

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

September 30, 2025

6:30pm

Present:

Don Anderson

John Jeffreys

Heather Knoble

Terry Tomaszewski

Scott Vilagi

Excused:

Other City Officials:

Atty. Ward

David Macartney

Tammy Nixon

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

Mr Tomaszewski leads the members and audience in the Pledge of Allegiance.

Mr. Tomaszewski swears in everyone that will be speaking before the board.

Mr. Tomaszewski explained to the applicants the procedure and how they will be notified of the decision for their variance request.

1. Ms. Renee Mick, residing at 916 Milan Avenue, is requesting two (2) variances. The first variance is for 1,250 sq. ft. for a proposed 25'x50' addition onto their existing 24'x32' accessory structure making the total structure ,018 sq. ft. The second variance is for 4'0" height making the total height 20'0". Ms. Mick was not in attendance, but Mr. Macartney stated the property has an existing larger structure that the Zoning Board Appeals approved on January 3, 1989, and Ms. Mick would like to add onto the back of the existing structure. Mr. Macartney stated they would like to add a taller door in the back so they can park their RV in and do any maintenance in the off season. Mr. Jeffreys asked if they proposed a driveway to the back or how they planned on getting the RV in the new building. Mr. Macartney stated he is unaware of any new driveway, but they can drive on the grass area to the new building but are not permitted to park in the grass area. Attorney Ward has no comments or questions at this time.

After deliberation, the Board made the following findings:

**First Variance Request:**

- The variance requested is not substantial for this property given the size of the property. While this determination alone is not sufficient to justify granting the variance, it is important, especially in the context of other factors.
- The property is unique, and the new structure would not be seen from the street.
- 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 spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance.
- The requested variance would not adversely affect the delivery of governmental services.

It is the decision of the Board to reverse the decision of the Building Official and grant your request for a 1,250 sq. ft. variance to build a 1,250 sq. ft. (25 ft. x 50 ft.) addition onto your existing 768 sq. ft. (24 ft. x 32 ft.) accessory structure, making the total square footage of the building 2,018 sq. ft., 1,250 sq. ft. larger than allowed under ACO § 1145.05(b)(1). Approved 5-0

**Second Variance Request:**

- The variance requested is not substantial for this property given the size of the property. While this determination alone is not sufficient to justify granting the variance, it is important, especially in the context of other factors.
- The property is unique, and the new structure would not be seen from the street.
- 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 spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance.
- The requested variance would not adversely affect the delivery of governmental services.

It is the decision of the Board to reverse the decision of the Building Official and grant your request for a variance to build the above-referenced addition resulting in an accessory structure with a height of twenty feet, four feet higher than permitted by ACO § 1145.05(c). Approved 5-0

2. Mr. Norberto Rosario, residing at 533 East Street, is requesting two (2) variances. The first variance is 528 sq. ft. proposed addition to the existing 24'x22' accessory structure making the total structure 1,104 sq. ft. The second variance request is for 2" height making the total height of the structure 16'2". Mr. Rosario apologized to the board for building the new structure without the required authorization and permits. Mr. Rosario stated he is a new homeowner, and this is his first home and was unaware of the rules. Mr. Rosario stated he currently has a smaller shed, 384 sq. ft., that will be removed. Mr. Rosario stated he is requesting the size for storage of their lawn equipment and lawn furniture. Mr. Rosario stated they also have a lot of Halloween and Christmas decorations. Mr. Rosario stated he also has 2 cars he would like to keep stored. Mr. Rosario stated he believes this request will not alter the character of the neighborhood since there are numerous properties in the area that have larger accessory structures, and some are larger than what he is requesting. Mr. Rosario stated he believes the variance request respects the intent

of the zoning code. Mr. Macartney had nothing to add. Mr. Vilagi asked when the smaller shed would be taken down. Mr. Rosario stated he was hoping for the next two months, based on weather, but it could be early spring 2026. Attorney Ward commended Mr. Rosario on the application and presentation.

After deliberation, the Board made the following findings:

**First Variance Request:**

- The variance requested is not substantial for this property given the overall property's size and the size of existing accessory structures in the same neighborhood. While this determination alone is not sufficient to justify granting the variance, it is important, especially in the context of other factors.
- Neighbors have submitted letters indicating they do not have any objection to the requested variance.
- The Board has previously granted similar variance requests for properties in the same neighborhood.
- An existing 384 sq. ft. (16 ft. x 24 ft.) accessory structure will be razed and removed from the property.
- 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. Nearby properties include similarly sized accessory buildings on comparably sized lots.
- The spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance.
- The requested variance would not adversely affect the delivery of governmental services.

It is the decision of the Board to reverse the decision of the Building Official and grant your request for a 528 sq. ft. variance to build a 576 sq. ft. (24 ft. x 24 ft.) addition onto your existing 528 sq. ft. (24 ft. x 22 ft.) accessory structure, making the total square footage of the building 1,104 sq. ft., 528 sq. ft. larger than allowed under ACO § 1145.05(b)(1). **The Board's granting of your First Variance Request is conditioned upon your razing of the 384 sq. ft. (16 ft. x 24 ft.) existing accessory structure and removal of such structure from the above-referenced property. Approved 5-0**

**Second Variance Request:**

- The variance requested is not substantial for this property. While this determination alone is not sufficient to justify granting the variance, it is important, especially in the context of other factors.
- Neighbors have submitted letters indicating they do not have any objection to the requested variance.
- 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 spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance.
- The requested variance would not adversely affect the delivery of governmental services.

It is the decision of the Board to reverse the decision of the Building Official and grant your request for a variance to build the above-referenced addition resulting in an accessory structure with a height of 16'2", two inches higher than permitted by ACO § 1145.05(c). Approved 5-0

3. Mr. Roger Marshall, residing at 344 James Street, is requesting three (3) variances. The first variance is for 324 sq. ft. (6'x30' south and 6'x24' west) lean-to structure addition to the existing 720 sq. ft. accessory structure making the total structure 1,044 sq. ft. The second variance is for 4.5' accessory structure to be 0.5' to south (side) property line. The third variance is for 2.5' accessory structure to be 2.5' to west (rear) property line. Mr. Marshall stated this is his second time coming before the Zoning Board. Mr. Marshall stated he was not aware of the permits at the time he started this project and has stopped all progress until he can receive the approvals he needs. Mr. Marshall stated he is currently renting two (2) storage units on Mill Street but still needed more space. Mr. Marshall stated he has reduced the size including the reduced property line encroachment from the previous zoning request in 2023. Mr. Macartney stated Mr. Marshall was before the Board in 2023 and was denied. Mr. Macartney stated he had granted an extension to Mr. Marshall until the storage units were completed and just recently re-issued the notice to comply. Mr. Macartney stated this new variance request had reduced the size of the addition and property line distances. Attorney Ward asked if the existing structure is impeding the neighbor's property. Mr. Macartney brought up the Lorain County Auditor website to show where the property lines are approximately located and explained the visible property lines shift from year to year depending on the direction the satellite imagery is generated from.

After deliberation, the Board made the following findings:

**First Variance Request:**

- Given the consensus of approval from neighbors, the variance requested is not substantial for this specific property. While this determination alone is not sufficient to justify granting the variance, it is important, especially in the context of other factors.
- There has been no opposition to the requested variance from abutting property owners.
- 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 spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance.
- The requested variance would not adversely affect the delivery of governmental services.

It is the decision of the Board to reverse the decision of the Building Official and grant your request for a 324 sq. ft. area variance to build a 324 sq. ft. lean-to addition (6 ft. x 30 ft. south/6 ft. x 24 ft. west) onto an existing 720 sq. ft. non-conforming permitted accessory structure, making the total

square footage of the building 1,044 sq. ft. Approved 4-1 (Tomaszewski, yes, Jeffreys- No, Vilagi- yes, Anderson- yes, Knoble- yes)

### **Second Variance Request:**

- Given the consensus of approval from neighbors, the variance requested is not substantial for this specific property. While this determination alone is not sufficient to justify granting the variance, it is important, especially in the context of other factors.
- There has been no opposition to the requested variance from abutting property owners.
- 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 spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance.
- The requested variance would not adversely affect the delivery of governmental services.

It is the decision of the Board to reverse the decision of the Building Official and grant your request for a variance permitting an accessory structure six inches from the south property line, 4½ ft. closer to the side lot line than allowed by ACO § 1145.05(a). Approved 3-2 (Tomaszewski- yes, Jeffreys-no, Vilagi- yes, Anderson- no, Knoble- yes)

### **Third Variance Request:**

- Given the consensus of approval from neighbors, the variance requested is not substantial for this specific property. While this determination alone is not sufficient to justify granting the variance, it is important, especially in the context of other factors.
- There has been no opposition to the requested variance from abutting property owners.
- 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 spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance.
- The requested variance would not adversely affect the delivery of governmental services.

It is the decision of the Board to reverse the decision of the Building Official and grant your request for a variance permitting an accessory structure 2½ feet from the west property line, 2½ ft. closer to the rear lot line than allowed by ACO § 1145.05(a). Approved 3-2 (Tomaszewski- yes, Jeffreys-no, Vilagi- yes, Anderson- no, Knoble- yes)

4. Mr. Khaled Bikawi representing Kalbiko Properties LLC located at 1255 N Main Street. Mr. Bikawi is requesting three (3) variances. The first variance is for 5' planting of 1'-2' ft high natural evergreen in 10' wide buffer area abutting residential use in two (2) rows staggered at 5' on center along required north property line. The second variance request is 5' planting 1'-2' high natural evergreen in 10' wide buffer area abutting residential use in two (2) rows staggered at 5' on center along 150' of south property line (east half). The third variance is 5' planting 1'-2'

natural evergreen in 30' wide buffer area abutting residential use in six (6) rows staggered at 5' on center along 247' of east property line. Mr. Bikawi stated he was here a couple of months ago and his request was denied. Mr. Bikawi stated he is not asking for a variance to eliminate the trees, just the size of the trees. Mr. Bikawi stated there are a lot of existing trees on the south side along with an 8ft high fence. Mr. Bikawi stated he will comply with the city ordinance on trees placement and height abutting the neighbor at 400 Braeburn but would like to decrease the tree size for the rest of the property. Attorney Gerald Smith started reviewing the questions in Duncan v. Village of Middlefield listed in the application. Attorney Smith stated no. 2, whether the variance is substantial. Attorney Smith stated he does not feel this is substantial since Mr. Bikawi owns the whole two back parcels that have a tremendous amount of trees Attorney Smith stated he feels this will not have any negative impact on the neighbors. Attorney Smith stated no. 5 asks if the property owner purchased the property with knowledge of the zoning restriction. Attorney Smith stated Mr. Bikawi did speak to the Building Official but thought the existing trees were sufficient. Attorney Smith stated no. 6, whether the property owner's predicament can be obviated through some method other than a variance. Attorney Smith stated they could fence in the property. Attorney Smith stated no. 7, whether the spirit and intent behind the zoning requirement would be observed, and substantial justice done by granting the variance. Attorney Smith stated he felt this would be observed by granting the variance since Mr. Bikawi will be planting the trees, but they would need to have some time to grow. Attorney Smith stated no.1, whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance. Attorney Smith stated this seems to be a big hindrance seeing there was a business there previously. Attorney Smith stated if you look at all Duncan questions, this is a good compromise. Mr. Macartney reviewed each variance request showing the Board on the large screen which areas would be affected. Mr. Macartney stated Mr. Bikawi would be planting the same number of trees, just smaller than the 6ft required by code. Attorney Ward had no questions or comments at this time. Mr. Jeffreys asked for the reason for the shorter trees. Mr. Bikawi stated the price, the 6 ft. trees are \$200.00 each. Attorney Smith thanked Attorney Ward and Mr. Macartney for meeting with them to review the property.

After deliberation the Board made the following findings:

**First Variance Request:**

- The Property would yield a reasonable return and have a beneficial use without the first requested variance.
- The first requested variance is substantial for this property, especially given the homes currently located to the north of the Property and the applicant's request that the trees at the time of planting be five feet shorter than mandated to satisfy the buffer requirement and sufficiently protect neighboring residential property owners.
- The first requested variance would substantially alter the essential character of the neighborhood, and the adjoining properties would suffer substantial detriment as a result of the first requested variance. The abutting residential property owners must be protected from any commercial activities on the Property, including, without limitation, the operation of a car dealership. The required buffer protects neighbors from excessive noise and provides much-needed privacy.

- The property owner purchased the Property with knowledge of the applicable zoning restriction. Indeed, the property owner's principal, Khaled Bikawi, admittedly discussed the restriction with the Building Official prior to buying the Property.
- The property owner's only alleged justification for the first requested variance is to save money. There is simply no predicament to be obviated here.
- The spirit and intent behind the zoning requirement would not be observed and substantial justice would not be done by granting the first requested variance.

It is the decision of the Board to uphold the decision of the Building Official and deny your First Variance Request. Denied 5-0

**Second Variance Request:**

- The Property would yield a reasonable return and have a beneficial use without the second requested variance.
- The second requested variance is substantial for this property, especially given the homes currently located to the south of the Property and the applicant's request that the trees at the time of planting be five feet shorter than mandated to satisfy the buffer requirement and sufficiently protect neighboring residential property owners.
- One of the neighboring property owners submitted a written objection to the second requested variance.
- The second requested variance would substantially alter the essential character of the neighborhood, and the adjoining properties would suffer substantial detriment as a result of the second requested variance. The abutting residential property owners must be protected from any commercial activities on the Property, including, without limitation, the operation of a car dealership. The required buffer protects neighbors from excessive noise and provides much-needed privacy.
- The property owner purchased the Property with knowledge of the applicable zoning restriction, and its principal even discussed the restriction with the Building Official prior to buying the Property.
- The property owner's only alleged justification for the second requested variance is to save money. There is no predicament to be obviated.
- The spirit and intent behind the zoning requirement would not be observed and substantial justice would not be done by granting the second requested variance.

It is the decision of the Board to uphold the decision of the Building Official and deny your Second Variance Request. Denied 5-0

**Third Variance Request:**

- The Property would yield a reasonable return and have a beneficial use without the third requested variance.
- The third requested variance is substantial for this property given the potential for residential development on and around the Property to the east and the applicant's request that the trees

at the time of planting be five feet shorter than mandated to satisfy the buffer requirement and sufficiently protect the neighborhood.

- The third requested variance would substantially alter the essential character of the neighborhood, and the adjoining properties would suffer substantial detriment as a result of the third requested variance.
- The property owner purchased the Property with knowledge of the applicable zoning restriction, and its principal even discussed the restriction with the Building Official before purchasing the Property.
- The property owner's only alleged justification for the third requested variance is to save money. There is no predicament to be obviated.
- The spirit and intent behind the zoning requirement would not be observed and substantial justice would not be done by granting the third requested variance.

It is the decision of the Board to uphold the decision of the Building Official and deny your Third Variance Request. Denied 5-0

5. Motion made by Mr. Jeffreys to move into deliberative session, seconded by Mr. Anderson. Approved 5-0
6. Motion by Mr. Jeffreys to move back into regular session, seconded by Mr. Anderson. Knoble. Approved 5-0.
4. Approval of minutes from August 27, 2025: Mr. Vilagi motions to approve the minutes, seconded by Ms. Knoble. Approved 5-0
5. Next scheduled meeting Wednesday, October 29, 2025, at 6:30pm. Approved 5-0
6. Adjourn: Motion made to adjourn at 7:58pm by Mr. Jeffreys, seconded by Ms. Knoble. Approved 5-0

Terry Tomaszewski 10/8/2025      Tammy Nixon 10/8/25  
Terry Tomaszewski, Chairperson      Date      Tammy Nixon, Secretary      Date