

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

June 29, 2022

6:30 pm

Present:

John Jeffreys
Al Berezney
Terry Tomaszewski
Don Anderson
Bob Valenti

Excused:

Tammy Paterson

Other City Officials:

Atty. Patrick Ward
David Macartney

Meeting held at 255 Park Avenue, Amherst, Ohio (Main Street Amherst building)

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

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

1. Ms. Diane Bija of New Creation Builders representing Ms. Joy Rivera, the property owner, residing at 203 Kendal Ct. Ms. Bija is seeking a variance to install an accessory structure measuring 768 sqft., 192 sqft. larger than permitted by local ordinances. Ms. Bija explains the property owner's hardships existing on the property including, but not limited to, lack of tree canopy coverage and lack of storage for property maintenance equipment. Ms. Rivera explained a detention basin exists on the property that they are required to maintain and the equipment necessary to do so will be stored in the structure. Ms. Rivera also explained the roof extension proposed for the side of the accessory structure will provide additional shaded seating to supplement an existing covered patio attached to the main structure on-site. Mr. Macartney stated the building department had no additional comments. Mr. Berezney asked for clarification on the square footage. Ms. Rivera stated the accessory structure will be 24'x24' with an 8'x24' roof extension to create a covered patio. Mr. Tomaszewski requested clarification of an existing accessory structure on the property. Mr. Macartney confirmed the secondary structure is 168 sqft. and is compliant with the ordinance. Ms. Rivera mentioned discussions with the neighboring property owners who expressed no objections.

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 is large.
- 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 an accessory structure 768 sqft., 192 sqft. larger than permitted under ACO § 1145.05(b)(1). Approved 5-0

2. Mr. Nicholas Leone residing at 505 Hazel Street is seeking a variance to install an accessory structure closer to the street than permitted by local ordinance. Mr. Leone is seeking a second variance to install a fence closer to the street than permitted by local ordinance. Mr. Leone explained the accessory has been in place since January 2022 and was unaware that a corner lot was considered to have two front yards. Lowes, the installation contractor, informed the property owner the accessory structure was unable to be moved after being placed. Mr. Leone stated the neighboring property owners had no objections to the placement of the shed. Mr. Macartney stated the building department had no additional comments related to the placement of the accessory structure. The Board had no questions related to the placement of the accessory structure. Mr. Leone explained the desired location of the proposed fencing toward Franklin Avenue to encompass the area where the accessory structure is currently placed. Mr. Macartney stated the building department had no additional comments related to the fence placement. Mr. Jeffreys requested clarification if the fence was encompassing the entire back yard. Mr. Leone explained the proposed placement of the fence and that they were deeded an additional 10' of property along the side property line after purchasing the property. Mr. Berezney requested clarification of the distance from the shed to the proposed fence. Mr. Leone stated the distance will be approximately 4 ½'. Mr. Tomaszewski asked Mr. Macartney to clarify the required setback distance per the ordinance. Mr. Macartney stated the variance requested is for an encroachment of the required setback toward Franklin Avenue of 15'. Mr. Ward stated the law department had no additional comments.

After deliberations, the Board found the following findings:

- The two requested variances are substantial for this property. While this determination alone is not sufficient to justify the denial of the variances, it is important, especially in the context of other factors.
- The two requested variances would substantially alter the essential character of the neighborhood, and the adjoining properties would 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 not be observed and substantial justice would not be done by granting the two variances.
- The proposed location of the shed and fencing would not be consistent with the surrounding residential properties.

It is the decision of the Board to uphold the decision of the Building Official and deny your requests for the following variances: (A) allowing an accessory structure to be constructed 7' closer to the street than permitted by ACO § 1129.03(a); and (B) installing a fence 15' closer to the street than permitted by ACO § 1151.04. Denied 5-0

3. Mr. Norman Miller residing at 275 Crosse Road is requesting a variance to install and accessory structure measuring 1,600 sqft., 1,024 sqft. larger than permitted by local ordinance and measuring 17'6" in total height, 1'6" taller than permitted by local ordinance. The third variance is to provide conformance of an existing accessory structure measuring 1,280 sqft., 1,112 sqft. larger than permitted by local ordinance of 168 sqft. for a secondary accessory structure as no previous variance exists. Mr. Miller explained the purpose of the variance request is to house the equipment needed to properly maintain the nearly 4 acres of property. The additional height variance requested is to accommodate a 10' overhead garage door. Mr. Tomaszewski clarified the third variance is to maintain compliance of the secondary structure already existing on-site for which no previous variance exists. Mr. Macartney stated the third variance request is administrative in nature to allow the property owner to rebuild the existing structure to the same specifications should it be destroyed for any reason. Mr. Anderson and Mr. Valenti asked where the new structure would be located. Mr. Miller stated the new structure would be located behind the existing structure to be concealed from view from the road. Mr. Berezney asked what zoning classification the property was. Mr. Miller stated the property is zoned residential. Mr. Ward stated the law department had no additional comments. Mr. Jeffreys requested clarification as to the height variance. Mr. Miller stated the east end would have an 8' overhead door while the west end of the structure would have a 10' overhead garage door. Mr. Berezney asked whether the ordinances prohibit commercial equipment being stored in a residential district. Mr. Macartney stated the ordinance prohibits the storage of commercial equipment in a residential district with an exception for a daily use work vehicle.

After deliberations, the Board found the following findings:

- The three 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 three 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 three 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 size and height of the proposed accessory structure would be consistent with the surrounding residential properties and the size of the subject property.
- The size of the secondary existing accessory structure is consistent with the surrounding residential 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) 1,600 sqft. accessory structure, 1,024 sqft. more than permitted by ACO § 1145.05(b)(1); (B) 17'6" tall accessory structure, 1'6" taller than permitted by ACO § 1145.05(c); and (C) 1,280 sqft. secondary accessory structure, 1,112 sqft. more than permitted by ACO § 1145.05(b)(2) . Approved 5-0

4. Mr. Chris Mead residing at 57 Canterbury Circle is requesting a variance to install and accessory structure measuring 178 sqft., 114 sqft. larger than permitted by local ordinance. A second and third variance are being requested for existing structures larger than permitted by local ordinance where no previous variances exist, 600 sqft., 24 sqft. larger than permitted by local ordinance and 300 sqft., 132 sqft. larger than permitted by local ordinance respectively. Mr. Mead explained they are seeking the variance to install a greenhouse and the existing structures, a pool house and a shed, were constructed at the time the house was built in 2001. Mr. Macartney stated the first agenda item is pursuant to the proposed new accessory structure while the second and third agenda items are to bring the existing accessory structures into compliance with the local ordinances and allow the property owner to rebuild to the same specifications in the future. Mr. Tomaszewski requested clarification as to whether a greenhouse would require such a variance. Mr. Macartney stated that greenhouses do count as an accessory structure. Mr. Ward asked if the existing accessory structures were already on-site when the house was purchased. Mr. Mead stated the accessory structures were built at the same time as the house and were under the original permit according to the builder.

After deliberations, the Board found the following findings:

- The three 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 three 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 three 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 size and height of the proposed accessory structure would be consistent with the surrounding residential properties and the size of the subject property.
- The size of the existing accessory structures are consistent with the surrounding residential 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) 178 sqft. accessory structure, 114 sqft. more than permitted by ACO § 1145.05(b)(3); (B) 600 sqft. accessory structure, 24 sqft. than permitted by ACO § 1145.05(b)(1); and (C) 300 sqft. secondary accessory structure, 132 sqft. more than permitted by ACO § 1145.05(b)(2). Approved 5-0

5. Ms. Lindsay Vacco residing at 932 Columbia Drive is seeking a variance to install an accessory building on a parcel without a main structure. Ms. Vacco explained the main structure is located on the front parcel she owns while the vacant parcel is located behind the parcel with the house. Ms. Vacco stated she was unaware her property consisted of two parcels and the shed is needed for additional storage. Ms. Vacco stated she has spoke to several neighboring property owners who have no issue with the proposed installation of the accessory structure. Ms. Vacco provided a letter to the Board from a neighbor across the street. The letter is attached to the minutes. Mr. Macartney asked Ms. Vacco if she wanted a copy of the letter for her records. Ms. Vacco stated she would like a copy of the letter. Mr. Macartney stated he reviewed several years of county auditor satellite imagery to see if the property line varied in location, which sometimes occurs, but was not able to conclude the main structure ever crossed the property line. Mr. Macartney explained neighboring properties showed encroachment of the main structure over a front and back property line and another property had combined their parcels. Mr. Ward stated the law department had no additional comments.

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 is landlocked and otherwise inaccessible.
- 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 an accessory structure to be constructed on a parcel without a main structure not permitted under ACO § 1145.06. Approved 5-0

6. Ms. Ashley Brucker residing at 1120 Parke Avenue is requesting a variance to install fencing closer to the street than allowed by local ordinance. Ms. Brucker explained the house was previously part of a horse farm and she owns two separate parcels. Mr. Brucker indicated the landscaping she has installed and is concerned about traffic along Park Avenue and the safety of her children while in the yard. Ms. Brucker explained the proposed location of the fence closest to the street would be installed near a landscaped mound with a second fence located closer to the house but still within the front yard area. Mr. Macartney stated the building department had no additional comments at this time. Mr. Berezney requested clarification where fencing would be permitted without a variance. Mr. Macartney stated fencing is not permitted past the front wall of the house without a variance. Ms. Brucker indicated the location of the proposed fencing would not require the relocation of the existing landscaping. Mr. Jeffreys requested clarification as to the second fence she is requesting a variance for. Ms. Brucker explained the location of the secondary fence and it is something they may wish to install in the future closer to the house. Mr. Macartney explained the variances are separate requests on the exhibit and application but they are covered under the same ordinance number. Mr. Berezney asked if the variances would be considered all or nothing. Mr. Ward stated the separate items may be considered separately even though they are under a single ordinance. Mr. Macartney clarified the distances to be considered for the variances are 10' for the main request along the western parcel and 26' for the secondary request on the eastern parcel that contains the main structure as submitted. Mr. Tomaszewski requested clarification about a fence in the front yard of a neighboring property owner on the corner of Park Avenue and Broadway Street. Mr. Macartney stated the property in question had an existing fence for several years and recently upgraded the fence to vinyl. Mr. Ward stated the law department had no additional comments.

After deliberations, the Board found the following findings:

- The requested variance 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 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 variances.
- 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 two variances.
- The existing landscaping and trees create an existing natural barrier.
- The proposed location of the fencing would be consistent with the surrounding residential 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 a fence to be installed 10' closer to the street than permitted by ACO § 1151.04, Approved 4-1 (Bereznay). The variance is approved by the Board on the condition that the proposed fencing is to be split-rail style fencing as submitted by the applicant.

- The requested variance are substantial for this property. While this determination alone is not sufficient to justify the denial of variances, 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 variances.
- The requested variance would not adversely affect the delivery of governmental services.
- The spirit and intent behind the zoning requirements would not be observed and substantial justice would not be done by granting the variance.
- The proposed location of the fencing would not be consistent with the surrounding residential properties.

It is the decision of the Board to uphold the decision of the Building Official and deny your requests for the following variance: (B) allowing a fence to be installed 26' closer to the street than permitted by ACO § 1151.04, Denied 5-0

7. Mr. Jake Szaraz representing Ray Fogg Building Methods is seeking a 250' setback variance, 50' in lieu of 300', for an industrial use in a C-2 zoned district and a 10' building height variance, 50' building height in lieu of 40' for vacant parcels 05-00-060-101-065, 05-00-060-101-065, 05-00-060-101-060, 05-00-060-101-059, 05-00-060-101-058, 05-00-060-101-057, 05-00-060-101-056, 05-00-060-101-055, and 05-00-060-101-054 on Sandstone Boulevard. Mr. Szaraz explained the scope of the proposed project and addressed the concerns of the neighboring property owners present at the June 27, 2022 Board of Zoning

Appeals meeting. Mr. Szaraz explained the ambient noise would be muted due to the location of the truck access, approximately 450' from the residential property lines and the proposed 50' height of the buildings. Mr. Szaraz explained the lighting would be approximately 120' from the neighboring residential property lines and the photometric survey indicates the lighting would not spill over property lines and vehicle headlights from the parking lots with the 50' landscape buffer would block that lighting. Mr. Szaraz indicated the proposed businesses would be warehousing and storage such as Cleveland Clinic, Home Depot and Veritiv although no businesses are currently under contract. Mr. Szaraz explained the potential economic impact based upon a similar project in Stow, Ohio which generates approximately \$40,000,000.00 in payroll and potentially generating \$600,000.00 in tax income to the City of Amherst. Mr. Macartney provided an overview of the June 27, 2022 Board of Zoning Appeals meeting and that the Board tabled the application, as advised by the law department, due to an incomplete application with the application being subsequently withdrawn by the applicant and re-submitted with the completed application. Mr. Macartney further explained the variance application is the first step in a lengthy process that will involve the Planning Commission and Council approvals prior to the project moving forward. Mr. Berezney asked for clarification of what the setback reduction would consist of. Mr. Macartney stated the ordinance calls for nothing to be in the required setback for an industrial use in a commercial district. Mr. Jeffreys asked if there are potential clients for the proposed space. Mr. Szaraz stated they have no tenants under contract and are proposing the buildings on-spec and will solicit tenants after completion. Mr. Jeffreys asked if the Stow location operated 24 hours a day. Mr. Mike Merle, also representing Ray Fogg Building Methods, stated the tenants for this type a facility typically operate during normal business hours with a small crew on-site overnight pulling stock for the next days delivery schedule. Mr. Merle stated there is often an administrative office component to the proposed buildings. Mr. Macartney clarified that the layout of the proposed buildings orients the administrative offices and parking areas toward the residential properties. Mr. Jeffreys requested clarification on the traffic patterns of the typical businesses using the facilities. Mr. Merle stated many of the tenants schedule slotted delivery times to minimize the traffic on-site. Mr. Berezney requested clarification as to how the 50' setback buffer would be designed. Mr. Merle stated their willingness to accept guidance form the appropriate City departments on what the setback buffer should consist of. Mr. Ward clarified the types of permitted uses and setbacks required for a C-2 district without requiring any variances. Ms. Carol Brim residing at 5552 Virginia Court and representing the Linn/Weaver/Virginia neighborhood coalition provided and updated petition of opposition from several residents of the surrounding neighborhood (the petition is attached to the minutes) and read a statement of objection from the neighborhood coalition (the complete statement is attached to the minutes). Ms. Gloria McGranor residing at 5518 Virginia Court requested

clarification as to whether the proposed development consisted of multiple buildings. Mr. Szaraz stated the proposed project was two separate buildings on the eight vacant parcels and the parcels will be combined during the process of the development. Ms. Colleen Lavelle residing at 5512 Virginia Court requested clarification of the proposed height of the building and the location of the proposed location the delivery vehicles will be accessing the site. Mr. Terry Lawson residing at 1518 Weaver Drive requested the existing wooded area remain in the proposed 50' setback with no mound and a 10'-15' cement wall be placed along the property line as a sound barrier. Mr. Tomaszewski clarified the Board is only permitted to discuss the variance application as submitted and that other City entities will be tasked with determining the viability of the development plan to move forward when submitted. Ms. McGranor requested clarification as to whether the other meetings considering the proposed development would be open to the public. Mr. Tomaszewski stated yes, those meeting are also open to the public. Sherri Cumberledge residing at 1562 Weaver Drive asked about the overhead powerlines located along the shared property lines. Mr. Szaraz and Mr. Merle stated the powerlines are located within a 100' easement and the proposed development will be located outside the easement with the exception of possible some vehicle parking which is permitted. Ms. Cumberledge asked why they chose this property rather than other vacant property in the City. Mr. Szaraz stated that Fogg already owns the property. Mr. Terry Lawson stated there is a natural gas transmission line running through the area. Mr. Merle stated they were aware of the natural gas transmission line and they will be revising their detention basin design if the project moves forward. Mr. Tomaszewski reiterated that the Board is only to consider the application as submitted and any design items would be discussed by other City entities. Mr. McGranor stated that the residents in the area will be negatively impacted by the proposed development and asked to be considered if the project moves forward. Mr. Merle stated they realize the effect on the neighboring properties and are willing to discuss the setback buffer design with the neighbors.

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 reduction in the required setback and additional building height would be consistent with the surrounding commercial properties.
- The developers willingness to work with the neighboring property owners on options for the final design of the 50' buffer area.
- The additional building height will aid in the sound transmittal to the neighboring residential 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 a reduction of 250' of the required 300' setback abutting residential than permitted by ACO § 1141.02; and (B) allowing the installation of eight signs, six more than permitted by ACO § 1149.05(b).
Approved 4-0

8. Mr. Anderson motions to move into deliberative session, seconded by Mr. Valenti. Approved 5-0
9. Mr. Jeffreys motions to reconvene into regular session, seconded by Mr. Anderson. Approved 5-0
10. Approval of minutes from May 25, 2022: Mr. Valenti motions to approve the minutes, seconded by Mr. Anderson. Approved 5-0
11. Next scheduled meeting will be August 31, 2022, at 6:30pm. Approved 5-0
12. Adjourn: Motion made to adjourn at 9:18 PM by Mr. Anderson, seconded by Mr. Valenti. Approved 5-0

Terry Tomaszewski 7/12/2022
Terry Tomaszewski, Chairman Date

David Macartney 7.12.2022
David Macartney, Building Official Date