

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

August 31, 2022

6:30pm

Present:

Excused:

John Jeffreys

Don Anderson

Al Bereznay

Terry Tomaszewski

Bob Valenti

Other City Officials:

Atty. Ward

David Macartney

Tammy Paterson

Mr. Tomaszewski opened the meeting at 6:31pm.

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. Savaughn Taus from Great Day Improvement. Mr. Taus is representing Ms. Audrey Jacobs who resides at 215Hidden Cove. Mr. Taus stated this proposed porch enclosure will be at the back of the property and will not affect the abutting neighbors. Mr. Taus stated he felt this project would increase the value of the home for Ms. Jacobs but only if the variance is granted. Mr. Macartney had no comments at this time. Mr. Tomaszewski asked if there is currently a concrete pad. Mr. Taus stated yes, and they would be utilizing this pad for the porch enclosure. 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.
- The property is adjacent to a trail. The requested variance is consistent with variances previously granted by the Board.
- The requested variance would have minimal impact on the surrounding neighborhood.
- 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 requirements would be observed and substantial justice would be done by granting the variance.
- The requested variance would not adversely affect the delivery of governmental services.

It is the decision of the Board to reverse the decision of the Building Official and approve your request for a variance to construct a patio enclosure resulting in a 10 ft. rear yard setback, 10 ft. less than the 20 ft. rear yard setback previously established and required by the applicable development plan and Section 1145.04(a) of the Amherst Codified Ordinances. Approved 4-0

2. Ms. Brenda Neely residing at 132 Hamilton Street. Ms. Neely is requesting two variances. The first variance request is to install a fence 98' from the front structure to proposed fence/gate location. The second variance request is for the existing fence 116' from front structure toward Hamilton Street. Ms. Neely stated she would like to install the fence, so it connects to both sides of her property. Ms. Neely stated she is legally blind, and she has a dog. Ms. Neely stated she is requesting the fence to keep her dog in the fenced in area for safety reasons. Ms. Neely stated if he leaves the property, she will be unable to find him. Ms. Neeley stated she really did not want to chain up her dog. Ms. Neeley stated the fence would not go all the way to the street but more in the middle of the front yard. Ms. Neely stated she has no back yard. Mr. Macartney explained to the members of the board the reason he added the second variance request so in the future if there were issues that the side fencing was replaced, Ms. Neely would be able to replace the fence as it is today. Mr. Berezney asked if the two side fences belong to Ms. Neely. She stated yes. Ms. Neely stated she spoke to the neighbors, and no one had an issue with her fence variance request. Attorney Ward asked for verification if the existing fences would be coming down. Ms. Neely stated there is a portion of fence already down, but she has no plans of removing the remaining fence.

After deliberations, the Board made the following findings:

First Variance Request

- While the first requested variance is substantial, it is consistent with the existing fences on the applicant's property and the surrounding neighborhood.
- The first 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 first 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 first requested variance.

Second Variance Request

The existing fences running along or near the North and South property lines constitute permissible non-conforming uses pursuant to ACO § 1147.01(a). Accordingly, no variance is required for these existing fences.

It is the decision of the Board to reverse the decision of the Building Official and approve your first request for a variance to install a fence 98 ft. from the front projection of your home. Approved 4-0

3. Mr. James Krase residing at 47565 Middle Ridge Road. Mr. Krase is requesting a variance to install a fence 210' from front of structure to proposed fence. Mr. Krase stated with a variance they were able to install a fence on the property two years ago and now they are requesting to finish off the remaining 50 ft. Mr. Krase stated the fence would face east and west. Mr. Krase stated they cleaned up all the invasive landscaping and would like the fence to mark boundaries of his property. Mr. Krase stated the fence would match the existing fence. Mr. Macartney had nothing to add. Mr. Bereznay stated he was by the property and the existing fence looks very nice. Mr. Tomaszewski asked Mr. Krase if the fence would be eliminating the driveway. Mr. Krase stated no. Attorney Ward had nothing to add.

After deliberations, the Board made the following findings:

- The requested variance is not substantial given the unique location, size, and shape of 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 requested variance.
- The proposed fence would be consistent with the applicant's existing fence.

It is the decision of the Board to reverse the decision of the Building Official and approve your request for a variance to install a fence 210 ft. from the front projection of your home. Approved 4-0

4. Ms. Janine Mawson representing Mr. & Mrs. Arthur-Mensah for parcel 05-00-018-106-080, Lot 7 on Stonebridge Drive. Ms. Mawson is requesting a 10' reduced front yard setback. Mr. Macartney stated this agenda item has been removed. Mr. Macartney stated in reviewing the Planning Commission approval for the original development, the setbacks were approved pursuant to Chapter 1133 of the ordinances allowing a front yard setback of 35' therefore no variance is required for the requested 40' front yard set back. Apprioved 4-0 to remove off agenda.
5. Mr. Stephen Albenze residing at 104 Kristen Court. Attorney Michael Kinlin stated Mr. Albenze is currently on his honeymoon and he will be representing him. Mr. Kinlin stated the variance request would not obstruct any traffic at the stop sign and won't affect the abutting neighbors. Attorney Kinlin stated the applicant would like additional fenced in back yard for his children to play. Attorney Ward had noting to add. Mr. Macartney had nothing to add.

After deliberations, the Board made the following findings:

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

It is the decision of the Board to uphold the decision of the Building Official and deny your request for a variance to install a fence 48 ft. from the north corner of your main dwelling structure toward the sidewalk on the Westchester side of your property. Denied 4-0

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

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

8. Approval of minutes from July 27, 2022: Mr. Anderson motions to approve the minutes, seconded by Mr. Valenti. Approved 4-0

9. Next scheduled meeting September 28, 2022. Approved 4-0

10. Adjourn: Motion made to adjourn at 7:44pm by Mr. Anderson, seconded by Mr. Valenti.
Approved 4-0

Terry Tomaszewski 9/12/22
Terry Tomaszewski, Chairman Date

Tammy Paterson 9/9/22
Tammy Paterson, Secretary Date