

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

December 18, 2024

6:30pm

Present:

Don Anderson  
Scott Vilagi  
Heather Knoble  
Terry Tomaszewski

Excused:

John Jeffreys

Other City Officials:

Atty. Patrick Ward  
David Macartney  
Tammy Nixon

Mr. Tomaszewski opened the meeting at 6:33pm.

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

1. Mr. Dan Brucker residing at 1120 Park Avenue. Mr. Brucker is requesting two variances. The first, to construct an accessory structure on a parcel with no other permitted use, subject parcel is vacant. Chapter 1129.01 states accessory structures are permitted in R-1 zoned districts that are incident to permitted uses (i.e. Single-family dwelling). The second request is to construct a 24'x36' (768 sq. ft.) accessory structure. The second variance request is for 192 sq. ft. Chapter 1145.05(b)(1) states primary accessory structure not to exceed 576 sq. ft.

Mr. Brucker stated they have two lots, and they are both fenced in to make one yard. Mr. Brucker stated they have an easement running through the property that limits where they can have a separate building. Mr. Brucker stated behind his house is a lot of concrete. Mr. Brucker stated they had a shed but took that down when it started deteriorating but would like to replace it with a larger shed. Mr. Brucker stated they would like to utilize all of their property as possible. Mr. Macartney had no comments at this time. Mr. Tomaszewski asked about the easement. Mr. Macartney explained Chapter 1129.01 and stated if the lots were combined, Mr. Brucker would only need to ask a variance for the size. Attorney Ward had no comments at this time. Mr. Brucker stated the size fits best for their location and family since they have no garage and needs the storage space.

After deliberations, the Board made the following findings:

**Variance Request No. 1**

- The applicant has not demonstrated he would be subject to an “unnecessary hardship” without a use variance. Specifically, the applicant has not established the subject property cannot be used for any economically viable purpose allowed by the zoning code without a use variance.
- The requested variance is not in harmony with existing zoning. The requested variance would alter the character and use of the zoning district.
- The Board has previously denied similar requests.

It is the decision of the Board to uphold the decision of the Building Official and deny your request for a use variance, Variance Request No. 1. The Board’s denial of Variance Request No. 1 deems Variance Request No. 2 in its current form moot, and the Board takes no further action on Variance Request No. 2. Denied 4-0

2. Mr. David Hassen residing at 74 Fallen Oaks. Mr. Hassen is requesting a variance of 538 sq. ft. to construct a 1,114 sq. ft. under roof which includes a 9’x26” covered porch. Mr. Hassen stated he has a one-acre lot and plenty of space behind his house. Mr. Hassen stated they enjoy classic cars and would like to keep them on his premises instead of having to rent storage spaces. Mr. Hassen stated they have a pool and would like the covered porch for some shade. Mr. Hassen stated the very back of his lot is mostly wooded. Mr. Macartney had no comments at this time. Mr. Tomaszewski asked if Mr. Hassen will extend his driveway. Mr. Hassen stated yes, so they can drive the cars in and out as needed. Attorney Ward had no comments at this time.

After deliberations, the Board made the following findings:

**Variance Request No. 1**

- The requested variance is not substantial for this property given the size of the lot. 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. None of the individuals who contacted the Building Department regarding this variance had any objection to such 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 build a 1,114 sq. ft. accessory structure, 538 sq. ft. larger than allowed by ACO § 1145.05(b)(1). Approved 4-0

3. Mr. Andrew Roberts residing at 829 S. Lake Street. Mr. Roberts is requesting a 72 sq. ft. variance to install a 12'x20' (240 sq ft) accessory structure. Chapter 1145.05(b)(2) states secondary accessory structures not to exceed 168 sq. ft. Mr. Roberts stated he was mistaken on the size and if a permit was required. Mr. Roberts stated he had already purchased the shed. Mr. Roberts stated he stopped by the Building Department and found the shed was over the limit and he also needed a permit. Mr. Roberts stated he took down a shed around the same size and intended to replace it at the same location. Mr. Roberts stated the new shed would be barely visible from the street. Mr. Macartney had no comments at this time. Mr. Tomaszewski asked if there is a fence. Mr. Roberts stated yes. Attorney Ward had no comments at this time.

After deliberations, the Board made the following findings:

- 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 Building Department received a written objection to the requested variance from another resident in the same neighborhood.
- 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 build a 12 ft. x 20 ft. (240 sq. ft.) accessory structure, 72 sq. ft. larger than allowed by ACO § 1145.05(b)(2). Denied 4-0

4. Jim Roth residing at 47965 Cooper Foster Park Road. Mr. Roth is requesting a Use Variance for the temporary accessory structure (shipping container) to remain perpetually in place on his property. Chapter 1145.06(b) stated temporary accessory structures may not be placed for a period exceeding thirty (30) days. Mr. Roth stated he has had the structure for numerous years, pre-dates the new ordinance. Mr. Roth is requesting to keep the structure since he has had it for 8 years. Mr. Roth is asking for this to be grandfathered in. Mr. Roth stated this would be mor difficult to remove. Mr. Roth stated it can be barley be seen from the street. Mr. Roth stated a tree fell on and it did not damage the structure, that is how structurally sound it is. Mr. Macartney stated he had no other comments but added Mr. and Mrs. Roth appeared before the Zoning Board last month and is now requesting a USE variance. Attorney Ward had no comments at this time.

After deliberations, the Board made the following findings:

- The applicant has not demonstrated he would be subject to an “unnecessary hardship” without a use variance. Specifically, the applicant has not established the subject property cannot be used for any economically viable purpose allowed by the zoning code without a use variance.
- The requested variance is not in harmony with existing zoning. The requested variance would alter the character and use of the zoning district.

It is the decision of the Board to uphold the decision of the Building Official and deny your request for a use variance. Denied 4-0

5. Mr. Anderson motions to move not deliberative session, seconded by Ms. Knoble. Anderson. Approved 4-0
6. Mr. Anderson motions to move back into regular session, seconded by Ms. Knoble. Anderson. Approved 4-0
7. Next scheduled meeting: January 29, 2025, at 6:30pm. Just a reminder this will also be the administrative meeting to elect a Chairman and Vice-Chairman. Approved 4-0
8. Adjourn: Motion made to adjourn at 7:26pm by Mr. Vilagi, seconded by Mr. Anderson. Approved 4-0

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Terry Tomaszewski, Chairman

Date

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Tammy Nixon, Sec

Date