

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

May 31, 2023

6:30pm

Present:

Don Anderson

Terry Tomaszewski

Al Berezney

Mayor Mark Costilow

Excused:

Bob Valenti

John Jeffreys

Other City Officials:

Atty. Ward

David Macartney

Tammy Paterson

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

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

1. Mr. Barry Dillon resides at 520 N. Main Street. Mr. Dillon is requesting three (3) variances.

1. Chapter 1145.05(b)(3): Accessory structure not to exceed 64 sq. ft. Variance requested is for 128 sq. ft. for new proposed accessory structure.
2. Chapter 1145.05(b)(1): Accessory structure not to exceed 576 sq. ft. Variance requested is for 24 sq. ft. to bring his existing garage into compliance.
3. Chapter 1145.05(b)(2): Accessory structure not to exceed 168 sq. ft. Variance requested is for 24 sq. ft. to bring his existing shed into compliance.

Mr. Dillon stated his patio is in the back of his property and is approximately 80 feet from his neighbors and at least 90 feet from the Metro parks at the rear property line. Mr. Dillon stated he and his wife like to sit in the backyard but with the sun it becomes very hot. Mr. Dillon stated they tried multiple other ways to block the sun, but nothing has helped, and they are having a hard time enjoying their back yard. Mr. Dillon stated when he went to the Building Department, he was informed the building would not be approved since it was larger than allowed by ordinance. Mr. Dillon stated he met with the Building Official at his property, and they went over his options. Mr. Dillon stated he spoke to his neighbors, and none had an issue

with the gazebo. Mr. Macartney stated the agenda items are self-explanatory. Mr. Macartney stated Mr. Dillon has a few detached buildings that is larger than allowed and they would like to clean up the property and bring the buildings into compliance. Attorney Ward had no comments or questions.

After deliberations, the Board made the following findings:

Variance Request No. 1

- Given the lot's exceptional size and uniqueness, 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 property owner did not have knowledge of the zoning restriction when he purchased the property.
- The spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the requested variance.
- The proposed accessory structure would not be seen from the street, and the property backs up to the Metro Parks.

Variance Request No. 2

- Given the lot's exceptional size and uniqueness, 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 property owner did not have knowledge of the zoning restriction when he purchased the property.
- The spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the requested variance.

Variance Request No.3

- Given the lot's exceptional size and uniqueness, 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 property owner did not have knowledge of the zoning restriction when he purchased the property.
- The spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the requested variance.

It is the decision of the Board to reverse the decision of the Building Official and approve your Variance Request No. 1. It is also the decision of the Board to reverse the decision of the Building Official and approve Variance Request No. 2. It is also the decision of the Board to reverse the decision of the Building Official and approve Variance Request No. 3. Approved 4-0

2. Mr. Dan Beeman from Wagner Signs representing St. Paul Lutheran Church located at 115 Central Drive. Mr. Beeman stated they would like to install an Electronic Changeable Sign located on their property off Cleveland Avenue. Mr. Beeman stated the church would like to have better communication with the residents on what is happening with the church, pre-school and service times. Mr. Beeman stated the sign on Central Drive would be removed. Mr. Beeman and a trustee from the church spoke about similar signs that other churches have in the city. Mayor Costilow spoke about other churches that were approved with restrictions. Mr. Tomaszewski asked if the sign on Central Drive is illuminated. Mr. Beeman stated it is illuminated from inside. Mr. Macartney had no comments or questions. Attorney Ward had no comments or questions. Ms. Steffani Baker who resides at 750 Cleveland stated she wants to be a good neighbor and loves the church but is not in favor of the placement of the sign. Ms. Baker stated the sign will be illuminated and changing at the direction of the side of her house with all windows and where their main living space is located. Ms. Baker stated they do not want to look out their windows and see a sign with changing messages all night. Mr. Berezney stated on the Zoning Board of appeals page three (3) question six (6) asked if the owner's predicament could be met through some method other than a variance. Mr. Berezney stated they already have a sign.

After deliberations, the Board made the following findings:

- a. The Board hereby grants a conditional variance for the installation of the proposed ECM sign, as modified herein. This conditional variance shall only be granted and continued in effect in the event that, and so long as, Wagner Electric Sign Co. and St. Paul Lutheran Church (the "Church") comply with the following conditions at all times:
 - i. provide a written certification from the sign manufacturer that the ECM sign to be installed on St. Paul Lutheran Church's above-referenced property (the "ECM Sign") complies with the requirements of ACO § 1149.09(g)(1-4);
 - ii. the ECM Sign shall be preset by the manufacturer at the factory to exceed the light output restrictions set forth in ACO § 1149.02(a)(10);

- iii. light produced by the ECM Sign shall be 50% more restrictive than what is permitted by ACO § 1149.02(a)(10) during the hours of dusk until 10:00 p.m.; from 10:00 p.m. until dawn, the ECM Sign shall be turned off;
 - iv. the Church shall program its messaging on the ECM Sign so that after dusk hours, all messaging will be text only on a dark background with red text only;
 - v. the Church's messaging on the ECM Sign shall be illuminated for a minimum of ninety (90) seconds before transitioning the message;
 - vi. subject to the dusk to 10:00 p.m. requirements stated herein, the Church's ECM Sign may only be illuminated between the hours of dawn in the morning and 10:00 p.m.; and
 - vii. should there be a city-wide emergency that requires immediate notification to the City's residents, the Church shall cooperate with the City to display appropriate emergency messaging on the ECM Sign.
- The Board acknowledges the abutting neighbor, Steffani Baker's concerns regarding the potential effect of the ECM Sign on her family's ability to enjoy their property both inside and outside of their home. The above-identified conditions are intended to address those concerns and serve the best interests of the Church, the Church's neighbors, and the City.
 - The requested variance, subject to compliance with the conditions specified herein, 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, subject to compliance with the conditions specified herein, 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, subject to compliance with the conditions specified herein, would not adversely affect the delivery of governmental services.
 - The property owner did not have knowledge of the applicable zoning restriction at the time the property was purchased.
 - The spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the requested variance, subject to compliance with the conditions specified herein.

It is the decision of the Board to reverse the decision of the Building Official and approve your request for a variance permitting the installation of the ECM Sign in a residential zoning district, subject to compliance with the conditions specified herein, signage otherwise prohibited by ACO § 1149.03.
Approved 4-0

3. Mr. Roger Marshall residing at 344 James requesting three (3) variances.

1. Chapter 1145.05(b)(1): Largest accessory structure not to exceed 576 sq. ft. Variance requested to install a 624 sq. ft. addition onto an existing 720 sq. ft existing structure.

2. Chapter 1145.05(a): Accessory structure not permitted nearer than five (5) feet to side or rear property line. Variance requested to reduce the side and rear yard setback by 4 ½ ft.
3. Chapter 1145.04: 50% reduction in required side yard and rear yard setback of structures more than 25 years old with written permission of neighboring property owner. Variance requested 2' reduction in required side and rear yard setback with property owners written permission.

Mr. Marshall stated he has been renting a building from the old Mill Street Lumber and has recently been told he would need to clear his stuff out of the building. Mr. Macartney stated Mr. Marshall had already begun the construction of the overhang. Mr. Macartney stated he did hear from one neighbor who was concerned if the overhang would have gutters. Mr. Macartney stated gutters are required and noticed they are on the property waiting to be installed. Mr. Macartney stated if Mr. Marshall intends to add walls, he will need to submit plans. Mr. Macartney stated the second variance request is to reduce the side and rear yard by 4 ½ feet. Mr. Macartney stated there are fences that surround the property. Mayor Costilow asked if the Zoning Board of Appeals can require a survey. Attorney Ward stated in the past they have approved plans with the stipulation that a survey had to be completed. Mayor Costilow stated the downspouts would be required to keep the water run off onto his property. Attorney Ward stated agenda item # 3 is deemed unnecessary and should be withdrawn from the agenda.

After deliberations, the Board made the following findings:

Variance Request No. 1

- Without the requested variance, the property would still yield a reasonable return and have a beneficial use.
- 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 requested variance would not adversely affect the delivery of governmental services.
- The property owner's predicament could 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 requested variance.

Variance Request No. 2

- Without the requested variance, the property would still yield a reasonable return and have a beneficial use.
- 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 requested variance would not adversely affect the delivery of governmental services.
- The property owner's predicament could 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 requested variance.
- The applicant could not verify the precise location of the property lines between his property and the abutting property.

It is the decision of the Board to uphold the decision of the Building Official and deny your Variance Request No. 1. It is also the decision of the Board to uphold the decision of the Building Official and deny Variance Request No. 2. Denied 4-0

4. Mr. Jeffery Lacock residing at 426 N. Main Street. Mr. Lacock requests two variances.

1. Chapter 1145.05(b)(2): Accessory structure not to exceed 168 sq. ft. Variance requested is for 24 sq. ft.
2. Chapter 1145.05(b)(3): Accessory structure not to exceed 64 sq. ft. Variance request is for 32 sq. ft.

Mr. Lacock stated he would like to build a 12x14 shed to house all his pool items and get them in an enclosed building. Mr. Lacock stated they like to sit outside but don't want to look at all the stuff laying around the yard. Mr. Lacock stated the shed would have a small porch and no one would be able to see it from the road. Mr. Lacock stated the neighbors have no issues. Mayor Costilow asked if the new shed would match the house. Mr. Lacock stated it would have wood siding and will be maintenance free with a black steel roof. Attorney Ward had no comments or questions.

Variance Request No. 1

- Given the lot's exceptional size and uniqueness, 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 property owner purchased the property without knowledge of the applicable zoning restriction.
- The spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the requested variance.

Variance Request No. 2

- Given the lot's exceptional size and uniqueness, 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 property owner purchased the property without knowledge of the applicable zoning restriction.
- The spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the requested variance.

It is the decision of the Board to reverse the decision of the Building Official and approve your Variance Request No. 1. It is also the decision of the Board to reverse the decision of the Building Official and approve Variance Request No. 2. Approved 4-0

5. Mr. Chris Majzun representing Mr. & Mrs. White who resides at 156 Pearl Street. Mr. & Mrs. White would like to build a new house once their Lot split has been recorded. They have requested the following variance:

1. Chapter 1129.03(b): Minimum side yard shall not be less than 8' per side. Variance requested is to reduce the side yards by 50% to 4' on each side.

Mr. Majzun stated Mr. & Mrs. White own the house and property next door and are waiting on their lot split to be recorded. Mr. Majzun stated his clients are getting a little older and currently living in a two-story house and they feel it is time to move into a one-story home. Mr. Macartney stated when his office received the variance request the lot split has not been recorded yet. Mr. Macartney stated the White's are looking to build a 1,200 square foot house but would need a side yard variance. Mr. Macartney stated they comply with the rear and front yard setbacks, so no variance would be required. Attorney Ward had no comments or questions.

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.
- The requested variance would not adversely affect the delivery of governmental services.
- The requested variance is consistent with the surrounding neighborhood.

- The spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the requested variance.

It is the decision of the Board to reverse the decision of the Building Official and approve your request for a variance permitting a side yard of four feet, four feet less than the minimum of eight feet required by ACO § 1129.03(b). Approved 4-0

6. Mr. Anderson motions to reconvene into regular session, seconded by Mr. Bereznay.
Approved 4-0


7. Approval of minutes from April 26, 2023: Mr. Anderson motions to approve the minutes,
seconded by Mr. Bereznay. Approved 4-0

8. Next scheduled meeting will be June 28, 2023, at 6:30pm. Approved 4-0

9. Adjourn: Motion made to adjourn at 8:28pm by Mr. Anderson, seconded by Mr. Bereznay.
Approved 4-0



Terry Tomaszewski, Chairman Date



Tammy Paterson, Secretary Date