**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** 11/04/2025

**Zoning Hearing regarding: CASE NO.** AV 10-10-2025-1

**Zoning Certificate Application No.** 10-10-2025-1

**Property Address:** 14485 Woodlawn Rd Newbury, Ohio 44065

**Board of Zoning Appeals Members present:**

Mike Fenstermaker

Lewis Tomsic Jr., Chairman

Chris Yaecker

Edward Meyers

Mary Lee Brezina

Scott Kollar (alt)

**Board of Zoning Appeals Members absent:**

Albert Hehr (alt)

**Staff / other officials**

Interim Zoning Inspector Mike Joyce

Zoning Secretary Amy Lydan

**Applicant/Guests Present:**

Heather Kondrewych

Skylar Wadowick

David Richards

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**, Chairman stated that we are here to hear an appeal filed I by David Richards who resides at 14485 Woodlawn Dr Newbury, Oh 44065 in Newbury Township, and concerns this property : 14485 Woodlawn Dr Newbury, Oh 44065

**Mr. Tomsic** stated

*“Good evening. This is a meeting of the Newbury Township Board of Zoning Appeals. 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.*

*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.*

*.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:

Heather Kondrewych

Skylar Wadowick

David Richards

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

**Mr. Tomsic** asked if all of the interested parties were notified and verified with the Board Secretary who 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** stated the meeting was called to consider a hearing for 14485 Woodlawn Drive for a building setback and the size of the building lot. The applicant is Mr. Richards.

**Mr. Richards** stated, I want to build a garage at the end of my driveway. The driveway is off of Woodlawn.

**Mr. Richards** showed the board on the projected Realink screen as he described his project.

**Mr. Richards** stated we want to extend the driveway a little bit to match the garage with the front of the house, it will extend into this lot. Apparently the problem is, I own nearly an acre and its surveyed to be .12 acre lots, very small, and putting it here is to close to the line. It will be a 24 x 24 pole barn , but it wont be a barn, it's a garage and will be garage shape and up against my house. I'm just using a pole structure. My wife has an electric car so I want to put electric in there. Its time to put a garage up. It will add to the value of the property, it wont be intrusive, it will be pretty much in my backyard. My lot goes all the way over to here. My lot extends over to Oak. I just want to put a garage here at the end of my driveway.

**Mr. Tomsic** asked if there will be water, heat and plumbing in the structure

**Mr. Richards** responded, no, just electric to operate the garage door and an outlet to charge the electric car.

**Mr. Yaecker** asked, so you have 12 lots, do you plan to keep all those lots together, do you have to have a minimum of 5 lots in Kiwanis Lake to build?

**Mr. Joyce** outlined the necessary setbacks and that if the applicant were to consolidate all 12 of the lots it would create another problem as he has an accessory building on another lot. If they just combined 4 or 5 by an affidavit to make enough acres that way it would be enough.

**Mr. Meyers** asked if the lots can be consolidated for in order to result in a buildable lot

**Mr. Joyce** responded that the problem with consolidating the lots is that the deed for the new consolidated property, its going to end up costing, in this case close to 18 to 20 thousand dollars to consolidate those lots.

**Mr. Tomsic** stated that's why we have used the affidavit in the past but its not really enforceable.

**Mr. Joyce** stated that its not as binding as we would like it to be. However, it has been a solution that many townships have used in the past. The prosecutor isn't thrilled about it. I have talked to our zoning commission about making a change to the book.

**Mr. Richards** stated that we have no plans to sell off any of the land. My neighbors well is on my property, its an easement that they brought from the previous owner for a dollar. No worries there, he is a good guy and he is not going anywhere either.

**Mr. Tomsic** asked where is your well and septic located

**Mr. Richards** showed board on the map where they are located and stated, our septic comes off the house in this area, probably 40-50 feet this way and spills into the leech bed here. The well is over here.

**Mr. Joyce** confirmed with the applicant on a paper map.

**Mr. Richards** stated that were thinking of moving just a little closer because of a giant hickory tree that spills nuts so we may move just a little closer to Woodlawn than we originally planned. I may even just split the lot.

**Mr. Joyce** said it could be on both lots if the board grants the variance and that splitting the lot would cause issues with the subdivision.

**Mr. Richards** stated, this is the edge of the house, we will have the front of the garage right there, the same alignment as the house the east wall of the house, the west facing door of the garage.

**Mr. Yaecker** asked , he abuts 3 streets and his address is on Woodlawn, what are his front rear and side lot setbacks

**Mr. Joyce** responded that he is on a corner lot so he has two front setbacks. It's a 40 foot setback as opposed to 16 foot sideyards

**Mr. Richards** showed the board all of his lots on the screen

**Mr. Meyers** asked why cant he consolidate lost and avoid needing a variance

**Mr. Tomsic** stated that this would take him out of the subdivision.

**Mr. Richards** stated that the building is as central as it can be given the size and shape of the lot.

**Mr. Richards** stated there was a cement pad where he put a shed on the far end of the property.

**Mr. Joyce** stated that the property lines can be off a bit which is why we sometimes require a survey

**Mr. Yaecker** stated that it could be argued that it's a practical difficulty to have to consolidate because of the cost and it being in a subdivision

**Mr. Meyers** stated that we should not be making his case for him and I hear Mike telling him how much it will cost. I don't think we should be his advocate. Im not convinced that he

cant do this by consolidation. Its going to cost him some money but is that the measure of a practical difficulty.

**Mr. Joyce** shared an example of a court case where the court said that money is not considered because it would not be justice.

**Mr. Richards** stated that if the cost of doing this equaled or exceeded the cost of building the barn it just wouldn't happen. Its in the middle of my lot where a garage should be. I wish it could be attached but its not going to be. We are also going to add a metal roof.

**Mr. Tomsic** asked, why cant you attach it

**Mr. Richards** stated that it involves more, it would have to be closer and would shorten the driveway. It would be there rather than here

**Mr. Joyce** stated that he would still need a variance for this for setback problems because the resolution is lot specific and he would be crossing lines. The best thing would be to merge the lots.

**Ms. Brezina** stated that she could agree it would be difficult not to have a garage with an electric car.

**Mr. Richards** stated that it will be a garage 24 x 24 and not a bole barn. It will look like a garage and be the same height as the house.

**Mr. Yaecker** stated that since I have been on the board we have done a couple like these with the affidavit because the lots are so tiny. We obviously need a better fix. We would probably shut down any development there if we required that they go back and consolidate lots. The process is difficult and expensive

**Mr. Joyce** explained that the subdivisions predate zoning so are legal non conforming but to expand they must still come here if they do not meet the zoning resolution requirements

**Mr. Richards** stated that if it could be done relatively inexpensively he would but it is very challenging. He mentioned a friend who is a surveyor who stated that the area is very almost impossible to survey

**Mr. Yaecker** mentioned an older definition which used to state that you can cross lot lines as long as the same person owned it, but that was changed

**Mr. Joyce** explained why changing the zoning resolution could help with this issue. The affidavits help to create a promise but may be non-binding.

**Mr. Yaecker** asked, if we do the affidavit then we must list each parcel

**Mr. Joyce** responded yes, each parcel that is involved

**Mr. Skylar Wadowick**, a neighbor stated that as long as the building is near the primary structure then we have no objections. We have had some issues with water drainage from neighbors. We are surrounded by six buildings and did not want a seventh. We do not want a building across from the driveway. As long as the new building is being built up there then it would not be an issue and we have no objection.

**Mr. Richards** confirmed that the location is at the end of his driveway

**Mr. Yaecker** asked if it is using the same driveway then.

**Mr. Richards** stated that this was correct and that they had considered other options but are using the existing one

**Mr. Fenstermaker** asked if someone could explain the affidavit more

**Mr. Tomsic** went over how they had used it in the past to have applicants agree to sell certain parcels together but that now the prosecutor says this cannot be enforced, so the affidavits are not doing any good.

**Mr. Yaecker** stated that the prosecutor likes things more clear

**Mr. Joyce** confirmed that the affidavits are no longer enforceable as per Newbury's prosecuting attorney

**Mr. Tomsic** stated that even without the affidavit, the location of the well and septic in relation to the house would make it difficult to sell lots individually anyway. So, what is the purpose, are we ok with that size of a building considering property lines and lot size. Yes or No

**Mr. Richards** stated that it is one of the larger lots in the subdivision.

**Mr. Joyce** stated that according to the Zoning Resolution a lot must have 16 thousand square feet in size and has to have these setbacks for Kiwanis Lake

**Mr. Tomsic** asked how big is your lot

**Mr. Richards** replied its just under an acre and consists of twelve lots

**Mr. Yaecker** asked how big is the building again

**Mr. Richards** replied 24x24

**Mr. Tomsic** stated that it cant really be split up or sold separately.

**Mr. Yaecker** asked are you suggesting there is no need for an affidavit

**Mr. Meyers** asked, how do we know its not enforceable

**Mr. Tomsic** replied that the prosecutor will not defend it

**Mr. Tomsic** stated that we need to make a motion to find out do we want to grant for a building that is too big for the parcels and is to close to the lot lines . That's what we are here to decide

**Mr. Meyers** asked what are the percentages of each

**Mr. Yaecker** stated that he already has a house and an outbuilding

**Mr. Joyce** stated that residents can have two sheds under 100 sq ft without a zoning certificate and the lots are 0.07

**Mr. Tomsic** stated that it basically involves 5 of his lots with a 500% variance . If you look at them all as one big lot its not in the equation. As far as the setbacks, its in the packets

The Board examined the site plan in the packets

**Mr. Tomsic made a motion to:**

Motion to accept this presentation as presented to build a garage where he wants to build it. A 24x24 garage with the front of the garage being equal with the east side of the house. That would establish the setback off Woodlawn. As proposed according to exhibit A

**second by Mr. Fenstermaker**

**Mr. Yaecker** asked the applicant, are you certain that this is what you are going to build, as presented. Were you saying earlier that you might change something

**Mr. Richards** stated that yes , it will be parallel with the east side of the house. I said I could move it if we had to. Whatever you say. It will be 20 feet from the north wall.

**Mr. Yaecker** confirmed, so as presented and no closer to any road.

**Mr. Richards** confirmed that yes, as presented it is as far as it can be from any road. We will extend the existing driveway about 20-25 feet to get to that point.

**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. Fenstermaker – Yes**

**Mr. Tomsic- Yes**

**Mr. Yaecker -Yes**

**Mr. Meyers- No**

**Mrs. Brezina-Yes**

**Mr. Kollar(Alt) – not voting**

**Motion Passed**

**The Motion for the area variance was approved.**

**Mr. Tomsic** explained to the applicant that the variance has been granted, you can get your zoning permit once Mike has the paperwork and we sign the minutes. Once we sign the minutes it starts the clock for 30 days. During that time, anyone can challenge it.

**Mr. Tomsic and the BZA went over the Findings of Fact for this hearing, to review the issues related to the facts regarding 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: Only other use would be green space

BZA Review: Agreed

- B. Whether the variance is substantial?

Applicant: it is not

BZA Review: 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: would not

BZA Review: Agree

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

Applicant: no

BZA Review: no

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

Applicant: no

BZA Review: no

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

Applicant: no practical solution available

BZA Review: Mr. Meyers disagrees- other members agree

- 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: Mr. Meyers disagrees- other members agree

Meeting adjourned by Mr. Tomsic at 8:15 pm

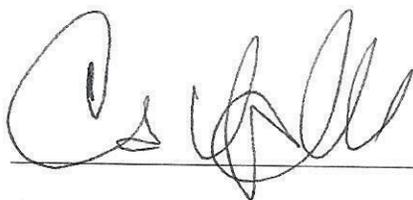
The next meeting will be on Nov 18, 2025



Lewis Tomsic, Jr., Chairman

---

Mike Fenstermaker



Chris Yaecker

---

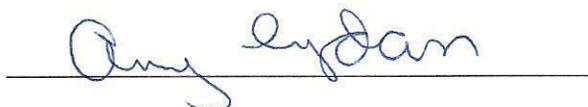
Scott Koller

---

Mary Lee Brezina



Ed Meyers



As approved by: Amy Lydan, BZA Secretary