

**Newbury Township**

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Newbury, OH 44065

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

August 25 2026

7:00pm

Zoning Hearing regarding: CASE NO. BZA 2026-14

Zoning Certificate Application No.

Property Address: 10990 Bell Rd Newbury Ohio 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

Amy Lydan- Zoning secretary

Applicant/Guests Present:

Vanessa Jensen

David Earls

David Putnam

Michael Heywood

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:

Vanessa Jensen

David earls

David Putnam

Michael Heywood

Mr. Tomsic noted everyone had been sworn in.

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

Notable minutes as to what transpired at the hearing.

Mr. Tomsic, Chairman stated that we are here to hear an appeal filed by David earls and Vanessa Jensen at 10990 Bell Rd Newbury Ohio 44065

Mr. Tomsic- He's got lots of pictures here. I think I got a better understanding of it now.

Mr. Earls- Yeah, this one's a well house. We believe we've been told it's older than the 1890 farmhouse, but one small structure that was really just where our well is coming up.

Mr. Tomsic- Like an old hand dug well?

Mr. Earls- It's four foot down the ground. I have to jump down in there to do anything, and it floods, that's why we put a submersible in.

Mr. Tomsic- Are you guys all looking at the same picture here? You're all on the same page? Yeah, this little tiny house. And this garage here is existing.

Mr. Earls- The detached, yes.

Mr. Tomsic- And this one is existing and this is AI.

Mr. Earls- Correct, that's AI. My son's just got his masters in architecture.

Mr. Earls -Yeah, we could have labeled it better with probably "proposed building."

Mr. Hehr- Ah, I thought we had 4 four buildings here and were trying for a fifth.

Ms. Jensen-Yeah, the little tiny one is the well house that just holds the well. Which we understand doesn't count as an accessory structure.

Mr. Tomsic- Okay Now the other barn, Is a barn so that's agricultural.

Mr. Earls- Not listed currently as that.

Mr. Tomsic- Do you use it for agricultural purposes?

Ms. Jensen- We do. Yes

Mr. Tomsic- Okay, agricultural building, so it is outside of our zoning resolution right?

Mr. Bellas- I don't know that they have an AG exempt on that. I was working on that with them.

Ms. Jensen- when we talked with Mr. Bellas, which was very helpful. Clearly, we do enough stuff in the barn that meets AG. We raise meat chickens, we have our layer chickens outside, we keep the feed, We do wheat and corn and maple syrup and all of our garden tools and whatever apple orchard. What we were given was this document from Newbury Township about the AG exemption. That, should the agricultural use intended cease and not be replaced with another agricultural use, it would be in violation, and it would either need to require a variance or would need to be destroyed. And our concern is, we're not babies anymore; this is our retirement home. We intend to be here as long as we can survive in this home. But should we get into our eighties and no longer be using it for agriculture

Mr. Tomsic- Then you sit in front of us and get a variance.

Ms. Jensen-We don't, yeah, but who knows? Maybe you won't be here either or if should, I know you are younger than us. We dont want to lose the building; that would

be a terrible thing that building is so beautiful. That barn is so beautiful that we don't. We just thought. If we sell it we have to declare it.

Mr. Tomsic- No one's going to make you tear-down the other building. I mean you just saw the worst of what we can do. We said no, if we even if you came to us looking for a variance on this, no longer agricultural building, and we said, no to the variance. We can't make you tear it down.

Ms. Jensen- Well, that's what confused us to be honest and Nick was very helpful in was saying, I don't think it's likely. We don't take chances. He's very literal.

Mr. Hehr- I am with you. I get it.

Mr. Earls- I didn't want to worry about it. It's just the heart of the property when you look at their property and drive by, what do you notice? You notice a barn; it's beautiful. Why do you think we bought it. And the hayloft, yeah, I hoist my chicken crates up there because we just got broilers, and we do them in start with crates, shipping crates and all this stuff. And I don't know if you've seen us put the garland and wreaths up.

Mr. Tomsic- That fact that building is not agricultural, is why we're here tonight, right?

Ms. Jensen- Because that would be exempt.

Mr. Bellas- Yeah, because they have a storage building. That would have changed the whole dynamics.

Mr. Tomsic- Then she wouldn't be sitting in front of us.

Ms. Jensen- We have the barn and we have a current detached garage which, We're going to use for a garage for a third car, but right now it's just woodworking shop. Which we hope to goal is to have a new woodworking shop, which doesn't seem to fall under the definition of a storage barn, storage building or garage.

Mr. Tomsic- That's what concerns me because that sounds like a home occupation, and that's a whole different variance.

Mr. Earls- We don't make any money on it. I give everything away honestly.

Ms. Jensen- It's all just for fun, But it doesn't fall under storage building or a detached garage. So we didn't know, you know, Nick was very clear, like, you know, the zoning regulations are kind of unclear as to what you call that. They don't define storage building and they don't define the detached garage. We know we're going to have a detached garage where the third car is going to go or tractor depending on the time of year. And the workshop because we can't put the workshop in the barn because it's detrimental to the chickens to have too much dust.

Mr. Hehr- So, with the great explanation that they gave us overall, I would move that we accept the variance for this building. Considering they have alternative methods to get the same process through, my motion would be to accept the variance as they suggest.

Mr. Koller- Are we at that point? We're making a motion?

Mr. Tomsic- Might as well. I don't have a whole lot of questions on this one. Okay,

Mr. Koller- I need to probably hear the wording on this because it's not as proposed,

Ms. Jensen- Can we ask a question. We did a lot of looking. My brother happens to be on the BZA in another county, and which is very different than here. And asked me a bunch of questions, but and everywhere I looked I couldn't, And I asked Nick this, and he was in agreement and said, there's sort of this implication that there's only two accessory buildings, but there's never nowhere in the zoning regulations are written. There's only two. It's just as written, a detached garage and a storage building. But I couldn't find anything that said only three roofs, only two roofs, only two extra buildings. But it's sort of implied. So, that's where we weren't sure if it was okay to ask for a third roof accessory building.

Mr. Bellas- exhibit one Yeah. has one detached garage and one storage building per lot.

Mr. Hehr- So, we're asking for a second storage building.

Mr. Earls- it's a workshop. We're not storing.

Mr. Hehr- We're asking for a second auxiliary building accessory building.

Mr. Bellas- I think their contention is how are they describing the building they want to put up? It's not a garage per se, it's not a storage building per se, it's a woodworking facility.

Mr. Tomsic- But our zoning cannot get that specific. We have to call it just an accessory building or a garage or try to envelop all the circumstances because what you're calling a garage or some you're calling a workshop or wood shop. Someone else is going to call a yoga studio. Someone else is going to call whatever. We're not going to play a bunch of what ifs. It's a building, and it's what you do inside of it is not really our problem.

Ms. Jensen-- We couldn't find anything that said there's only two accessory buildings,

Mr. Fabig- And isn't there a size limitation on each of those buildings also?

Ms. Jensen- We still be below that for two buildings. We're below that for our three plus acres.

Mr. Earls- The one's just a small sixteen by twenty garage at the current workshop.

Mr. Tomsic- based on house size as well as acreage I thought.

Mr. Bellas- Acreage for accessory building: the more acreage you have, for detached garage not to exceed twelve hundred eighty square feet, but that can also go incremental with the acreage. Same with the storage building.

Ms. Jensen- 3.09 according to the county. We're within the density requirements about fifteen hundred square feet for the three buildings.

Mr. Fabig- You have an attached garage correct? You have a two car garage? And you have a detached two car garage?

Ms. Jensen- yes

Mr. Earls- we keep a sports car in there and a tractor in the winter

Mr. Bellas- The Property Is 3.09 acres.

Mr. Hehr- So each building they have can be fifteen hundred square feet, about two of them, right? So three thousand square feet total. Is that right?

Mr. Fabig- And how big is your barn roughly?

Mr. Earls- Ballpark, Twelve hundred. I am guessing including the added- on part on the back. It's twenty- four by thirty- six is the original building, and then they put on a back part of it that's . Oh, I don't know where they have. You can see the L- shaped around the barn that was added on to the twenty- four by thirty- six structure.

Mr. Tomsic- So twenty- four by thirty- six is what?

Mr. Earls- 890 feet.

Ms. Jensen- That's the roof part. And, you can't really see the other buildings because the trees are in the way.

Mr. Koller- And you want to do another twenty four by thirty six. Is that correct?

Mr. Tomsic- So, he wants two of these and the well house. Are there no other options ?

Ms. Jensen-- Lots of problems. We looked over it. We looked You can't see it here. There's the current garage. We looked at building onto that, but it was really unpleasant. It was not the attractive; it would just be a like log.

Mr. Tomsic- I think we're good. I'm okay with that. Okay.

Mr. Koller- I think you're at about three thousand square foot and you're under that even with that third building.

Ms. Jensen- That would run to the density requirement and really keeping the look of the eighteen ninety farmhouse cluster buildings. We want room there for all the sheds and everything else on farm as best as we can.

Mr. Tomsic- I'll let you word this motion.

Mr. Hehr made a motion to add an additional accessory building to the property within the written description that they provided.

Mr. Koller 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. Hehr- yes

Mr. Koller- yes

Mr. Fenstermaker – yes

Mr. Fabig- no

Mr. Tomsic- yes

Motion Passed

All were in favor, and the Motion for the area variance 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.

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- No, it is our opinion that we cannot have a beneficial and safe use of our property for the desired purposes without the requested variance

BZA Review:

B. Whether the variance is substantial?

Applicant- No, The variance is not substantial

BZA Review: agree in that it is agricultural anyway

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, the proposed workshop is designed to enhance, not detract from the rural farm character of this property. It will be white with black trim, matching the color scheme of our farmhouse and existing buildings with the same general roofline as the existing detached garage. This structure will further the landscaping and restoration work we have preformed over the last decade, maintaining the "farm cluster" look appropriate for a century property (page 2 Section III) . Neighboring houses are not able to see the proposed building location.

BZA Review: agree

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

Applicant- There will be no impact on governmental services (page 3 section IV)

BZA Review: agree

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

Applicant- No, we were not aware that there was a restriction on the number of accessory buildings

BZA Review:

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

Applicant- We have considered other alternatives that are not feasible (page 2 section II)

BZA Review:

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

Applicant- We believe that granting an area variance for this workshop would be in keeping with the spirit and intent behind zoning requirements by allowing us to fully use our property while enhancing the rural farm nature of the property and the township. Granting this variance would result in substantial justice. (page 3 section IV)

BZA Review: It's a nice property

BZA members signed minutes from the previous meeting date

Meeting was adjourned by Mr. Tomsic at 8:30pm

Lewis Tomsic, Jr., Chairman



Mike Fenstermaker

Scott Koller

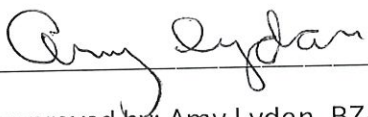


Albert Hehr



Dave Fabig

Jay Jones (alternate)



As approved by: Amy Lydan, BZA Secretary