

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

September 6, 2023

6:30pm

Present:

Don Anderson
Terry Tomaszewski
Al Berezney
Bob Valenti
John Jeffreys

Excused:

Other City Officials:

Atty. Ward
David Macartney
Tammy Paterson

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

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

1. Mr. David Chavez residing at 47561 Middle Ridge Road. Mr. Chavez is requesting one (1) variance:
 1. Chapter 1151.04: No fencing shall be erected from the sidewalk to the front projection of the building fences on corner lots shall not encroach upon the building setback lines of existing property. Variance requested: A 11'6" variance to install a fence that will encroach into e established 27'6" setback required.

Mr. Chavez stated he is looking to extend his 4' see through black aluminum fence that is technically in his front yard. Mr. Chavez stated the back property will have a shadow box fence. Mr. Chavez stated he would like the new fence even with the landscaping. Mr. Chavez stated there would also be a gate to mimic the other side of the property. Mr. Chavez stated he currently has the same 4 ft black aluminum fence that abuts to his neighbor's property. Mr. Chavez stated he has dogs and would like to keep them in the back yard since the street is busy. He stated he also would like to keep them off the leash in the back so they can roam. Mr. Tomaszewski asked if the fence has already been installed. Mr. Chavez stated only the portion that abuts up to the neighbor's property. Mr. Macartney thanked the Zoning Board for this special meeting. Mr. Macartney stated Mr. Chavez was before the board a month before and at

that time was asking for the fence to be on the outer side of the tree landscaping but has changed his application to move close into the property. Mr. Berezney stated the fence style is not the issue, it's the placement. Mr. Chavez stated the placement would be symmetrical on his property and would give the house more curb appeal. Attorney Ward asked for clarification on the request.

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 property owner's predicament could feasibly be obviated through some method other than a variance. The applicant's dog would still have plenty of space to roam without being "chained up" or leaving the backyard if the applicant were to erect a fence which complies with all local ordinances.
- The proposed fence would negatively impact the neighboring property owner's sight line.
- The spirit and intent behind the zoning requirement 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 erect a fence 11'6" into the established 27'6" setback in violation of ACO § 1151.04. (Berezney-no; Anderson-no; Valenti-no; Jeffreys-no; Tomaszewski-yes)

2. Mr. Berezney motions to move not deliberative session, seconded by Mr. Anderson.
Approved 5-0

3. Mr. Anderson motions to move back into regular session, seconded by Mr. Berezney.
Approved 5-0

4. Next scheduled meeting will be September 27, 2023, at 7:00pm. Approved 5-0

5. Adjourn: Motion made to adjourn at 6:45pm by Mr. Berezney, seconded by Mr. Anderson.
Approved 5-0

Terry Tomaszewski, Chairman Date

Tammy Paterson, Sec Date