

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

February.23, 2022

6:30 pm

Present:

John Jeffreys

Al Berezney

Terry Tomaszewski

Don Anderson

Excused:

Bob Valenti

Other City Officials:

Atty Patrick Ward

David Macartney

Tammy Paterson

Mr. Tomaszewski opened the meeting at 6:30 pm.

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

1. Nomination of Chairman for the 2022 year: Mr. Berezney nominates Mr. Tomaszewski, seconded by Mr. Anderson. Approved 4-0
2. Nomination for Vice-Chairman for 2022: Mr. Berezney nominated Mr. Jeffrey, seconded by Mr. Tomaszewski. Approved 4-0
3. Mr. Eric Alten residing at 48200 North Ridge Road. Mr. Alten is appealing the decision of the Building Official's notice that prohibits him to house more than four (4) fowl on his property. Mr. Alten stated he moved to Amherst in 2016 and he and his family got chickens to improve their diet and health. Mr. Alten stated he has a farming background. Mr. Alten stated he has two adjoining properties and thought he was permitted to have more than 4 fowl. Mr. Alten stated both parcels combined equal 1.38 acres. Mr. Alten stated he did speak with the abutting neighbors prior to getting the chickens and no one has an issue. Mr. Alten stated he dropped off surveys to his neighbors that was sent to the Building Department. Mr. Alten stated he does have more than 4 members of the fowl presently on the property but will not speak of the number of fowl he owns. Mr. Alten spoke about the City Ordinance and how it came up with the quantity of fowl you are allowed to have and how to maintain the premises and coop. Mr. Alten asked about the complaint filed against his property. Mr. Macartney stated there were no complaints but as he was doing an inspection at the neighboring property, he noticed you had more than the 4 allowed. Mr. Macartney stated

council decides on how many fowl you are allowed to have per the size of your property. Mr. Berezny asked what was on the adjacent property where the fowls are. Mr. Alten stated a barn, a garden and a coop. Mr. Tomaszewski stated the size of the lot is important. Attorney Ward stated the applicant was well prepared, courteous, and respectful.

The complete speech is attached to the minutes.

After deliberations, the Board made the following findings:

Section 505.13(a)(4) provides in relevant part as follows: "Unless a variance is granted for lots with an area of less than one (1) acre, at no time shall a resident own or possess more than four members of the fowl family." Previously, the Building Official denied your registration application for the possession of up to eight fowl on your premises. The property at issue is less than one acre, and thus Section 505.13(a)(4) prohibits you from possessing more than four fowl on such property without a variance. Here, your registration application indicated your intention to possess up to eight fowl on your property. The plain language of Section 505.13(a)(4) clearly prohibits the possession of more than four fowl on your property without a variance. Accordingly, the Building Official's denial of your registration application was correct.

It is the decision of the Board to uphold the Building Official's decision denying your registration application for the possession of up to eight fowl on your property. Please note the \$50.00 registration fee you previously submitted will be refunded by the City of Amherst Auditor. Please also note if you intend to possess up to four fowl on your property, you are required to submit a new registration application with the Building Department. Denied 4-0

4. Tracy & Daved Green residing at 1320 Meadowview Lane. Ms. Green stated her husband was unable to attend the meeting. Ms. Green stated they would like to expand their living room, but with the increase they would be building into the side yard setback. Ms. Green stated they are asking for approval for a 2'4" variance. Ms. Green stated the side of their house abuts up to city owned vacant property. Ms. Grene stated they would like to add a 10x18 addition to keep the gable roof line consistent. Ms. Green stated they had a property survey completed and they are 15'8" off the property line and with the new addition it would be 5'8" off the property line. Ms. Green stated they would not be building or interfering with the drainage easement, and the power lines runs down the property line. Mr. Macartney stated the abutting neighbors have the ability to sign off to allow a building closer to the property line but seeing this is owned by the City he felt this was the best way to handle this application.

After deliberations, the Board found 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 property abuts vacant city property.
- 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 would not adversely affect the delivery of governmental services.
- The spirit and intent behind the zoning requirements 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 Official and approve the requested variance allowing a side yard setback equal to 5'8", two feet, four inches less than the minimum side yard setback required under ACO § 1129.03(b). Approved 4-0

5. Mr. Ali Mohammad representing Ali's Sunoco located at 979 N. Leavitt Road. Mr. Mohammad stated he was requesting a variance to allow business's that are not part of his gas station to advertise on his sign. Mr. Mohammed stated this would generate some revenue for the gas station and help smaller businesses. Mr. Mohammad stated around his property is highly competitive and now a new Sheetz gas station is being built. Mr. Mohammad stated down the street, in Lorain, is a huge billboard for advertising. Mr. Mohammed stated there would be no changes in his sign.

After deliberations, the Board found the following findings:

- The requested variance is substantial for this property. While this determination alone is not sufficient to justify denying the variance, it is important, especially in the context of other factors.
- 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 requirements 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 Official and deny your request for a variance allowing off-site advertising signage at 979 North Leavitt Road. *See* ACO § 1149.08(k). Denied 4-0

6. Mr. Jeffrey Carek residing at 182 Pearl. Mr. Carek is requesting a 40 sq. ft. variance to build onto his existing 484 sq. ft. garage. Mr. Carek stated he was remodeling his garage and realized he needed to extend his existing garage 6 ft to be able to park his truck inside. Mr. Carek stated he has already poured the concrete and footer. Mr. Berezney asked if the 6 ft extension would be coming

out closer to the street. Mr. Carek stated yes. Mr. Carek stated the garage was previously connected to the house.

After deliberations, the Board found 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.
- The requested variance would not adversely affect the delivery of governmental services.
- The spirit and intent behind the zoning requirements 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 Official and approve your request for a variance allowing an addition onto an existing accessory structure, making such structure 616 sq. ft., forty square feet larger than permitted under ACO § 1145.05(b)(1). Approved 4-0

7. Mr. Ryan Balko representing Sheetz Inc. Mr. Macartney stated Mr. Balko does not live close and he has offered to speak regarding the variance request. Mr. Macartney stated the final building plans including the signs were previously approved but since then they have revised their canopy sign. Mr. Macartney stated Sheetz is asking for two variance requests. Mr. Macartney stated the first variance is for a 7 sq. ft. canopy signage redesign and the second variance request is for three (3) additional signs due to the canopy redesign. MR. Macartney stated the original sign was on the canopy and that was not considered a sign but with the redesign, the sign suspends from the canopy which is a separate sign. Mr. Macartney stated with the redesign the need the two variances. Mr. Tmomaszewski asked if the canopy sits over the gas pumps. Mr. Macartney stated yes and that is where the new signs will be suspended from.

After deliberations, the Board found the following findings:

- The two 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 two 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 two requested variances would not adversely affect the delivery of governmental services.
- The spirit and intent behind the zoning requirements would be observed and substantial justice would be done by granting the two variances.
- The proposed additional new signage would be consistent with the surrounding commercial properties.

It is the decision of the Board to reverse the decision of the Building Official and approve your requests for the following variances: (a) allowing canopy signage totaling 42 sq. ft. in surface area, seven square feet more than permitted by ACO § 1149.04; and (b) allowing the installation of eight signs, six more than permitted by ACO § 1149.05(b). Approved 4-0

8. Mr. Berezney motions to move into deliberative session, seconded by Mr. Anderson. Approved 4-0
9. Mr. Berezney motions to reconvene into regular session, seconded by Mr. Anderson. Approved 4-0
10. Approval of minutes from December 30, 2021: Mr. Anderson motions to approve the minutes, seconded by Mr. Berezney. Approved 4-0
11. Next scheduled meeting will be March 30, 2022, at 6:30pm. Approved 4-0
12. Adjourn: Motion made to adjourn at 7:59 pm by Mr. Berezney, seconded by Mr. Anderson. Approved 4-0

Terry Tomaszewski 3/7/2020
Terry Tomaszewski, Chairman Date

Tammy Paterson 3/7/2022
Tammy Paterson, Secretary Date