

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

April 24, 2024

6:30pm

Present:

Don Anderson

Terry Tomaszewski

Al Berezney

Heather Knoble

John Jeffreys

Excused:

Other City Officials:

Atty. Ward

David Macartney

Tammy Paterson

Mr. Tomaszewski opened the meeting at 6:00pm.

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

1. Mr. Richard Schultz resides at 135 Jackson Street. Mr. Shultz is seeking the following variances:

1a. Chapter 1145.05(a): Accessory structure may not be erected nearer than 5' to a side or rear property line. Variance requested: 1'0" Proposed structure to be located 4' from side property line.

2 b. Chapter 1145.05(b)(1): Primary accessory structure not to exceed 576 sq. ft. Variance requested: 354 sq ft to build a 930 (30'x31') accessory structure.

3 c. Chapter 1145.05 (b)(2): Secondary accessory structure not to exceed 168 sq. ft. Variance requested: 344 Sq Ft- existing accessory structure (512 sq ft total).

4 d. Chapter 1145.05(b093): Tertiary accessory structure not to exceed 64 sq. ft. Variance requested: 376 sq ft- existing accessory structure (440 sq. ft. total)

Mr. Schultz stated he was unaware he would need several variances. Mr. Schultz stated he had applied for a 30x31 car port that would cover his existing driveway. Mr. Schultz stated as his property sits currently, he is not in compliance and would like to resolve that. Mr. Schultz stated he would like to place his Jeep's undercover in the weather and

if needed he can work on them under the carport. Mr. Macartney stated Mr. Schultz had applied for a carport which would be variance request number 1 and number 2. If approved the other existing buildings would be out of compliance and he would like to bring them into compliance via variance so in the future, if needed, they can be rebuilt as-is. Mr. Macartney stated if variances 1 and 2 are not approved, the existing buildings would require no additional action. Mr. Macartney stated variance requests 3 and 4 are more administrative requests. Mr. Berezney asked if the car port would match up to the existing back building line. Mr. Schultz stated yest. Mr. Jeffreys asked if the car port is considered a permanent structure. Mr. Schultz stated it is bolted down but can be removed or moved. Mr. Jeffreys asked if the top of the carport is canvas. Mr. Schultz stated the top is metal roofing and would be 12 ½ ft high. Mr. Jeffreys asked Attorney Ward if this would be considered an accessory structure. Attorney Ward reviewed with the members the definition of an accessory structure and confirmed a car port is considered an accessory structure. Mr. Berezney asked why he is asking for larger than allowed. Mr. Schultz stated he was unaware of the size restriction. Mr. Schultz stated he wanted to fill that space, and this worked. Mr. Schultz stated he looked at other options, but it was very expensive. Mr. Tomaszewski stated the carport is consistent with the current concrete driveway area. Attorney Ward had comments or questions.

After deliberations, the Board made the findings regarding 1a:

- The requested one-foot 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. This especially true here where the two neighbors who responded to the notice indicated they do *not* have any objection to this requested variance. The proposed new accessory structure would also be consistent with the placement of the two existing accessory structures on the property and the surrounding neighborhood.
- The requested variance would not adversely affect the delivery of governmental services.
- The applicant 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 request for a variance to erect a carport accessory structure four feet from a side property line, one foot closer than allowed by ACO § 1145.05(a).

After deliberations, the Board made the following findings regarding 2b:

It is the decision of the Board to reverse the decision of the Building Official and approve your request for a variance to erect a carport accessory structure four feet from a side property line, one foot closer than allowed by ACO § 1145.05(a).

The Board also heard your request for a variance to erect a 930 sq. ft. carport accessory structure, 354 sq. ft. larger than allowed by ACO § 1145.05(b)(1). After deliberations, the Board made the following findings:

- The requested variance is not substantial for this property ***given that the structure to be erected would be open on all sides and not have any walls***. While this determination alone is not sufficient to justify the variance, it is important, especially in the context of other factors.
- ***Provided that the structure erected is open on all sides and does not have any walls***, 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. This especially true here where the two neighbors who responded to the notice indicated they do ***not*** have any objection to this requested variance. An accessory structure which a person can see through is inherently different than one with walls.
- The requested variance would not adversely affect the delivery of governmental services.
- The applicant 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, ***provided that the structure erected is open on all sides and does not have any walls***.

It is the decision of the Board to reverse the decision of the Building Official and approve your request for a variance to erect a 930 sq. ft. carport accessory structure, 354 sq. ft. larger than allowed by ACO § 1145.05(b)(1) ***provided that the structure erected is open on all sides and does not have any walls***. Please note if you erect an accessory structure which is not open on all sides or which has any walls, such structure will be in violation of the Amherst Codified Ordinances and this decision, and the City will pursue any and all administrative and/or legal remedies.

After deliberations, the Board made the following findings regarding 3c:

The Board also heard your request for a variance allowing an existing 512 sq. ft. accessory structure, 344 sq. ft. larger than allowed by ACO § 1145.05(b)(2). This existing structure is currently deemed a non-conforming permitted use under ACO § 1147.01. Accordingly, after deliberations, the Board approved this requested variance so as to allow you to rebuild the structure to its current condition in the event of any partial or total loss.

After deliberations, the Board made the following findings regarding 4d:

The Board also heard your request for a variance allowing an existing 440 sq. ft. accessory structure, 376 sq. ft. larger than allowed by ACO § 1145.05(b)(3). This existing structure is currently deemed a non-conforming permitted use under ACO § 1147.01. Accordingly, after deliberations, the Board approved this requested variance so as to allow you to rebuild the structure to its current condition in the event of any partial or total loss.

2. Mr. David Waun resides at 856 Crosse Avenue. Mr. Waun is requesting approval to build an 18'x50' accessory structure (18'30' fully enclosed with an 18'x20' open on three sides).

Mr. Macartney stated Mr. Waun had a previous engagement and could not make it tonight. Mr. Macartney stated Mr. Waun has a garage that currently crosses the property line. Mr. Macartney stated Mr. Waun will be removing the garage that straddles the property line so in the future if they sell the property, there are no issues. Mr. Macartney stated this building a fully enclosed except for 8'x20' that will have a three-side open porch. Mr. Macartney reviewed the lot size with the Board.

After deliberations, the Board make the following findings:

- The requested variance is not substantial for this property, especially given the large size of such 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 proposed structure would be consistent with the surrounding neighborhood, particularly existing accessory structures of similar size located on neighboring properties. Specifically, there is a 984 sq. ft. accessory structure on the property at 870 Crosse Avenue and an 864 sq. ft. accessory structure on the property at 628 Jackson Street.
- 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 requested variance.

It is the decision of the Board to reverse the decision of the Building Official and approve your request for a variance to erect a 900 sq. ft. accessory structure, 324 sq. ft. larger than allowed by ACO § 1145.05(b)(1).

3. Mr. Bereznav motions to move not deliberative session, seconded by Mr. Jeffreys.
Approved 5-0
4. Mr. Jeffreys motions to move back into regular session, seconded by Mr. Bereznav.
Approved 5-0
5. Next scheduled meeting will be May 29, 2024, at 6:30pm. Approved 5-0

6. Adjourn: Motion made to adjourn at 7:17pm by Mr. Jeffrey, seconded by Ms. Knoble. Approved 5-0

Terry Tomaszewski 5/19/2024

Terry Tomaszewski, Chairman Date

Tammy Paterson 5/19/2024

Tammy Paterson, Sec Date