

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

January 25, 2017

6:30pm

Present:

Terry Tomaszewski

Don Anderson

Al Berezney

John Jeffreys

Excused:

Bob Valenti

Other City Officials:

Frank Carlson

David Macartney

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

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

Mr. Jeffreys motions to re-appoint Terry Tomaszewski as chairman for the Zoning Board of Appeals for the 2017 year, seconded by Mr. Berezney. Approved 4-0

Mr. Jeffreys motions to re-appoint Mr. Berezney as vice-chairman for the Zoning Board of Appeals for the 2017 year, seconded by Mr. Anderson. Approved 4-0

Mr. Berezney motions to keep the Zoning Board of Appeals meeting the last Wednesday of each month starting at 6:30pm, seconded by Mr. Jeffreys. Approved 4-0

1. Mr. Tomaszewski asked Mr. Macartney to review the property maintenance letter given to Mr. Toth and the descriptions of the violations. Mr. Macartney went over the notice sent to Mr. Toth on December 8, 2016. Mr. Macartney described the aesthetics of the property and what chapters of the codified ordinances he felt this property was in violation of. Mr. Macartney stated he has received numerous complaints from neighbors, therefore revisiting these two parcels. Mr. Macartney stated Mr. Toth has accumulated rubbish and garbage throughout the property with some having tarps thrown over the piles. Mr. Macartney stated there are numerous vehicles, trailers and a boat in disrepair and could not confirm if they had current registration or license how they are situated on the parcel. Mr. Macartney stated there is an RV on the property that is being used as living quarters which is not permitted in any zoning district unless you are in the process of building a home which there is not currently. Mr. Macartney stated these two parcels do not have a main structure, like a house, on the property so no accessory buildings are permitted. Mr. Macartney stated these two parcels have no addresses. Mr. Macartney stated according to our Zoning Map these two parcels are in an R-1

Residential zoned area. Mr. Macartney also stated these parcels are unsafe/unsanitary conditions and is unsafe for the surrounding neighborhood. Attorney Carlson asked if Mr. Toth owned the house next to the parcels. Mr. Macartney stated no, the house has been sold. Mr. Macartney went over the history of the parcel when a huge barn was there but Mr. Toth was required to demolish the barn due to it being unsafe. Mr. Tomaszewski asked if Mr. Toth has been before the Zoning Board of Appeals previously. Mr. Macartney stated yes and he believes the previous notice of violation went to court.

Mr. Toth stated he received two citations back in July of 2016 and went to Oberlin Municipal Court where one citation was dropped and the second was resolved. Mr. Toth stated this notice is not applicable to him since his property is commercial not residential. Mr. Toth stated this notice needs to be eradicated since he keeps getting violation notices. Mr. Toth stated his motor home is not a camper. Mr. Toth stated there are Federal, State and County statutes that are being violated. Attorney Carlson asked Mr. Macartney if all our paperwork shows the parcels as being residential. Mr. Macartney stated the entire City's zoning maps show the parcels to be residential. Mr. Tomaszewski asked Mr. Toth if he lives on the parcels. Mr. Toth stated his business is there and he uses the mobile home as his office. Mr. Toth stated he does have other vehicles, including a boat on the parcel. Mr. Tomaszewski asked where Mr. Toth lived. Mr. Toth stated in Elyria at a mobile home park off of West Ridge. Mr. Tomaszewski asked for the address. Mr. Toth stated he did not know the address, he just drives there. Mr. Berezney asked Mr. Macartney about the zoning. Mr. Macartney stated the county does not say commercial or residential. Mr. Macartney stated the whole street, except for the old lumber yard, is residential. Mr. Jeffreys asked Mr. Toth if he has been before the Zoning Board before. Mr. Toth stated yes. Mr. Jeffreys asked what happened at those meetings. Mr. Toth stated it was the same scenario, everyone thinks it's residential. Mr. Toth stated his property tax bill shows it's commercial. Attorney Carlson stated the tax bill does not verify the zoning of a property. Mr. Toth stated he is a contractor and uses the parcel for his business. Mr. Berezney asked if he pays city taxes for his business and Mr. Toth stated he does.

Based on deliberations the Board decided to deny your appeal. Approved 4-0

- The matter came before the Board of Zoning Appeals pursuant to section 1125.03 of the Codified Ordinances of the City of Amherst.
- You appealed the notice you received from the Building Inspector dated December 8, 2016 instructing you to remove or dispose of certain property located on the real property identified by Lorain County Auditor's permanent parcel numbers 05-00-024-108-024 and 05-00-024-108-025.
- This letter followed a notice of violation dated August 25, 2016 identifying violations of sections 1342.06(a), 1342.06(b)(1), 1342.07, 1342.14(a) and (b), 1129.01, 1145.12 and 1145.11 of the Codified Ordinance of the City of Amherst.
- No appeal was filed for the notice of violation dated August 25, 2016.
- The parcels in question are zoned residential.
- There is no residential structure on either parcel.

- You proposed that the use of the property located on these parcels was a permitted commercial use.
- Commercial uses are not permitted in a residentially zoned district.
- The accessory building on parcel number 05-00-024-108-024 is not permitted in the absence of a primary structure and constitutes a violation of section 1129.01 of the Codified Ordinances of the City of Amherst.
- The parking of vehicles is not a permitted use in the absence of a primary residential structure and thus is also in violation of section 1129.01 of the Codified Ordinances of the City of Amherst.
- The parking of trailers, trailer coaches and mobile homes are prohibited by sections 1145.11 and 1145.12 of the Codified Ordinance of the City of Amherst.
- Parking of vehicles without a current license is prohibited by section 1142.14(a) of the Codified Ordinances of the City of Amherst.
- Parking of vehicles except in a driveway or garage is prohibited by section 1142.14(b) of the Codified Ordinance of the City of Amherst.
- The Board found that the accumulation of refuse, garbage, debris, tires, brush, and construction debris as noted in the letter of December 8, 2016 constituted violations of sections 1342.06(a), 1342.06(b)(1) and 1342.07 of the Codified Ordinance of the City of Amherst.
- The Zoning Board of Appeals finds that mobile homes, trailers, campers, camp cars etc. are not permitted to be used as living quarters on any lots or lands in any zoning district per ACO 1145.12/1145.11.
- The Zoning Board of Appeals finds the following property located on parcels 05-00-024-108-024 and 05-00-024-108-025 to constitute a public nuisance and to be unsafe and/or unsanitary per ACO 1341.04/1341.01(k):
 1. The accessory building on parcel number 05-00-024-108-024;
 2. The trailer described as a construction trailer by appellant, for the reason that use of such trailer as a habitation without electric, water or sewer is unsafe or unsanitary;
 3. Vehicles, trailers, boats, whether licensed or unlicensed, for the reason that the presence of such property in the absence of a primary residence is unsafe and unsightly;
 4. Refuse, garbage and tires, brush, and debris including construction debris.

The Zoning Board of Appeals therefore denies the appeal and upholds the determinations of the Building Inspector as set forth in his letter dated December 8, 2016.

The Zoning Board therefore does by this action resolves to affirm the action of the Building Inspector as embodied in his letter of December 8, 2016. See separate resolution attached which is entered upon the records of the Amherst Zoning Board of Appeals.

2. Mr. Robert Myers is requesting a variance to build an accessory structure larger than allowed by code on his property located at 1251 Park Avenue. Mr. Myers stated he needs more storage space for extra cars from the family and would like to keep everything under roof instead out in the open. Mr. Tomaszewski asked if his plans are correct that he has two attached garages. Mr. Myers stated yes. Mr. Myers stated he is requesting a 24x32 detached garage. Mr. Tomaszewski asked if he will need to pour a new driveway to the building. Mr. Myers stated no, he has an existing driveway there. Mr. Berezney stated he has a beautiful parcel of land but asked how close to the ravine he will be building. Mr. Myers stated about 20 feet. Mr. Macartney stated if the variance is granted that Mr. Myers will be required to install some safe guards to the ravine to protect what is there. Mayor Costilow stated this is a unique piece of property and did not feel it would hurt the neighboring properties. Mr. Tomaszewski asked if there had been any neighborhood inquires. Mr. Myers stated he did speak with one neighbor and they had come to an agreement about installing some greenery along the property lines so it would not impact their view. Mr. Macartney stated the neighbor in questions did come to our office and we encourage them to go to Mr. Myers to see if they could come up with an agreement. Mr. Macartney stated he was happy to hear it all worked out for both neighbors.

Based on deliberations, the Board decided to reverse the decision of the Building Inspector and grant your variance to build a 24x32 accessory structure. Approved 4-0

- The variance request is not substantial to the property given the uniqueness of your parcel.
- The spirit and intent behind the zoning requirement would be observed and substantial injustice done by granting the variance.
- The variance request will not alter the character of the neighborhood therefore not causing any substantial detriment as a result of the variance.
- The signs would not affect the delivery of governmental service.
- You will be required to have additional protection for the ravine located on your property.

3. Mr. Skip Collins from Allsigns and Design requesting a variance to install a sign larger than allowed by code for Pat Catans located at 1955 Cooper Foster Park Road. Mr. Collins stated that Pat Catans is struggling a little at this store and the owners wanted to give it a little face lift. Mr. Collins stated the sign they are requesting approval for is from another location that has been shut down and they would like to reuse it if possible. Mr. Collins stated only the "P" and "C" would be larger than allowed by code and the overall size of the sign is actually smaller than what is currently there. Mr. Collins stated the sign will be illuminated by LED lights. Mr. Macartney stated that several years back Pat Catans came before the Zoning Board of Appeals and did receive approval for a sign larger than allowed by code, but not specifically the sign being applied for currently. Mayor Costilow stated that Pat Catans is an anchor store in the Plaza and would like to do what we can to keep them around. Mayor Costilow stated the board needs to make the decision but is in support of the new sign.

Based on deliberations, the Board decided to reverse the decision of the Building Inspector and grant your variance to install a sign larger than allowed by code. Approved 4-0

- The variance request is not substantial to the property given the new sign will be placed where the existing sign is located.
- The spirit and intent behind the zoning requirement would be observed and substantial injustice done by granting the variance.
- The variance request will not alter the character of the neighborhood therefore not causing any substantial detriment as a result of the variance.
- The signs would not affect the delivery of governmental service.

4. Motion to move into deliberative session. Mr. Jeffrey motions to move into deliberative session, seconded by Mr. Berezney. Approved 4-0

5. Motion to move out of deliberative session. Mr. Jeffrey motions to move out of deliberative session, seconded by Mr. Berezney. Approved 4-0

6. Approval of Minutes from December 21, 2016. Mr. Berezney motions to approve minutes, seconded by Mr. Anderson. Approved 4-0

7. Next schedule meeting: February 22, 2017. Approved 4-0 with a reminder that Mr. Valenti will be out of town for the February meeting.

8. Adjourn. Mr. Jeffrey motions to adjourn at 7:40pm, seconded by Mr. Anderson. Approved 4-0

<u>Terrance J Tomaszewski</u>	1/26/17	<u>Tammy J. Paterson</u>	1/26/17
Mr. Terry Tomaszewski, Chairman	Date	Tammy Paterson, Secretary	Date