

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

July 31, 2024

6:30pm

Present:

Don Anderson
Mayor Costilow
Al Berezney
Heather Knoble

Excused:

John Jeffreys
Terry Tomaszewski

Other City Officials:

Atty. Ward
David Macartney
Tammy Paterson

Mr. Berezney opened the meeting at 6:37pm.

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

1. Mr. Greg Hebble, Elyria Fence representing Ms. Sandra Gaskala who resides at 596 N Main Street. Mr. Hebble is requesting a 20' front yard setback variance to install a fence. Chapter 1151.04(a) states no fence shall be erected into the front building line setback.

Mr. Hebble stated this is a unique situation. Mr. Hebble stated the city came in and cleared a ditch just North of the property and now there is a big drop. Mr. Hebble stated his client is asking for a variance to install a split rail fence along the ditch line. Mr. Hebble stated they will not encroach on the sidewalk. Mr. Macartney stated he believes this is a safety issue and the fence would help with the boundary. Mr. Macartney stated he had thought about making an administrative decision and allowing the fence, but he wanted to protect the property owner in the future if the fence needed replaced. Mr. Macartney stated there is a drainage/ditch and the drop off is significant and believes this is the appropriate way to proceed. Attorney Ward had no comments or questions at this time. Mr. Berezney asked if the large stones were on city property. Mr. Hebble stated yes.

After deliberations, the Board made the following findings:

- The requested variance is not substantial for this property, particularly given the split-rail style of the proposed fence and the safety-related reason for erecting it. While this determination alone is not sufficient to justify the variance, it is important, especially in the context of other factors.
- The property owner's predicament cannot feasibly be obviated through some method other than a variance. The proposed fence would minimize the safety hazard posed by the existing drainage ditch.
- 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 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 fence twenty feet into the front building line setback in violation of ACO § 1151.04(a). Approved 4-0

Please note the City has waived the permit fee for the erection of this fence, but all required inspections still must be completed.

2. Mr. Jim Polenske representing Ms. Danielle Dopart who resides at 647 Mill Street. Mr. Polenske requests three variances. First request, 264 sq. ft. variance request to install an 840 sq. ft. accessory structure [hereinafter "Variance Request No. 1"] Second request, 2'6" height variance for proposed accessory structure {hereinafter "variance No. 2"} Third request, 232 Sq. ft. variance for existing secondary accessory structure for a total of 400 sq. ft.

Mr. Polenske stated they would like to build on the back corner of the property, six feet from the property line. Mr. Polenske stated they looked in the neighborhood and noticed multiple properties with the same or similar building as they are requesting. Mr. Polenske stated they would like to have a work-out area, be able to use their pool table with friends and use some of the area for his workshop. Mr. Polenske stated they would like to use the upstairs area for storage since they will be getting married soon and he will be moving to Amherst. Mr. Berezney asked if the height request was because of the size of the building. Mr. Polenske said yes. Mr. Polenske stated they currently have an existing 1 and ½ car garage that needs some repair which they plan on doing in the future. Mr. Macartney stated items #1 and #2 are requested from the property owner but item #3 will become uncompliant if item #1 is approved. Mr. Macartney stated the 840 sq ft building includes a side porch so it's not all building. Attorney Ward had no comments or questions. Mayor Costilow inquired about the type of construction. Mr. Polenske stated a pole barn. Mr. Polenske stated they plan on having electric and plumbing run to the structure. Mr. Berezney asked if there were plans for any living areas. Mr. Polenske stated there will be no one living in the structure.

After deliberations, the Board made the following findings:

Variance Request No. 1

- The requested variance is not substantial for this property when considering there are similarly sized accessory structures already existing in the neighborhood. 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 is especially true here where the proposed accessory structure would be consistent with other structures on neighboring parcels and across from property with an industrial zoning classification.
- 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 Variance Request No. 1. Approved 4-0

Variance Request No. 2

- 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 property owner's predicament feasibly can be obviated through some method other than a variance.
- The requested variance would substantially alter the essential character of the neighborhood, and the adjoining properties would suffer substantial detriment as a result of the 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.

It is the decision of the Board to uphold the decision of the Building Official and deny Variance Request No. 2. Denied 2-2 (Mayor- No, Bereznay- No, Anderson -Yes, Knoble- Yes)

Variance Request No. 3

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

3. Mr. Britt Lilley residing at 245 Broadway St Amherst, Ohio. Mr. Lilley is requesting three (3) variances for his property located at 946 Tenney. First request is a 34'6: front set back ono Hall Court to build a new dwelling {Hereinafter "Variance request #1}. Second request 8' variance for existing detached accessory structure in the side yard setback {Hereinafter "Variance request #2}. Third request is for 18' variance to build within the 25' rear setback requirements {Hereinafter "variance request #3}.

Me. Lilley asked that the variance request items #2 be withdrawn. Mr. Anderson motions to withdraw item #2 from the agenda at the request of the applicant, seconded by Ms. Knoble. Approved 4-0

Mr. Lilley stated how this property sits he is unable to build a house. Mr. Lilley stated a few houses built on the street sit on the property line. Mr. Lilley stated he offered to buy the abutting property behind him, but the owner did not want to sell. Mr. Lilley stated he would like to build 20 ft from the side yard. Mr. Macartney stated the city standards are 25 ft setbacks for the rear yard. Mr. Macartney stated the neighborhood has an established front yard setback average of 34'6" from the right-of-way. Mr. Lilley is requesting a zero front yard setback. Mayor Costilow asked if Mr. Lilley would consider moving the building back. Mr. Lilley stated he would be willing to do that. Mayor Costilow asked Attorney Ward if Mr. Lilley was able to revise his application. Attorney Ward stated he would need to reapply that the Zoning Board must review what was submitted.

Variance Request No. 1

- The requested variance is substantial for this property, especially since the relevant average building line front setback on Hall Court is 34'6", meaning that the applicant wishes to have zero setback. While this determination alone is not sufficient to justify denying the variance, it is important, especially in the context of other factors.
- The property owner's predicament feasibly can be obviated through some method other than a variance (e.g. altering the design of the proposed structure).
- 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 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 Variance Request No. 1. Denied 4-0

Variance Request No. 2

- 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 property owner's predicament feasibly can be obviated through some method other than a variance (e.g. altering the design of the proposed structure).
- 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 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 Variance Request No. 2. Denied 4-0

Mayor Costilow thanked Mr. Berezney for his years on the Zoning Board of Appeals. Mayor Costilow introduced Mr. Scott Vilagi as the new member of the Zoning Board of Appeals who will begin serving in September.

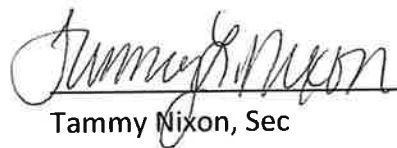
4. Mr. Anderson motions to move not deliberative session, seconded by Ms. Knoble. Approved 4-0

5. Ms. Knoble motions to move back into regular session, seconded by Mr. Anderson. Approved 4-0

6. Next scheduled meeting will be Wednesday, September 25, 2024, at 6:30pm. Approved 4-0

7. Adjourn: Motion made to adjourn at 7:29pm by Mayor Costilow, seconded by Ms. Knoble. Approved 4-0


Al Berezney, Vice-Chairman _____
Date


Tammy Nixon, Sec _____
Date