

AGENDA

February 3, 2020

PLANNING COMMISSION/BOARD OF ZONING APPEALS

7:00 PM

Roll Call

Minutes

Meeting of December 2, 2019

Cases

CASE NO. 2020-1573

Charles Warinner, the representative for BTH Enterprises which owns the property at 2430 Section Road, is requesting a variance to Zoning Code section 154.14. The variance would allow for the replacement of the existing front yard fencing along the edge of the bridge and driveway.

New Business

Adjournment

**MINUTES OF THE REGULAR MEETING OF THE AMBERLEY VILLAGE
BOARD OF ZONING APPEALS/PLANNING COMMISSION
HELD AT THE AMBERLEY VILLAGE MUNICIPAL BUILDING**

MONDAY, DECEMBER 2, 2019

Chairperson Richard Bardach called to order a regular meeting of the Amberley Village Board of Zoning Appeals/Planning Commission held at the Amberley Village Municipal Building on Monday, December 2, 2019 at 7:00 p.m.

Roll was called:

PRESENT:

Rich Bardach
Rick Lauer
Susan Rissover
Scott Wolf
Scott Rubenstein

ALSO PRESENT:

Kevin McDonough
Wes Brown
Scot Lahrmer
Tammy Reasoner

Chair Bardach welcomed everyone to the meeting and led those in attendance through the pledge of allegiance.

Chair Bardach asked if there were any corrections to the minutes of the October 7, 2019 meeting. There being none, the minutes were accepted as submitted.

CASE NUMBER CORRECTION

Mr. Lahrmer stated that last month, a case number was inadvertently assigned which duplicated a case number from July. He requested a motion to change Case # 2019-1393 from the October meeting to Case # 2019-1443. Chair Bardach moved to reassign the case number, which was seconded Mr. Lauer. The motion passed unanimously, changing Case # 2019-1393 from the October meeting of the Board of Zoning Appeals to Case # 2019-1443.

CASE NO. 2019-1499

Mr. Brown provided the staff report for the application submitted by Amberley Village staff requesting the Amberley Village Planning Commission for approval of a proposal to subdivide Village-owned parcel 526-0040-0029. Village staff also requested the Board of Zoning Appeals grant a variance from Zoning Code Sections 154.78 (A) to allow for the creation of three separate parcels, all less than the required 3-acre minimum within the North Site Zoning District.

He said the Village created the North Site District to encourage development. He stated Mercy Health Amberley is currently located at the site, and Amberley Village is negotiating the sale of a second parcel of the property. Mr. Brown said the proposed changes would also allow for a third parcel to then be developed in the future.

Mr. Brown stated that Village Zoning Code requires subdividing of land into two or more parcels to be approved by the Planning Commission. He said the Village seeks a motion by the Planning Commission to approve the creation of the three parcels.

Mr. Brown then explained the Village was also seeking a lot size variance from the Board of Zoning Appeals, as North Site Code requires the lot sizes be a minimum of three acres each. The subdivision mentioned previously, he said, would create three parcels as follows: Parcel II (Mercy Health, 2.0881 acres), Parcel III (2.2657 acres) and Parcel IV (2.2003 acres).

Mr. Brown stated the passage of both actions is required to allow the Village to create the three parcels.

Mr. Lahrmer stated the six acres at the North Site were not divided into parcels when Mercy began leasing, as the Village still owned the entire property. The purpose of subdividing the plats at this point would be to enable the Village to sell the middle parcel to the Lewis Animal Hospital. The subdivision would also allow for future sale or lease of the third parcel.

Mr. Lahrmer also said preliminary concept plans had been provided during negotiations with Lewis, and the contract includes a 90-day due diligence clause.

Ms. Rissover clarified the building plans would need to come before the Planning Commission for approval before construction began. Mr. Lahrmer confirmed this to be correct.

A discussion was held regarding what other Village-owned property remained in the North Site Zoning District, and what had been discussed regarding future plans for the third lot.

Mr. Lahrmer stated discussion hadn't gotten that far yet, but it was understood whatever went in would have to be low impact, as there are traffic considerations at the site.

Chair Bardach asked if there were any questions from those in attendance.

David Powell of 785 Maple Drive expressed concern that when the North Site was established, it was intended to form two 3-acre parcels. He said this change now increases two uses for the property to three, which he stated increased his 'end use of property' concerns. He also expressed concern regarding Lewis Animal Hospital offering boarding services with outdoor kennels and dog runs, and objects to the noise and the odor of dog waste. He stated that while the veterinary clinic was not a high impact use, offering kennel services would be a negative. He also asked about Parcel 1 showing a 1900th of an acre on a survey, and asked where that would end up if the Village requests were approved.

Mr. Brown stated this property would be attached to the next parcel.

Mr. Powell asked if it would be attached by the 7-11 clause, to which Mr. Brown responded in the affirmative. Mr. Powell then stated he had additional concerns regarding tight traffic in that area. He wanted the record to reflect he wished to give future feedback on the site regarding outdoor kennels.

Mary Ann Birkhard at 837 Maple Drive said she understood that right behind her property were Hamilton County parcels, which she said they wouldn't sell to Amberley Village when Mercy leased at the North Site.

Mr. Brown said Hamilton County's property has frontage on Ridge Road and the County retained ownership.

Ms. Birkhard stated she wanted to be sure she understood the ownership at the North Site, and questioned how Amberley Village was accessing Ridge Road if the property belonged to Hamilton County. Mr. Brown stated the Village owns the 20-foot strip of road out to Ridge Road.

Mr. Lauer said the proposed changes would make the North Site property more marketable whether the animal hospital deal is finalized or another deal is struck in the future, and stated it seemed an appropriate way to subdivide the property. Mr. Lauer stated he was in favor of the proposed parcel split, and moved to approve the Amberley Village request. Ms. Rissover seconded the motion, which passed unanimously.

Chair Bardach stated the next issue was the request of the Village for a variance to allow parcels at the North Site Zoning District less than 3 acres in size. He reminded the Board of Zoning Appeals and the residents in attendance that this only applies to these three lots.

Mr. Wolf moved to allow the variance, and stated it would both improve the property and better define the lots and what goes on them. Chair Bardach seconded the motion, which passed unanimously.

New Business

Mr. Lahrmer presented a letter that had been sent to Council regarding the Frank Lloyd Wright House stating concerns regarding the length of time it was taking to renovate. Mr. Lahrmer stated the project had been almost four years in the works, and the County had stopped work at one point due to lack of permits.

Mr. Lahrmer stated staff has been in touch with the owners, and was told there is now a spring completion date.

Mr. Lahrmer then directed the Board to a second letter concerning the variance granted at the last Board of Zoning Appeals meeting, which allowed for a shed placement on Elbrook. At least two neighbors were unhappy with the outcome, as it put the building closer to their view vs. keeping it in Rabbi Travis' yard. The letter requests the Board consider limiting the size of outbuildings, and requiring evergreens to screen them from neighbors' view.

Mr. Lahrmer said he wanted to at least make the Board aware there had been feedback. He reminded the Board it had been suggested at the last meeting that the homeowner file an updated request.

Mr. Brown stated a shed was permitted up to 200 sq. feet or 16 feet (or the height of the house, whichever is less) according to the change in code made recently for accessory structures.

Ms. Rissover asked if the property had been checked for size to ensure it matched the request. Mr. Brown said it had not yet been checked.

Mr. Lauer asked if the resident who wrote the letter had received a notice regarding the proposal, and Ms. Rissover reminded him what had been passed wasn't the original appeal.

Mr. Lahrmer stated the information was being provided just as knowledge for consideration.

Mr. Brown reminded the Board it had agreed to allow the variance as long as the resident didn't drastically change the plan.

Mr. Lauer stated there is a 'percentage' incorporated into the language with regard to what percentage of the lot size can be occupied by a structure.

Mr. Wolf said his concern was that the resident could have put the shed in the middle of the yard, and the BZA couldn't have done anything about it. He said the Board was looking for a reasonable compromise, which seemed to be more of the issue. He suggested the solution would be to limit the size of the shed in proportion to the yard.

Mr. Lauer asked what would have happened had the resident asked for a detached garage.

Mr. Wolf said aesthetic considerations must be taken into account. The dilemma in this case was that the resident could have put the shed in his yard without a variance, but the outcome would have been less aesthetically pleasing.

Mr. Lauer said the neighbor writing the complaint letter had an opportunity to address the issue before the Board, but chose otherwise.

Mr. Wolf stated the parameters regarding outbuildings on smaller lots is something worth looking into codifying in the future.

NEW BUSINESS

There being no further business, the meeting was adjourned.

Tammy Reasoner, Clerk of Council

Richard Bardach, Chairperson



7149 Ridge Road
Amberley Village, OH 45237

513-531-8675 *phone*
513-531-8154 *fax*

amberleyvillage.org

PLANNING COMMISSION
MEETING NOTICE

WHEN: February 3, 2020 at 7:00 PM
WHERE: Amberley Village Municipal Building, 7149 Ridge Road
FROM: Scot Lahrmer, Village Manager

Please be advised there will be a public meeting held by the Amberley Village Planning Commission and the Board of Zoning Appeals on **Monday, February 3, 2020**, at 7:00 p.m. in the Council Chambers of the Amberley Village Municipal Building, 7149 Ridge Road. The public meeting will be held to review the following item:

Charles Warinner, the representative for BTH Enterprises which owns the property at 2430 Section Road, is requesting a variance to Zoning Code Section 154.14. The variance would allow for the replacement of the existing front yard fencing along the edge of the bridge and driveway.

If you are interested in reviewing the application you may do so Monday through Friday, 8:00 a.m. to 4:00 p.m. at the Amberley Village Municipal Building, 7149 Ridge Road or you may attend the **February 3, 2020** Planning Commission and Board of Zoning Appeals public meeting. If you should have any questions, please feel free to contact Scot Lahrmer at (513) 531-8675.

cc: James M. Huey & Catherine A. Hamilton, 2470 Section Road
Congregation Sha Arei Torah, P.O. Box 37642
The Kneseth Israel Congregation of Cincinnati, P.O. Box 37118
Jonathan and Randi Chaiken, 2451 Brookwood Lane
Faigie Rosedale, 6835 Glen Acres Drive



7149 Ridge Road
Amberley Village, OH 45237

513-531-8675 *phone*
513-531-8154 *fax*

amberleyvillage.org

Amberley Village Planning Commission Staff Report

February 3, 2020

Subject:

2430 Section Road

Variance:

Front yard fence

Item: Case#2020-1573

Variance Request: Charles Warinner, the representative for BTH Enterprises which owns the property at 2430 Section Road, is requesting a variance to Zoning Code section 154.14. The variance would allow for the replacement of the existing front yard fencing along the edge of the bridge and driveway.

Zoning Code Review: 154.14 Fence, Wall and Hedges

(A) Notwithstanding other provisions of this Zoning Code, fence, walls, and hedges not exceeding four and a half feet in height may be permitted in any required side or rear yard or along the edge of any yard, provided that no fence or wall, along the side or front edge of any front yard or in any part of a front yard shall be permitted. Hedges not over two and a half feet in height may be permitted in a front yard.

Variance Review: Mr. Warinner, the representative for BTH Enterprises, the owners of the property located at 2430 Section Road, is requesting a variance to Zoning Code section 154.14. The purpose of the variance is to allow for the construction of a four board-Kentucky Board fence in the front yard of the residence, along both sides of the driveway bridge and steep slope on the north side of the bridge.

The proposed fence project is to replace the existing deteriorated fencing on the bridge and metal guard rail on the north side of the bridge. The letter to the board states that the current fence was damaged by a fallen tree, is unsafe and does not match the updated aesthetic of the house, which is in the process of being renovated.

The letter also states that the variance would allow for the replacement of the old fence with a new stronger, safer and better-looking fence that would enhance the property. The purpose of the new fence is for the safety of pedestrians and visual aid for cars navigating the bridge and driveway.

In researching information on the bridge, Village staff found a zoning approval ticket from 1979 but was not able to find plans for the bridge or zoning approval for the front yard fencing.

The existing fence is grandfathered and can be maintained as is, however, the applicant is required to apply for a variance for the proposed fencing because they are changing the style, material, and length of the fence.

Therefore a variance is required for the proposed front yard fence to be installed.

Project Recommendations: The project is to be considered on its merits.

Date: 11/25/19

Mr. Scot F. Lahrmer
Village Manager
Amberley Village
7149 Ridge Road
Cincinnati, Ohio 45237

NOV 25 2019

RE: Zoning Approval

Dear Mr. Lahrmer:

I hereby request a zoning approval for:

FENCE INSTALLATION ON BRIDGE AND ALONG DRIVEWAY TO PREVENT
VEHICLES AND PEDESTRIANS FROM FALLING INTO THE CREEK.

The structure is proposed at the following address:

2430 SECTION RD.

I certify that the attached plat and measurements are accurate.

JEFF LUMAN (ADVANCED OUTDOOR SERVICES)
Contractor's Name

5496 BELFAST OWENSVILLE RD.

BATAVIA, OH 45103

Contractor's Address

513-685-2048

Telephone Number

Sincerely,

Debbie Zimmer
Homeowner's Signature

Debbie Zimmer

513-520-6009

Telephone Number

BTH Enterprises, LLC

January 13, 2020

Amberley Village
Wesley E. Brown
Zoning and Project Administrator
7149 Ridge Road
Amberley Village, OH 45237

Re: Fence Variance Request 2430 Section Road

To Whom It May Concern:

This letter is to serve as a request for a zoning variance to permit replacement construction of the fence across and near a bridge over a creek within the front yard of the property at 2430 Section Road in Amberley Village. BTH Enterprises is a real estate investment partnership currently renovating the exterior and interior of the property in order to offer it for sale.

Attached are three exhibits describing the proposed fencing: 1) a picture of the current bridge and damaged fencing, 2) a picture of the bridge with the proposed Kentucky 4-board fencing (to be painted black) drawn in, and 3) a plan sketch of the proposed fence showing the replacement of the existing bridge fence and steel guardrail. The current fence is damaged, unsafe, and does not match the new updated aesthetic of the house. We are merely asking for a variance to permit replacing the old fence with a new, strong, safe and good-looking fence that enhances the house and property.

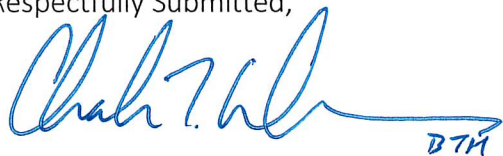
It is unknown precisely when the current bridge was originally constructed, or if or when it was originally permitted (per Wesley Brown, Zoning and Project Administrator). It was significantly damaged by an uprooted tree during a heavy

rainstorm and resulting flash flood of the creek this past July 2019. Even without the tree damage, the existing bridge is dangerously loose, weatherworn, and aesthetically as well as functionally obsolete. In addition, beyond the bridge proper is a steep drop-off protected by two lengths of highway steel guardrail that are we are proposing to replace with the more aesthetic Kentucky 4-board fence.

The primary purpose of this fencing is for the safety of pedestrians crossing the bridge, walking near the steep drop-offs and retaining walls abutting the bridge, and as a visual aid to vehicles navigating the bridge and driveway. While aware that the bridge is in the 'front yard' of the property, and thus requiring this requested variance, it is important to point out what this fence in *not* for: It is *not* to define property boundary, it is *not* for pet containment, and it is *not* for property privacy or security.

Upon approval, the fence is to be constructed by Advanced Outdoor Services of Batavia, OH, a specialty outdoor fencing contractor that we have used in the past and is known to us for quality workmanship.

Respectfully Submitted,



Charles T. Warinner
BTH Enterprises, LLC
6818 Mariwood Lane
Cincinnati, OH 45230
(513) 378-6924

Proposed

2430 Section Rd.





