**Newbury Township**

14899 Auburn Road

Newbury, OH 44065

Phone: 440 564 5997

Fax: 440 564 7512

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

Feb 17, 2026

7:00pm

**Zoning Hearing regarding: CASE NO. AV-12-21-2025-01**

**Zoning Certificate Application No. 12-21-2025-01**

**Property Address:** 12097 Hotchkiss Rd Burton, Ohio 44021

**Board of Zoning Appeals Members present:**

Lewis Tomsic Jr. , Chairman

Chris Yaecker

Ed Meyers

Albert Hehr

**Board of Zoning Appeals Members absent:**

Mike Fenstermaker

Mary Lee Brezina

Scott Koller

**Staff / other officials**

Zoning Inspector Nick Bellas

Zoning secretary Amy Lydan

**Applicant/Guests Present:**

Greg Tropf- trustee liaison

Al Mihaila

Dave Terrill

Aaron Godwin

Ken Fagan

**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.**

**Mr. Tomsic started the meeting with the pledge of allegiance**

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

**Mr. Tomsic**, Chairman stated that we are here to hear a continuance for an appeal filed by Dave Terrill who is proposing a garage on his property and resides in Newbury Township, at 12097 Hotchkiss Rd Burton, Oh 44021

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

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

Al Mihaila

Dave Terrill

Aaron Godwin

**Mr. Tomsic noted everyone had been sworn in.**

**Mr. Tomsic stated**, at our last meeting we requested more information and it looks like you have some, so if you would like to go ahead and present that.

**Mr. Terrill**, I have my contractor Aaron Godwin here to present for me

**Mr. Godwin**, asked secretary to display 3 documents that he had provided on the screen for the board. These included a survey map, a drawing of the proposed building, and property photos.

**Mr. Godwin-** (applicant showing with pointer as he is speaking) I believe that you have this survey, they basically verified the property lines and we also had him draw in the proposed location. So, right there is the proposed location. I'm going to basically just acknowledge that this is what was already on record, it was verified. Basically, the hardship that is here exists on multiple levels. There is a pretty significant grade change on this side here. The house has got a walk out basement and it's at ground level. There is also a wash along this side of the house. We did consider the front of the house but because of the setback, it would be more visible and would interfere with this natural wetland. So, we looked at all those locations and basically the only location that is good is where it is proposed. You can see in these photos, there is the stake right there from the road. You can't even see the house because of the natural embankment and you very likely will not be able to see the garage. This is the most visible right here. Once the leaves come on you won't be able to see the garage. This is looking towards the street from the west, or no, the east corner of the garage, this is from the west. As you can see your going to have a very hard time seeing anything from there. This is looking to the neighbor's property which, he was nice enough to come here. He will have a hard time seeing, this is his house here but there are already plants here which will stay and on the other side of the trees here is this large propane tank. He is here in support of the project as proposed.

**Mr. Tomsic,** who is he again.

**Mr. Mihaila,** I'm Al, I'm the neighbor to the west yes.

**Mr. Godwin** (returning to displayed drawing) So this is the structure as proposed. It's a three-car garage and one of the spaces is a flex space for a wood working area. It's got attic storage. The other thing he is doing to help his neighbor out is here he has got a back door pull through so he doesn't have to drive around. He can't go through here because of the wetland. So, this top view here is the one he really wants, and this one below is the budget one if he can't afford it. It's the fallback, it's the same footprint, but this one has the dormer for storage space in the attic. It has engineered trusses.

**Mr. Tomsic,** so it will have a dormer or no

**Mr. Godwin,** it will have a dormer if he can afford it. It increases the headroom in the attic space and visually looks much nicer. As its proposed the surveyor has it marked as 9 feet off the line. What he is asking for is about 10 feet. Anything in that range will work as we can shift a foot or two.

**Mr. Yaecker**, so you said the surveyor has it at 9?

**Mr. Tomsic**, it says 8 on that drawing right there

**Mr. Yaecker**, oh ok 8

**Mr. Godwin**, so when you measured this to the stake it was 10?

**Mr. Bellas**, it was 10 and 7 inches from the one stake that he showed me to the side pin.

**Mr. Tomsic**, and the front corner says 14

**Mr. Godwin**, yes, it's locked into the parallel of the house

**Mr. Yaecker**, when you measured was it from that back corner of the garage

**Mr. Bellas**, yes from that pin yes

**Mr. Godwin**, yes, the surveyor put pins here and we also had him put pins at the 100-foot setback. so, what I request is that we accept this pin location and whatever you approve we will survey off that and it will be parallel with this line on the house.

**Mr. Yaecker**, will this have a pole foundation

**Mr. Godwin**, it will have a full foundation, we just do quality. We want a lasting building so we will pour a footer.

**Mr. Yaecker**, so with the second floor you're not planning wiring or anything

**Mr. Godwin**, no, it will have a second floor, but it won't be finished. We will put service lights in, but there is no plumbing or anything like that.

**Mr. Hehr**, what is the depth of the overhang?

**Mr. Godwin**, He has got it proposed at 18 inches is what we requested. Again, we could probably adjust that if we get tight, we could drop it to 12. That is my question for you, some jurisdictions count from the foundation footing, and some go to the overhang, so I need to know from you. I couldn't find it in your zoning resolution.

**Mr. Hehr**, how do we measure that, is it from the overhang. The first time I was here I remember considering that for the one person

**Mr. Yaecker**, yes, I think that was continued. The zoning inspector makes the decision.

**Mr. Bellas**, there is nothing in our code. In other jurisdictions I typically go with the foundation. Unless there was anything extreme, but this appears to be within the normal span.

**Mr. Godwin**, we try to keep it between 12-18 just for durability to protect the structure.

**Mr. Tomsic**, the decision for the variance comes down to whether there is an overhang

**Mr. Hehr**, I think that's what we came up with last time to

**Mr Tomsic**, any questions

**Mr. Meyers**, I'm concerned about precedent, when we say we have zoning with a 30-foot side yard then we say no problem, make it 10 feet, to me I don't know how we argue to the contrary next time.

**Mr. Godwin**, my one statement on that, because I am actually pro zoning, I would say that the intent of the zoning in my mind is a big part of it. I would say that in this particular case it's not visible from the road, obviously there is hardship, it's why we are here. We always look for neighbor approval and his house sits back. So, I think the intent of the zoning is being met. We are maintaining the trees there which are evergreens. So, we are maintaining that. My response is that we are maintaining the intent of zoning and it is not visible from the road.

**Mr. Tomsic**, does the neighbor want to make any kind of statement

**Mr. Mihaila**, no, I mean I am ok with the proposal and for them to do what they want to do.

**Mr. Tomsic**, so your statement is that you don't have a problem with it correct?

**Mr. Mihaila**, yes, I am in support

**Mr. Tomsic**, what is your full name again, for the record, and your address

**Mr. Mihaila**, Alan Mihaila 12061 Hotchkiss rd.

**Mr. Hehr**, my other thought is that with the consent of the neighbor if they wanted to do crazy shapes they probably could and we wouldn't want to do that.

**Mr. Tomsic**, say again?

**Mr. Hehr**, so they could move property lines and I don't want that, I feel it does not fulfill our core mission and we don't want that.

**Mr. Tomsic**, oh, so moving property lines

**Mr. Godwin**, that was actually our fallback position, an easement

**Mr. Hehr**, well an easement wouldn't do it but changing the property line would and I wouldn't want that.

**Mr. Tomsic**, to start dividing up property?

**Mr. Hehr**, yes, I think it does not fulfill our core position, to protect the health and welfare of the community. I believe those were your words last time. I think that's the way I justify it is that I don't want to see huge changes to property lines.

**Mr. Tomsic**, I don't want to see that necessarily either.

**Mr. Yaecker**, I see what you're saying. Every case is different. He has to show a practical difficulty. I drove to the property and drove up the driveway, and I see your lot is difficult. I really appreciated that you went back and did all this work. I think it was necessary that you got the survey. I'm glad you did that and now you know. We've had cases where people got the survey and it was 15 feet off where they thought.

**Mr. Terrill**, it was where I thought. I don't mind getting the survey, now we know for sure. It does show that I don't have room because of the septic and leech fields and the grade. It shows there is no way to shift over.

**Mr. Hehr**, the second thing we talked about is the second floor and weather that becomes an apartment in a short period of time. That was one of our concerns. And so, the lean away from the dormer and to the truss style seems to make more sense.

**Mr. Tomsic**, I agree

**Mr. Godwin**, so my response is an attic truss, they bring that in quite a bit will be 400 or 500 square feet of space, but there is also aesthetic. And making it usable stand-up space.

**Mr. Hehr**, I just remember that those were concerns we had and want to make sure we are all talking about the same thing. It's trying to enhance the community. We haven't voted yet and are on the verge of accepting the property line at 8 feet but so then our second position is, are we going to end up with an apartment upstairs and if grandma can live in 400 feet is that ok. My apologies for the sarcasm. I want to make sure we are all considering the different positions.

**Mr. Godwin**, I appreciate that. From our standpoint, usable square footage would be pretty limiting, and no water and sanitary sewer makes it obviously kills any apartment.

**Mr. Tomsic**, adding trusses will choke down that second floor quite a bit.

**Mr. Tomsic**, anything else

**Mr. Yaecker**, do we want to talk about 8 feet or 10 feet, measured at the foundation? I think you said there is a little flexibility at 10?

**Mr. Godwin**, I think if you do 10 at the foundation and let us have an overhang that is a nice compromise.

**Mr. Yaecker**, and the zoning inspector measures at the foundation and he is the man who makes the call. Not us on the board. We could make a condition.

**Mr. Godwin**, we will drive our whole plan off that stake.

**Mr. Tomsic**, do you want to make a motion

**Mr. Yaecker made a motion to accept this variance request to build this detached garage as proposed with additional addendums and evidence they presented, especially the survey at ten feet at the foundation to be no closer than 10 feet at the western line at the foundation.**

**Mr. Hehr seconded**

**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. Yaecker- Yes**

**Mr Hehr- Yes**

**Mr. Meyers- No**

**Mr. Tomsic- Yes**

**Mr. Godwin**, did you have a preference on the overhang, 12 or 18 inches

**Mr. Tomsic**, no

**Motion Passed**

**Three members were in favor, and the Motion for the area variance was approved.**

**Mr. Tomsic informed the applicant that anyone wishing to challenge the decision would have 30 days to do so from the date the minutes are signed.**

**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-** locating the building anywhere else will violate other setbacks or make it much more costly to complete

**BZA Review: Mr. Tomsic,** Well, it doesn't belong in front of his house. **Mr. Yaecker,** I agree

- B. Whether the variance is substantial?

**Applicant-** No

**BZA Review:** Yes, it is

- 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

**BZA Review:** Agree, it can't be seen from the road and neighbor doesn't care

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

**Applicant-** No

**BZA Review:** Mr. Tomsic, I Dont think so. There is still space between the house and garage for fire trucks

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

**Applicant-** not sure

**BZA Review:** He should know

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

**Applicant- Probably** not

**BZA Review:** I think we answered that. If you don't put it in front where else can you put it. There are ways around it, but it involves loopholes.

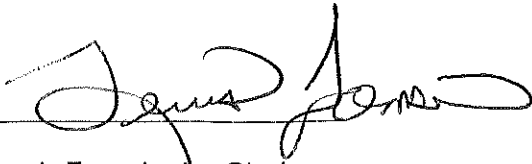
G. Whether the spirit of the intent behind the zoning requirement would be observed and substantial justice done by granting the variance?

**Applicant-** it complies

**BZA Review:** It does not comply, but it is not a disservice to the resolution by granting this. The neighbor came in support.

**The board signed minutes from the previous meeting**

**Meeting adjourned by Mr. Tomsic at 7:32 pm**



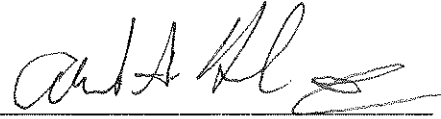
Lewis Tomsic, Jr., Chairman



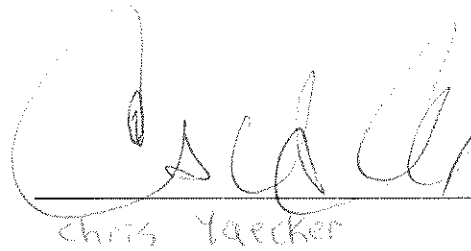
Mike Fenstermaker



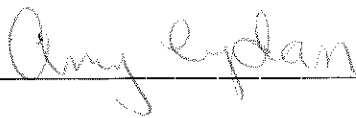
Scott Koller



Albert Hehr



Chris Yaecker



As approved by: Amy Lydan, BZA Secretary