. BZA 2026-05

Property Address: 10145 Music St Novelty, Oh 44072

Board of Zoning Appeals Members present:

Lewis Tomsic Jr., Chairman

Mike Fenstermaker- Vice chairman

Scott Koller

Albert Hehr

Dave Fabig

Board of Zoning Appeals Members absent:

Jay Jones

Staff / other officials

Nick Bellas-Zoning Inspector

Amy Lydan- zoning secretary

Greg Tropf- Trustee liaison

Applicant/Guests Present:

Rozanne Zarack

Kurt Pokopac

Kelsey Turner

Margo Hrabak

Anni Diamond

Leon Sampat

Frank Colini

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:

Rozanne Zarack

Kurt Pokopac

Kelsey Turner

Margo Hrabak

Anni Diamond

Leon Sampat

Frank Colini

Mr. Tomsic noted everyone had been sworn in.

Mr. Tomsic asked if all of the interested parties were notified and the Board Secretary and stated that yes, all interested parties were notified. A roll call of the members was conducted.

Mr. Tomsic, Chairman stated that we are here to hear a variance application filed by Peter Tolan of Newbury Township, and concerns this property : 10145 Music St Novelty, Oh 44072

Notable minutes as to what transpired at the hearing

Mr. Tomsic- This is an area variance for Mr. Tolan at 10145 Music St

Ms. Zarack- yes, he is my brother. He is in California, so I was chosen to speak for him

Mr. Tomsic- Do you live at the property; do you own the property?

Ms. Zarack- I do not, he is in California just for this week. He had plans to go before this was scheduled. They said he needed a representative, so here I am. I've been on the zoning commission in Huntsburg since 85, so I'm kind of familiar.

Mr. Tomsic- I just want to make sure you have the authority to speak on behalf of this property.

Mr. Bellas- I spoke with the applicant, he gave permission

Mr. Tomsic- ok, so hopefully you can explain to us what he is trying to do.

Ms. Zarack- He needs a variance for a setback. He is adding an area as a walk in because the door goes right into his kitchen now and he has grandkids coming in. He wanted to get that area so kids can come in off to the side. It's behind the porch, it does not go in front of the porch. But it's still too close to the rd. according to the setbacks

Board looks over the drawings provided

Mr. Tomsic- other than the 100 foot setback is everything else in compliance?

Mr. Bellas- yes, everything else is fine. Its less than 40% of the square footage of the principal so it's good that way. There are no issues on the side, it's within setbacks there.

Mr. Tomsic- two thirds of the rest of the house is in that setback, isn't it?

Mr. Bellas- some of the house is in it and some is behind. If you look at item number 8, the zoning markup you can see the red line is the 100 foot setback. You see the two horizontal green lines; that's the area where the addition will be. That's 19 feet from the edge of the porch.

Mr. Fabig- Is the porch 68 feet from the right of way

Mr. Bellas- the 68 feet is from the house, the porch is to the right. The black line is the porch.

Mr. Tomsic- is the 100 foot setback from center line or right of way?

Mr. Bellas- its right of way

Mr. Tomsic- do you have plans on what they are building?

Mr. Bellas- he was going to provide me a rendering but has not yet. I was told it will be a single story addition that will match the house.

Ms. Zarack- it will be an entrance and doors into the basement. It's an entryway more or less. A place to hang your coats and welcome the kids.

Mr. Tomsic- you will need plans before you can stamp anything anyway right?

Mr. Bellas- I'm not required to stamp anything .

Mr. Tomsic- I want to have plans

Mr. Bellas- I won't issue a permit without plans.

Mr. Tomsic made a motion to approve the area variance request as presented contingent upon the zoning inspector receiving a set of plans.

Mr. Fenstermaker seconded the motion.

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

The Board Secretary conducted a voice vote roll call.

Mr. Tomsic- yes

Mr. Fenstermaker –yes

Mr. Koller –yes

Mr. Hehr-yes

Mr. Fabig-yes

Motion Passed

All were in favor, and the Motion passed

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: It will increase the value of the home if the variance is issued.

BZA Review: it's a pretty small addition and won't change much

B. Whether the variance is substantial?

Applicant: No

BZA Review: agree

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: No change to character of neighborhood

BZA Review: agree

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

Applicant: no adverse effect

BZA Review: agree

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

Applicant: No knowledge of zoning restriction at time of purchase

BZA Review: no objection

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

Applicant: variance will allow for significant home improvement


BZA Review: there was no way without a variance

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

Applicant: yes

BZA Review: agree

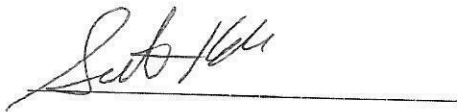
Meeting adjourned by Mr. Tomsic at 7:33pm



Lewis Tomsic, Jr., Chairman



Mike Fenstermaker



Scott Koller



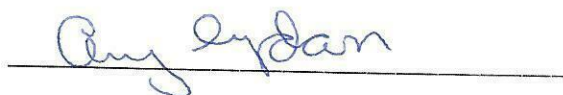
Albert Hehr



Dave Fabig



Jay Jones



As approved by: Amy Lydan, BZA Secretary