

Amherst Zoning Board of Appeals
206 South Main Street
Amherst, Ohio 44001

January 27, 2021

7:00pm

Present:

John Jeffreys
Bob Valenti
Al Berezney
Terry Tomaszewski
Don Anderson

Excused:

Other City Officials:
Atty. Ward
David Macartney
Tammy Paterson

Mr. Tomaszewski opened the meeting at 7:17pm.

1. Nomination of Chairman: Mr. Jeffreys nominated Mr. Tomaszewski as Chairman for the 2021 year, seconded by Mr. Berezney. Approved 5-0

2. Nomination of Vice-Chairman: Mr. Jeffreys nominated Mr. Berezney as Vice-Chairman for the 2021 year, seconded by Mr. Anderson. Approved 5-0.

Mr. Tomaszewski swears in everyone that will be speaking at this meeting.

3. Mr. Derick Espenschied residing at 48190 North Ridge Road requesting to build a 22x24 sq. ft. accessory structure. Mr. Espenschied variance request will be for 360 sq. ft. Mr. Macartney stated Mr. Espenschied was before you last month with the same request but the Building Department was asked to research the existing building and if there was a variance granted. Mr. Macartney stated they reviewed old variance minutes and found a variance in 1991 that was granted on file. Mr. Macartney stated due to the length of time it has been in place this building is now a non-issue. Mr. Espenschied stated all information on the requested accessory building from last month has not changed. Attorney Ward had no comments.

After deliberations, the Board made the following findings:

- The requested variance would not substantially alter the essential character of the neighborhood, and the adjoining properties would not suffer a substantial detriment as a result of the variance.
- The spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance.
- The variance request would not affect the delivery of governmental services.

Based on deliberations, the Board decided to reverse the decision of the Building Inspector and grant your 360 sq. ft. variance to build you 22x24 accessory structure. Approved 5-0

4. Andy Roberts residing at 829 S. Lake Street requesting to install a 20x30 accessory structure. Mr. Roberts stated his variance request would be for 24 sq. ft. Mr. Roberts stated he would like to build a garage in the back on his property. Mr. Roberts stated after reviewing his last submittal that he understands why it was denied and decided to go smaller with a new application. Mr. Roberts stated he has a boat and trailer he would like to store plus additional storage of yard tools. Mr. Macartney stated he currently has two accessory structures that would be removed if the variance is approved. Mr. Roberts stated he would transfer everything from the two buildings into the new one. Mr. Macartney had no comments. Attorney Ward stated he has nothing to add.

After deliberations, the Board made the following findings:

- The variance request is not substantial for this property. While this determination alone is not sufficient to justify the variance, it is important, especially in the context of other factors.
- The requested variance would not substantially alter the essential character of the neighborhood, and the adjoining properties would not suffer a substantial detriment as a result of the variance.
- The spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance.
- The variance request would not affect the delivery of governmental services.
- The two current accessory buildings will be taken down.

Based on deliberations the Board decided to reverse the decision of the Building Inspector and approve your variance of 24 sq. ft. to build a 20x30 accessory structure. Approved 5-0

5. Mr. Jim Yorks, representing the ownership of Hot Dog Heaven located at 493 Cleveland Avenue, is requesting consideration of the following:

1. Twenty-seven foot variance request on the rear yard setback with a 6-foot-high privacy fence in lieu of evergreen buffer of thirty foot.
2. Seven-foot width variance for Axtel Street egress and a two-foot width variance for Washington Street egress. ACO 1137.05(c) states access drives must be a minimum width of 26 feet.
3. Twenty-five foot variance to allow decorative fence installed at the corner of Washington Street and Cleveland Avenue. ACO 1151.04(a)(b) states no fences in front yard setback.

Mr. Yorks stated they would need the 27-foot variance buffer for the redevelopment of Hot Dog Heaven, or this will hold up the project until they can reconfigure the project. Mr. Yorks stated there is an existing 6- foot privacy fence and they would like to use that as

before. Mr. Yorks stated they approached both neighbors who has signed documentation in the packet that they have no issues with the privacy fence.

Mr. Yorks stated they are requesting the 7-foot variance to the width onto Axtel Street. Mr. Yorks stated this is egress only. Mr. Yorks stated after speaking with the Fire Department they have agreed to keep the apron on Washington Street 26 feet and there is no need for a variance.

Mr. Yorks stated they are asking for a fence on the corner of Washington and Cleveland. Mr. Yorks stated the fence would only be 42 inches high and would be a black wrought iron fence. Mr. Yorks stated they are trying to prohibit foot traffic from cutting through the property for safety purposes. Mr. Yorks also stated the fence would provide additional protection of the fire department connection.

Mr. Macartney had no comments. Attorney Ward had no comments.

After deliberation, the Board made the following findings for the rear yard setback buffer:

- Notifications from abutting property owners favor the current buffer and installation of a privacy fence, rather than evergreens.
- The requested variance would not substantially alter the essential character of the neighborhood, and the adjoining properties would not suffer a substantial detriment as a result of the variance.
- The spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance.
- The variance request would not affect the delivery of governmental services.
- Granting of the variance is contingent upon rezoning approval by City Council.
- The requested buffer was put in place before the recent fire on-site.

After deliberations, the Board made the following findings for the 7-foot access variance for egress onto Axtel Street:

- The request is not substantial given that the access drive on Axtel Street would be egress only.
- The variance request would not affect the delivery of governmental services.
- The spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance.
- The requested variance would not substantially alter the essential character of the neighborhood, and the adjoining properties would not suffer a substantial detriment as a result of the variance.
- Granting of the variance is contingent on rezoning approval from City Council.

During deliberations and based on the applicants pending changes to the Washington Street egress to meet the 26-foot minimum listed in the code, the Board, after consultation with the Assistant Law Director, took no action on the Washington Street access agenda item.

Based on deliberations, the Board made the following findings for the front yard setback fence:

- The fence is proposed not to exceed 42 inches in height.
- The fence is proposed not to exceed 30 feet in length per plans.
- The fence will provide some protection to diners.
- The fence will be a wrought iron fence.
- The fence will not substantially alter the essential character of the neighborhood, and the adjoining properties would not suffer a substantial detriment as a result of the variance.
- Granting of the variance is contingent upon the fence not exceeding 42 inches in height, not exceeding 30 feet in length from the corner of Washington Street and Cleveland Avenue to the north and east, and the rezoning of the parcel's approval by City Council.

Based on deliberations, the Board decided to reverse the decision of the Building Inspector and grant the following above variance request. Approved 5-0

6. Mr. Jeffreys motions to move into deliberative session, seconded by Mr. Anderson. Approved 5-0

7. Mr. Jeffreys motions to reconvene into regular session, seconded by Mr. Anderson. Approved 5-0

8. Approval of minutes from December 30, 2020: Mr. Anderson motions to approve the minutes, seconded by Mr. Valenti. Approved 5-0

9. Next scheduled meeting will be February 24, 2021 at 6:30pm. Approved 5-0

10. Adjourn: Motion made to adjourn at 8:26pm by Mr. Jeffreys, seconded by Mr. Anderson. Approved 5-0

Terry Tomaszewski 2/10/2021
Terry Tomaszewski, Chairman Date

Tammy Paterson 2/10/2021
Tammy Paterson, Secretary Date