

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

June 30, 2021

6:30 pm

Present:

John Jeffreys

Bob Valenti

Al Berezney

Terry Tomaszewski

Don Anderson

Excused:

Other City Officials:

Atty. Ward

David Macartney

Tammy Paterson

Mayor Costilow

Mr. Tomaszewski opened the meeting at 6:49 pm.

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

1. Mr. Pete Klutch representing Citizen Real Estate LLC. Mr. Klutch is requesting a Use variance at 315 N. Leavitt Road to open a Medical Marijuana Dispensary per ACO 1137.01.

Attorney Ward stated he performed his own analyst and reviewed the State and Local laws regarding a Medical Marijuana Dispensary. Attorney Ward stated in reviewing ACO 1137.01 he concluded a Medical Marijuana Dispensary is already a permitted use. Attorney Ward stated items 5 and 6 on the agenda would not need a variance. Attorney Ward recommends the applicant withdraw each application.

Mr. Peter Nischt is withdrawing both variance applications for 315 N. Leavitt and 1116 Cooper Foster Park Road.

2. MS. Diane Calta spoke about the property and how the property was situated on the parcel. Ms. Calta spoke about the signage and how important the signs would be for the area. Mr. Ryan Balko representing Sheetz, Inc. Mr. Balko is requesting three (3) sign variances. The first variance is to install three (3) additional signs. Per ACO 1149.05(b) only two (2) signs permitted. The second variance request is to install a sign additionally 62 sq. ft. larger than allowed for their Pylon sign. Per ACO 1149.04 70 sq. ft. sign area is permitted. The third variance is an additional 1'-2 2/4 in in height for the "MTO" sign. ACO 1149.04 states sign components not to exceed 36". Mr. Balko spoke on sign placements on the store. Mr. Balko stated they would have

two signs over the door for customers to indicate this was the public access. Mr. Balko stated the building acts like it is on a corner lot. Mr. Balko stated the "MTO" sign is "made to order" sign. Mr. Balko stated the fifth sign is the pylon sign. Mr. Balko stated this is a big store and the request is the only signage on the building. Mr. Balko stated his second variance request is for the Pylon sign. Mr. Balko stated typically Pylon signs are not counted for both sides, but City of Amherst does. Mr. Balko stated without the variance they are at a disadvantage not being able to use both sides to reach all vehicle traffic. Mr. Balko stated their third variance request is for their "MTO" sign. Mr. Balko stated are requesting this variance so it would be able to be seen from the roadway. Mr. Balko stated he did not feel this would be significant in that area. Mr. Macartney had nothing to add. Attorney Ward asked how the sign measurements were calculated. Mr. Macartney went over the sign ordinance.

After deliberations, the Board made the following findings:

- The requested variance 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, especially given the size of the subject property.
- The proposed signage would be consistent with signage on other commercial properties in the area.
- The requested variance would not adversely 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 additional signage is essential for properly directing the public regarding means of ingress and egress.

It is the decision of the Board to reverse the decision of the Building Inspector and grant your request for a variance to install five total signs, three more than allowed under ACO § 1149.05(b), contingent on Sheetz, Inc. receiving all necessary Planning Commission approvals and implementing all comments and recommendations from Bramhall Engineering & Surveying Company and any applicable traffic study

After deliberations, the Board made the following findings:

- Double-sided signage is essential to the nature of the business of Sheetz, Inc.
- There is adjacent commercial property with signage similar to the signage being proposed by the applicant.
- 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 requested variance is consistent with other commercial properties in the area.
- The spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance.

It is the decision of the Board to reverse the decision of the Building Inspector and grant your request for a variance to install signage totaling 132 sq. ft. in surface area, 62 sq. ft. more than allowed under ACO § 1149.04, contingent on Sheetz, Inc. receiving all necessary Planning Commission approvals and implementing all comments and recommendations from Bramhall Engineering & Surveying Company and any applicable traffic study.

After deliberations, the Board made the following findings:

- There is adjacent commercial property with signage similar to the signage being proposed by the applicant.
- The requested variance 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 requested variance is consistent with other commercial properties in the area.
- The spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance.

It is the decision of the Board to reverse the decision of the Building Inspector and grant your request for a variance to install a sign 50.75 inches in height, 14.75 inches more than allowed under ACO § 1149.04, contingent on Sheetz, Inc. receiving all necessary Planning Commission approvals and implementing all comments and recommendations from Bramhall Engineering & Surveying Company and any applicable traffic study.

3. Mr. Ryan Brady from Brady Signs. Mr. Brady is representing Amherst Akron Children's Hospital located at 47185 Cooper Foster Park Road. Mr. Brady is requesting for 1'-10" variance for the Logo size proposed North and South elevations. ACO 1149.04 states sign components of wall sign shall not exceed 36". Mr. Brady was not in attendance for questions. Mr. Macartney went over the sign application.

After deliberations, the Board made the following findings:

- The requested variance is not substantial for this property given the size of the space, the need for the Akron Children's Hospital Logo to be proportional to the lettering

within the logo, and the need for the public to be able to read such lettering. 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 requested variance is consistent with other commercial properties in the area.
- The spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance.

It is the decision of the Board to reverse the decision of the Building Inspector and grant your request for a variance to install a wall sign with lettering and/or components 58 inches in height, 22 inches larger than allowed under ACO § 1149.04. Approved 5-0

4. Mr. Dan George residing at 101 Pearl. Mr. George is requesting to install an accessory building large than allowed by code of 120 sq. ft. Mr. George stated he had already ordered and paid for the new shed without knowing the size restrictions. Mr. George stated he has an existing garage which puts the new shed in violation. Mr. George stated his son has a medical condition and he has installed a gym in the existing garage. Mr. George stated he needs the new

After deliberation, the Board made the following findings:

- The requested variance is substantial for this property. While this determination alone is not sufficient to deny the variance, it is important, especially in the context of other factors.
- The variance requested 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 property owner's predicament can feasibly be obviated through some method other than a variance.
- The spirit and intent behind the zoning requirement would not be observed and substantial justice would not be done by granting the variance.

It is the decision of the Board to uphold the decision of the Building Inspector and deny your request for a variance to install a second accessory building of 288 sq. ft. on the property at 101 Pearl Street. *See* ACO § 1145.05(b)(2).

5. Greg Christina residing at 601 Greenlawn. Mr. Christian is requesting a variance of approximately 11 feet to build an attached garage to the building line. Mr. Christian stated he would like to build a single car garage that goes to the property line. Mr. Christian stated he has spoken to the neighbor, and they had no objections to his project. Mr. Macartney had nothing to add except that there would be no side yard

setback. Mr. Berezney asked if the property has been surveyed. Mr. Christian stated they would need to have a survey done. Attorney Ward had nothing to add. Mr. Jeffryes asked if the neighbors due west had any comments. Mr. Christian stated he had been in contact with them, and they had no issues.

After deliberations, the Board made the following findings:

- The requested variance is substantial for this property. The proposed additional attached garage would be located on the applicant's property line. While this determination alone is not sufficient to deny the variance, it is important, especially in the context of other factors.
- The variance requested would substantially alter the essential character of the neighborhood, and the adjoining properties would suffer a substantial detriment as a result of the variance.
- There can be a beneficial use of the property without the variance.
- The property owner purchased the property with knowledge of ACO § 1129.03(b).
- The owner's predicament feasibly can be obviated through some method other than a variance.
- The spirit and intent behind the zoning requirement would not be observed and substantial justice would not be done by granting the variance.

It is the decision of the Board to uphold the decision of the Building Inspector and deny your request for a variance allowing a side yard setback of zero feet, eight feet less than required by ACO § 1129.03(b).

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

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

8. Approval of minutes from May 26, 2021: Mr. Jeffreys motions to approve the minutes, seconded by Mr. Valenti. Approved 5-0

9. Next scheduled meeting will be July 28, 2021, 2021 at 6:30pm. Approved 5-0

10. Adjourn: Motion made to adjourn at xxxxpm by Mr. Anderson, seconded by Mr. Berezney. Approved 5-0

*Tomaszewski* 7/19/21

Tomaszewski, Chairman      Date

*Tammy K. Paterson* 7/19/21

Tammy Paterson, Secretary      Date