

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

May 25, 2022

6:30pm

Present:

John Jeffreys  
Don Anderson  
Bob Valenti  
Terry Tomaszewski

Excused:

Al Berezney

Other City Officials:

Atty. Patrick Ward  
David Macartney  
Tammy Paterson

Mr. Tomaszewski opened the meeting at 6:32pm.

Mr. Tomaszewski swears in everyone that will be speaking before the board.

Mr. Tomaszewski explained to the applicants the procedure and how they will be notified of the decision for their variance request.

1. Mr. Jason Mayer residing at 982 W. Martin Street. Mr. Mayer stated he currently has a 12x14 shed to store all his lawn equipment and the shed has a 7-foot overhang. Mr. Mayer stated he is requesting a variance to build a 280 sq. ft. pavilion in the middle of his back yard near his pool. Mr. Mayer stated this would not be enclosed but have three open sides. Mr. Mayer stated they would like to be able to sit in the pavilion around the pool and watch tv. Mr. Mayer stated one side will face the wooded area at the back of his property. Mr. Macartney went over the application in reference to the existing and new structure requirements from Chapter 1145.05(b)(2). Attorney Ward asked Mr. Mayer if he has any intention of building a third building. Mr. Mayer stated no. Mr. Macartney had no comments at this time. Attorney Ward had no comments at this time.

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.
- Part of the proposed new structure would face woods to the south of the 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 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 Official and grant your request for a variance to build a 280 sq. ft. accessory structure, 112 sq. ft. larger than allowed by ACO § 1145.05(b)(2).

2. Ms. Alicia Nicely residing at 452 Greenlawn. Ms. Nicely is requesting to install a fence 22 feet into the front projection of the building. Ms. Nicely stated she would like to install a black aluminum fence, five feet tall to her trees in the yard and then run it parallel to the back of her property. Ms. Nicely stated she would be taking down the existing wood fence. Ms. Nicely stated she looked at other options, but it would cut her property in half, and she would not be able to use it. Mr. Macartney confirmed the fence plan and where it would be placed. Mr. Macartney stated there is currently a row of trees at the end of the parcel which does not obstruct traffic. Mr. Macartney stated he does not feel the new fence would not be a safety issue. Attorney Ward had no comments.

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 impede traffic.
- 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 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 Official and grant your request for a variance to install fencing 22 ft. in front of the building line setback on the west side of your property in violation of ACO § 1151.04(a).

3. Mr. Jake Szaraz representing Ray Fogg Building Methods, LLC. Mr. Szaraz is requesting two variances. Mr. Szaraz stated the first variance request is to reduce the 300 lineal feet buffer to 50 lineal feet. Mr. Szaraz stated the second variance request is to add an additional 10 feet to the maximum height making the building fifty (50) feet. Mr. Szaraz stated the distance between the building and the property line would be about 150 feet, half the size of a football field. Mr. Grimmatt stated they are worried about the noise from the buildings. Mr. Szaraz stated they positioned the buildings so all truck traffic would be between the buildings instead of the back of the buildings. Mr. Szaraz stated most of the companies are looking for clearance for racking. Mr. Szaraz stated they need forty-five feet (45) or taller. Mr. Szaraz stated this will be a spec building for industrial use. Mr. Szaraz stated this might be used for storage or maybe offices. Ms. Jewell Dotson asked if this building be for Tyson Food. Mr. Szaraz stated it would not. Ms. Dotson asked if it was possible to install a fence. Mr. Szaraz stated there would be a 6-foot height brim with trees. Mr. Szaraz stated the lights are LED down lighting more for safety. Mr. Macartney went through the process if the variances were approved for the neighbors in attendance. Mr. Jeffreys asked if the property is currently C-2. Mr. Macartney stated yes. Mr. Jeffreys asked if they wanted to use the property as a C-2 what would the buffer need to be. Mr. Macartney stated 10 feet to the property line. Mr. Jeffreys asked if they would need to have a buffer. Mr. Macartney stated they would need a small buffer of trees that is required by code but no mounding. Neighbors asked if they could keep more trees between the properties. Mr. Szaraz stated yes but they would not install the mound with trees. Ms. Carol Brim stated she has a petition and was instructed to give to our law department Attorney Ward. Attorney Ward read the petition and entered it into the minutes. Mr. Tomaszewski reminded the audience that the board will only address the two variances that have been requested at the meeting. It was asked if their intention was to open Weaver Drive. Mr. Szaraz stated no, they only intent to use Sandstone Blvd.

After deliberations, the Board made the following findings:

On May 25, 2022, the Board of Zoning Appeals (the "Board") heard your request for two variances. First, you requested a variance to build a structure with a 50 ft. setback from the adjoining residential district, 250 ft. less than required under Amherst Codified Ordinance ("ACO") § 1141.02(a). Second, you requested a variance to build a structure with a maximum height above grade of 50 ft., 10 ft. higher than allowed under ACO § 1141.03(b). The development plan for the Amherst Commerce Park, Lorain County Auditor records, and your presentation indicate the proposed structures would require variances applicable to multiple parcels. However, the Application for Variance Approval identifies only one parcel, specifically No. 05-00-060-101-056, and thus the application is incomplete.

Given the insufficient information, the Board tabled your application for further consideration at the Board's next meeting on June 29, 2022 at 6:30 p.m. or such other time *after*

an amended and restated application, identifying all relevant parcel numbers, has been submitted.

4. Mr. James Yorks representing Kama Properties. Kama Properties is requesting four variances for 700 Mill Street. Mr. Yorks stated Kama Properties acquired this property through a partnership. Mr. Yorks stated this property has laid dormant for a long time and has 6 parcels. Mr. Yorks state this property was the old Amherst Lumber and has been around before the residential area was established. Mr. Yorks stated Mr. Kerchmar would like to renovate this area and place mini storage units on the property. Mr. Yorks stated without the variances Mr. Kerchmar is unable to use the property. Mr. Yorks stated currently there is a 300 lineal feet buffer required for this Industrial property. Mr. Yorks stated their first variance request is to reduce the buffer to zero (0). Mr. Yorks stated they would like to build in phases and start by getting rid of the old buildings including the building that encroaches on the abutting neighbor's property. Mr. Yorks stated the second request is to reduce the front yard setback from 60 feet to 20 feet so a variance request of 40 feet is needed. Mr. Yorks stated the looked at the neighborhood and tried to keep their frontage in line with the established residential home on the street. Mr. Yorks stated the third variance request is to reduce the side yard setback from 25 feet to 10 feet, asking for a 15 feet variance. Mr. Yorks stated these variances are needed so they can utilize all 6 parcels and renovated the area. Mr. Yorks stated the last variance request is to reduce the 5,000 sq. ft. minimum floor area per building to 3,500 sq. ft. area per building, asking for a 1,500 sq. ft variance. Mr. Yorks stated this would allow them to build the mini storage buildings you see around instead of the larger buildings. Mr. Yorks stated he was unsure if any of these variances would be grandfathered in since the property was there prior to the residential houses. Ms. Moss, residing at 365 James, spoke to the property and buildings degrading and was supportive of this plan. Ms. Moss stated they have trouble with this property and people going in riding their dirt bikes and hiding in the buildings. Mr. Jeffreys asked if they have spoken to the neighbors showing their design and plans. Mr. Yorks states they have, and the feedback was if they could help block the noise from the railroad tracks. Mr. Yorks stated they did look how to move the buildings, but this worked better for the Fire Department if they need to access the property. Mr. Macartney stated, in his opinion, this is a good fit for that area. Attorney Ward had no comments.

After deliberation, the Board made the following findings:

- The requested variances are not substantial given the size, layout, and location of the property. While this determination alone is not sufficient to justify the variances, it is important, especially in the context of other factors.
- This property is unique. Without the requested variances, much-needed improvements to the property would be virtually impossible.
- The requested variances would not substantially alter the essential character of the neighborhood. In fact, the requested variances and resulting development would significantly *improve* the overall character of the neighborhood by eliminating conditions which attract crime.

- The adjoining properties would not suffer substantial detriment as a result of the requested variances.
- The spirit and intent behind the zoning requirements would be observed and substantial justice would be done by granting the requested variances.
- The requested variances would not adversely affect the delivery of governmental services.
- The property owner's predicament cannot feasibly be obviated by any method other than the requested variances.

It is the decision of the Board to reverse the decision of the Building Official and grant your requested variances as follows: (1) allow the building of a structure with a 0 ft. setback from the adjoining residential district, 300 ft. less than required under ACO § 1141.02(a); (2) allowing a 20 ft. front yard setback, 40 ft. less than required by ACO § 1141.02(c); (3) allowing a 10 ft. side yard setback, 15 ft. less than required by ACO § 1141.02(d); and (4) allowing minimum floor area per building of 3,500 sq. ft., 1,500 sq. ft. less than required by ACO § 1141.03(a).

5. Mr. Anderson motions to move into deliberative session, seconded by Mr. Jeffreys.  
Approved 4-0

6. Mr. Jeffreys motions to move back into regular session, seconded by Mr. Anderson.  
Approved 4-0

7. Approval of minutes from April 27, 2022: Mr. Anderson motions to approve the minutes, seconded by Mr. Jeffreys. Approved 4-0

8. Next scheduled meeting June 29, 2022. Approved 4-0

9. Adjourn: Motion made to adjourn at 8:15pm by Mr. Anderson, seconded by Mr. Jeffreys.  
Approved 4-0

Terry Tomaszewski 5/27/2022  
Terry Tomaszewski, Chairman      Date

Tammy Paterson 5/27/2022  
Tammy Paterson, Secretary      Date