

**Newbury Township**

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Newbury, OH 44065

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

August 18, 2026

7:00pm

Zoning Hearing regarding: CASE NO. BZA 2026-10 Continuance

Zoning Certificate Application No.

Property Address: 14362 View Dr Newbury Oh, 44065

Board of Zoning Appeals Members present:

Lewis Tomsic Jr. Chairman

Mike Fenstermaker- Vice chair

Albert Hehr

Dave Fabig

Scott Koller

Board of Zoning Appeals Members absent:

Jay Jones (alternate)

Staff / other officials

Nick Bellas- Zoning Inspector

Greg Tropf- Trustee Liaison

Amy Lydan- Zoning secretary

Applicant/Guests Present:

Daniel Battaglia

Bill Bice

Marilyn Wilson

Dave Boyd

Chris Yaecker

Leon Sampat

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 started with the pledge of allegiance.

Mr. Tomsic-

"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. Tomsic swore in:

Daniel Battaglia

Bill Bice

Marilyn Wilson

Dave Boyd

Chris Yaecker

Leon Sampat

Mr. Tomsic noted everyone had been sworn in.

Mr. Tomsic asked if all of the interested parties were notified and the Board Secretary stated that yes, all interested parties were notified.

A roll call of the members was conducted.

Notable minutes as to what transpired at the hearing.

Mr. Tomsic- we are here to hear an appeal filed by Bill Bice for an area variance. Mr. Bice is coming back to visit us again with a building permit in hand. This is a continuation of a former hearing for an area variance at 14362 View Dr. Newbury Oh 44065.

Mr. Bice- The building department came there and wanted me to anchor the shed down. I did all that and passed it.

Mr. Tomsic- and now it's fully finished and done.

Mr. Bice- yes

Mr. Tomsic- You all saw the building permit. You all saw the final approval from the building department. I'm assuming the building didn't change location. it's still five feet off your back property line.

Mr. Bice- Yes

Mr. Koller- Is the former shed coming down or is it staying?

Mr. Bice- It's staying.

Mr. Koller- Any of the neighbors here or not?

Mr. Bice- she wrote me a letter. She's out of town, but she did write me a letter.

Mr. Koller- The neighbor to the back wrote a letter.

Mr. Fenstermaker- I remember, she came to the last hearing too, and said she had no issues

Mr. Koller- There's a fence back there, correct? Okay. There's like a chain link fence right in the woods,

Mr. Battaglia- I took pictures of it. I'm the one who put up the building.

Mr. Tomsic- State your name for the record, please.

Mr. Battaglia- Sorry, Daniel Battaglia. I did take pictures of it off the fence. So it doesn't show the whole building. But yes, it hasn't moved and it is completed.

Mr. Fenstermaker - We asked for a building permit. He got the building permit. I looked at it. It's a nice looking shed, no neighbors here complaining.

Mr. Koller - I guess we're voting on or making a motion on rear back variance of thirty, but this is going to be five feet off.

Mr. Tomsic- Any thoughts

Mr. Hehr- I mean, the only option is if we say no, tear it down. So its not the right order, but I guess we're okay because I mean the other one's there.

Mr. Tomsic made a motion to accept the variances granted. Or as proposed

Mr. Hehr seconded

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- no

Mr. Hehr- yes

Mr. Fenstermaker –yes

Mr. Koller –yes

Mr. Fabig- yes

Motion Passed

The Motion for the area variance was approved.

Mr. Tomsic- Variance is granted. You're all set.

Mr. Tomsic- Mr. Battaglia, get zoning permits first next time.

A resident from a previous unrelated hearing asked questions regarding that case

Mr. Tomsic- Any other business? Did you need to speak to the board?

Mr. Boyd- Yeah, I just was wondering if that final draft is done for Dog Daycare is done and how does it get enforced? I need it for my attorney.

Mr. Tomsic- At this point enforcement issues are on Nick's end.

Mr. Bellas- He's given two months, so we're at the two months now.. From when I first talked to him, I said you're going to get a two- month to tell your people to make new arrangements. Then I will do my investigation with what's being advertised if he's still advertising as a business things like that. If there's still an issue, I'll speak to the prosecutor. And we'll do an enforcement action.

Mr. Boyd- Thank you. Thank you very much. This has been so ongoing. But you're going to have your hands full with him because he's just he thinks he can do what he wants.

Mr. Bellas- I'll take care of it.

Mr. Boyd- Yeah, I appreciate it because I don't need to talk to this guy.

Mr. Tomsic- okay, so we have minutes to sign? We are going to do findings of fact too?

The board signed minutes from the previous hearings.

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

Area Variance

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: The variance will provide the full use of my property and allow adequate clearance for shed

BZA Review: no comments

B. Whether the variance is substantial?

Applicant: Variance requested is 5 feet

BZA Review: 5 feet off the line down from a 25 ft setback is substantial , its 75%

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: There will be no negative impact to surrounding homes and streets

BZA Review: arguable

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

Applicant: No negative impact, shed is in back

BZA Review: agree

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

Applicant: Owner had no knowledge as there is an existing shed in a similar location

BZA Review: no variance on file for existing shed

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

Applicant: A variance is required to maintain proper setback per Newbury regulations

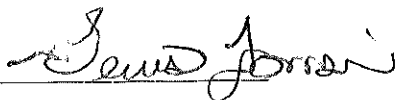
BZA Review: shed was built before seeking the variance

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

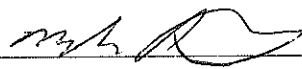
Applicant: We respectfully request the variance needed to comply as the shed has already been built and moving it would be very challenging to do and still maintain its integrity

BZA Review: challenging but not impossible

Meeting adjourned by Mr. Tomsic at 8:00pm



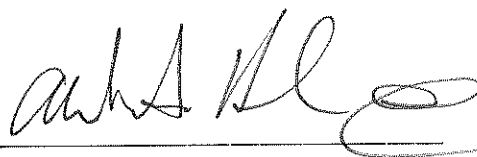
Lewis Tomsic, Jr., Chairman



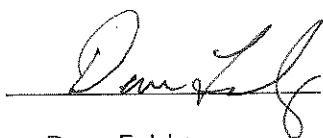
Mike Fenstermaker



Scott Koller



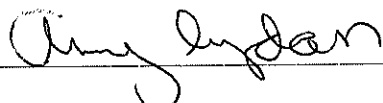
Albert Hehr



Dave Fabig



Jay Jones (alternate)



As approved by: Amy Lydan, BZA Secretary