

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

April 28, 2021

6:30 pm

Present:

John Jeffreys

Bob Valenti

Al Bereznay

Terry Tomaszewski

Don Anderson

Excused:

Other City Officials:

Atty. Ward

David Macartney

Tammy Paterson

Mayor Costilow

Mr. Tomaszewski opened the meeting at 6:38 pm.

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

1. Mr. Guy Reph, who is in the process of purchasing 250 Crosse Road, is requesting three variances as follows: 1) 954 Sq. Ft. variance for a new accessory building; 2) 8-foot height to roof of peak; 3) 132 sq. ft. variance for an existing accessory structure. Mr. Reph stated they are requesting a 30x51 barn on the back corner of their property. Mr. Reph stated they have a bus motor home they would like to store indoors and would need the square footage and the height to park the motor home. Mr. Tomaszewski asked Mr. Macartney to explain the third variance request. Mr. Macartney stated the City Ordinances only allows for three accessory buildings on the property. Mr. Macartney stated by asking for this this variance it brings all buildings in compliance so in the future if something happens to the buildings, they have the ability to rebuild without additional variances. Mr. Bereznay asked Mr. Macartney if the city has any issues with vehicles accessing the building. Mr. Macartney stated no issues if they are only driving from the building to the street minimally but if they are using it often, they would need to install a dustless surface since gravel is not permitted. Mr. Reph stated he would be paving the back to the building. Mr. Tomaszewski asked if the property is owned by the applicant. Mr. Reph provided written authorization from the current property owner to seek the variance on the property prior to the transfer of the property scheduled to occur on May 3rd.

After deliberations, the Board made the following findings:

- The requested variances are not substantial for this property. While this determination alone is not sufficient to justify the variances, it is important, especially in the context of other factors.
- The requested variances 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 variances.
- The spirit and intent behind the zoning requirements would be observed and substantial justice would be done by granting the variances.
- The requested variances would not affect the delivery of governmental service.

It is the decision of the Board to reverse the decision of the Building Inspector and grant your requests for variances to build a 1,530 sq. ft. accessory structure with a height to the peak of the gable not to exceed 24 ft. See ACO § 1145.05(b)(1) and ACO § 1145.05(c). It is also the decision of the Board to reverse the Building Inspector's decision and grant your request for a variance relating to the existing 20 x 15 ft. accessory structure, 132 sq. ft. larger than allowed by ACO § 1145.05(b)(2). Approved 5-0

2. Thomas & Mary Duffin residing at 838 Elyria Avenue is requesting to install a 12x18 accessory building on the separate parcel adjacent to the property owners main parcel at 838 Elyria Avenue. Mrs. Duffin stated their existing garage is going to be demolished and they would like to keep their property looking nice and not have items laying outside so they would like to build this accessory building on the other side of their house on the adjacent parcel. Mr. Tomaszewski asked for an explanation on the two parcels. Mr. Macartney stated the house currently sits on one parcel and the accessory building would sit on a different parcel from the home. Mr. Macartney stated there was a variance request for the fence that was granted, and this fence enclosed both parcels and was previously approved for the style and/or height but not for crossing property lines. Mr. Macartney stated he was unsure if there was a lot combination with fence. Mr. Jeffreys asked to confirm the fence is currently up and joins both properties. Mr. Macartney stated yes. Mr. Tomaszewski asked Mrs. Duffin if they plan on maintaining both driveways. Mrs. Duffin stated yes, they have lived there for 16 years. Mr. Macartney stated the gravel driveways can stay as long as they are being maintained, no new gravel driveways are permitted.

After deliberations, the Board made the following findings:

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

- The property owners' predicament can feasibly be obviated through some method other than a variance.

It is the decision of the Board to uphold the decision of the Building Inspector and deny your variance request to place an accessory building on the vacant parcel adjacent to your main property at 838 Elyria Avenue per Amherst Codified Ordinance § 1145.06. Denied 5-0

5. Mr. Jason Krase representing his father Mr. James Krase who resides at 47565 Middle Ridge Road is requesting to install a fence within the front setback line. Mr. Krase stated his mom is unwell and sometimes she wanders and goes investigating and they would like to establish boundaries. Mr. Krase stated his mom is non-verbal. Mr. Krase stated they wanted to mark their property since they have a little over 10 acres. Mr. Krase says the property abuts up to the neighbors back yards and those neighbors are using their property for their own private use. Mr. Krase stated the fence they are requesting does not obstruct any views. Mr. Krase stated their house sits a couple acres off the road. Mr. Krase stated they are not trying to upset the neighbors. Mr. Tomaszewski asked Mr. Macartney about Chapter 1151.04(a). Mr. Macartney read the chapter and explained why the variance was needed. Mr. Macartney stated how the house is oriented a lot of the property would be front yard. Mr. Macartney stated the house faces the West, but the address is on Middle Ridge. Mr. Swindell stated they worked around their property to be able to see the birds. Mr. Swindell stated the fence color is a yellow tone and is harsh against the beautiful, wooded area. Mr. Swindell stated he and his wife has been unable to enjoy their house. Mr. Swindell stated there were no other options considered. Mr. Swindell stated Mr. Krase should look at installing fencing closer around his house that would be the best solution if Mrs. Krase starts wandering around their property to keep her safer. Mr. Swindell stated the Mr. Krase has not addressed the legal standards considered in granting a variance. Mr. Tomaszewski asked if the size or make of the fence is an issue. Mr. Macartney stated no, but they must comply with the regulations in the fencing ordinance unless additional variances were requested. Mr. Joe Warner, residing at 47563 Middle Ridge, stated the neighbors do use the back of the property, but all Mr. Krase had to do was to ask them to stop. Mr. Warner stated he felt the fence will detract from property values and asked if the fence was the only alternative. Mr. Warner stated the neighbors love the beauty of the area and want to preserve it. Mr. Warner asked if the fence was approved what prevents them from installing the fence all the way to Middle Ridge. Mr. Krase stated they sold the property to RJ Perritt and at no time did they promise to add trees.

After deliberation, the, the Board made the following findings:

- The requested variance is not substantial for this unique piece of 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 requested variance would not affect the delivery of governmental services.
- The fence would be installed a significant distance away from the building line setback of the house.
- The fence would not be visible from the street.
- The property has been owned by the same family for over thirty years, and Amherst Codified Ordinance 1151.04(a) was not passed until December 9, 2002.

It is the decision of the Board to reverse the decision of the Building Inspector and grant your request for a variance to install 381 linear feet of fence along the western property line in front of the building line setback. See Amherst Codified Ordinance 1151.04(a). Approved 5-0

Based on deliberations the Board decided to reverse the decision of the Building Inspector and approve 381 Linear feet of fence to be installed on the West side property line.
Approved 5-0

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

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

8. Approval of minutes from March 31, 2021: Mr. Anderson motions to approve the minutes, seconded by Mr. Jeffreys. Approved 5-0

9. Next scheduled meeting will be May 26, 2021 at 6:30pm. Approved 5-0

10. Adjourn: Motion made to adjourn at 8:24pm by Mr. Valenti, seconded by Mr. Jeffreys.
Approved 5-0

Terry Tomaszewski 5/5/2021
Terry Tomaszewski, Chairman Date

Tammy Paterson 5/5/2021
Tammy Paterson, Secretary Date