

AGENDA

October 4, 2021

PLANNING COMMISSION/BOARD OF ZONING APPEALS

7:00 PM

Roll Call

Minutes

Meeting of September 9, 2021

Cases

CASE NO. 2021-1967

John and Jessica Pascoe, the property owners of 3194 North Farmcrest Drive, are requesting two (2) variances from Zoning Code Section 154.14 (A). The variances would allow a previously installed garden fence to remain in the front yard (the property has 3 front yards) and allow the garden fence to remain taller than 6' in height.

New Business

Adjournment

**MINUTES OF THE REGULAR MEETING OF THE
AMBERLEY VILLAGE BOARD OF ZONING APPEALS/PLANNING COMMISSION
THURSDAY, SEPTEMBER 9, 2021**

Chairperson Richard Bardach called to order the regular meeting of the Amberley Village Board of Zoning Appeals/Planning Commission via Zoom on Thursday, September 9, 2021 at 5:00 p.m.

Member Rick Lauer and Clerk Tammy Reasoner were absent. Roll was taken as follows:

PRESENT:

Rich Bardach
Scott Wolf
Susan Rissover
Scott Rubenstein

ALSO PRESENT:

Andrew Kaake, Village Solicitor
Wes Brown, Zoning Administrator
Scot Lahrmer, Village Manager

Chairman Bardach welcomed everyone to the meeting and led those in attendance in the Pledge of Allegiance.

Chairman Bardach asked if there were any corrections to the minutes of the August 2, 2021 meeting. There being none, the minutes were accepted as submitted.

CASE NO. 2021-1968

Village Zoning Administrator Wes Brown introduced Case No. 2021-1968, in which Marc Fisher, Chief Executive Officer of the Mayerson Jewish Community Center (JCC), requested modification to the previously approved variance which allowed a temporary accessory structure to be located in the front yard during the pandemic. The modification would allow for the frame of the structure to remain permanently year-round, while the fabric top and sides would be removed during the winter months.

Mr. Brown stated the Board of Zoning Appeals (BZA) had approved a variance on April 5, 2021 meeting, which allowed a temporary structure to remain on the property until November 30, 2021 or until pandemic restrictions were lifted, whichever was sooner. The temporary structure had been approved to be relocated from the south side of the building to allow for an outdoor area large enough for members who were reluctant to enter the building during the pandemic, while also allowing space for social distancing.

Mr. Brown said the proposed modification to the variance would allow the frame of the structure to remain in place year-round, while the fabric top and sides would be removed during the winter months.

The frame of the structure is proposed to remain in place year-round to reduce the setup and teardown cost each winter and reduce the wear and tear on the frame and parking lot.

The letter to the Board states that by the end of October, they will have hosted 250 programs under the tent this year. Also, with COVID cases increasing, membership rebounding, and their need for more program space, they have a need to continue utilizing the outdoor tent. Therefore, they are requesting approval to keep the tent permanently for the foreseeable future.

The modification of the existing variance or a new variance is required for the temporary structure to remain permanently on the property and be located in the Ridge Road front yard beyond November 30, 2021.

Mr. Marc Fisher, CEO of the Mayerson JCC, stated the JCC continues to have a need for the tent and while the pandemic has exacerbated their situation, they are also tight on space in the JCC. Therefore, the JCC is interested in keeping the frame in place over the winter while removing the fabric. Once spring arrives, the fabric would be reinstalled. There is additional cost and wear and tear on the tent if it is taken down.

Mr. Fisher also noted Rockdale Temple sent a letter of support as they have also used the tent during the pandemic. So in addition to programmatic space for the JCC, it has assisted Rockdale Temple and the community.

Mr. Bardach asked if there were any comments from residents present at the meeting.

Mr. Fran Niehaus of 2510 Apple Ridge Lane indicated he understood the need for the tent during the pandemic but he didn't agree that the tent should be permanent. He referenced amplified voices and music a few weeks ago while he was in his home and indicated he sought to determine the source of the noise, which was a celebration occurring at the JCC's tent. He also questioned why other residents on his street weren't notified of the variance. Mr. Niehaus indicated there should be more information about how frequent events will be occurring in the tent, the hours and referenced it appears to be similar to the tent at French Park.

Chairperson Bardach commented the tent at French Park was approved by the ZBA and asked the Village Manager to explain. Village Manager Scot Lahrmer mentioned the Cincinnati Park Board received a variance for their tent and were granted approval for continuous seasonal use of the tent. Staff monitors this and issues approval each year based on ZBA's variance.

Mr. Bardach also mentioned there is a noise ordinance in the Village and any exceeding loud noises between 11:00 p.m. and 7:00 a.m. should be reported to the Village police.

Mr. Bruce Lazarus of 3140 Whitetree Circle indicated he is a JCC member and believes that our zoning code protects property values with various regulations and the variance being sought is unnecessary. He indicates he seldom sees the tent being used and he opposes the structure of the tent being able to remain up, year round. He urged the Board to put restrictions on when the tent and the structure should be removed.

Mr. Bardach asked if there had been any feedback from residents, to which Mr. Lahrmer stated there had been none, other than the letter from Rockdale Temple.

The Board began discussing the application indicating they were supportive of the tent remaining for this next year but not necessarily permanently. Mr. Bardach indicated he sees the tent being used and indicated through their discussion, it sounded like the Board had reached a consensus.

Mr. Wolf moved to approve the variance and allow the tent to remain until November 30, 2022 however, the JCC should come back to the ZBA in September 2022 to see what's going on with the pandemic and if the need for the tent still exists.

Seconded by Chairman Bardach, the motion passed unanimously.

Marc Fisher of the JCC thanked the Board.

NEW BUSINESS

There being no new business, Chairman Bardach announced the meeting was adjourned at 5:23 p.m.

??? 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: October 4, 2021 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, October 4, 2021**, 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 items:

John and Jessica Pascoe, the property owners of 3194 North Farmcrest Drive, are requesting two (2) variances from Zoning Code Section 154.14 (A). The variances would allow a previously installed garden fence to remain in the front yard (the property has 3 front yards) and allow the garden fence to remain taller than 6' in height.

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 **Monday, October 4, 2021**, Planning Commission and Board of Zoning Appeals public meeting. If you have any questions, please feel free to contact Scot Lahrmer at (513) 531-8675.

cc: Keith & Lauren Harris, 6500 Kincaid Lane
Tracy Sheridan, 6740 Kincaid Road
John Erich & Jessica Pascoe, 3194 N. Farmcrest Drive
James & Lori Reidel, 3195 N. Farmcrest Drive
Chris & Molly Cain, 3197 N. Farmcrest Drive
Gary & Connie Hindersman, 3188 N. Farmcrest Drive
Thomas & Myra Elfers, 6620 Kincaid Road



7149 Ridge Road
Amberley Village, OH 45237

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

amberleyvillage.org

Amberley Village Planning Commission Staff Report

October 4, 2021

Subject:

3194 North Farmcrest Drive

Variance:

8' high garden fence in the front yard

Item: Case#2021-1967

Variance Request: John and Jessica Pascoe, the property owners of 3194 North Farmcrest Drive, are requesting two (2) variances from Zoning Code Section 154.14 (A). The variances would allow a previously installed garden fence to remain in the front yard (the property has 3 front yards) and allow the garden fence to remain taller than 6' in height.

Zoning Code Review: 154.14 FENCES, WALLS, AND HEDGES

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

(2) Vegetable and Fruit Garden fences are permitted in order to protect vegetation from wildlife. The fence may not exceed six feet in height and must be constructed of see-through fencing material, green or black in color. The enclosed space may not exceed more than 400 square feet and used strictly for agricultural purposes and may not be visible from the street.

Variance Review: Mr. and Mrs. Pascoe are the property owners of 3194 North Farmcrest Drive and are seeking two (2) variances from Zoning Code Section 154.14 (A). If approved, the variances would allow a previously installed garden fence to remain behind the house in the Kincaid Road front yard and allow the garden fence to remain taller than 6' in height.

Mr. and Mrs. Pascoe's property is a corner lot with 3 front yards surrounded by North Farm Crest Drive to the west and Kincaid Road to the east and to the south.

The garden fence has been installed behind the house in the Kincaid Road front yard and currently has a height of 8' (2' higher than code permits). The fencing surrounds a vegetable garden, located approximately 29' north of the edge of Kincaid Road, and is constructed of wood posts and black plastic mesh.

The letter to the Board states that when the fencing was installed, they were not aware the Village Code restricted the height of garden fencing. The letter also states that they had researched and found that deer

can jump as high as 8'. Therefore, the height of the fencing was chosen due to the height deer can jump, the number of deer on the property daily, and the amount they have invested in the garden.

The two variances are required for the garden fencing to remain in the front yard and to remain taller than 6' in height.

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

Date: 9/16/21

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

RE: Zoning Approval - Variance

Dear Mr. Lahrmer:

I hereby request a zoning approval for:

An 8 foot tall vegetable garden fence - already
in existence.

The structure is proposed at the following address:

3194 N. Farmcrest Dr. Cincinnati, OH 45213

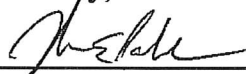
I certify the attached plat and measurements are accurate.

Contractor's Name

Contractor's Address

Telephone Number

Sincerely,


Homeowner's Signature

John E. Pascoe
Homeowner's Printed Name

937.974.3706
Telephone Number (daytime)



Online Property Access

Parcel ID 526-0010-0046-00 **Address** 3194 N FARMCREST DR **Index Order** Parcel Number **Tax Year** 2020 Payable 2021

Property Information

Tax District	017 - AMBERLEY-CINTI CSD	Images/Sketches 
School District	CINCINNATI CSD	
Appraisal Area	52611 - AMBERLEY 11	
Land Use	510 - SINGLE FAMILY DWLG	
Owner Name and Address	PASCOE JOHN ERICH & JESSICA 3194 N FARMCREST DR CINCINNATI OH 45213 (call 946-4015 if incorrect)	Mailing Name and Address CORELOGIC 2500 WESTFIELD DR STE 102 HOFFMAN ESTATES IL 60124 (call 946-4800 if incorrect)
Assessed Value	197,750	Effective Tax Rate 77.040156
Property Description FARMCREST DR R2-T4-S30 N E 76.88 X 298.63 IRR		Total Tax \$13,917.50

Appraisal/Sales Summary

Year Built	1954
Total Rooms	11
# Bedrooms	5
# Full Bathrooms	3
# Half Bathrooms	2
Last Transfer Date	7/25/2018
Last Sale Amount	\$565,000
Conveyance Number	178153
Deed Type	WD - Warranty Deed (Conv)
Deed Number	
# of Parcels Sold	1
Acreage	0.654

Tax/Credit/Value Summary

Board of Revision	YES(11)
Rental Registration	No
Homestead	No
Owner Occupancy Credit	No
Foreclosure	No
Special Assessments	No
Market Land Value	99,440
CAUV Value	0
Market Improvement Value	465,560
Market Total Value	565,000
TIF Value	0
Abated Value	0
Exempt Value	0
Taxes Paid	\$13,917.50
Tax as % of Total Value	2.390%

Notes

1) bor #10-400482 decrease to 251,000

I Want To...

Start a New Search
 Email the Auditor
 View the Online Help
 Auditor's Home

View:

Property Summary
 Appraisal Information
 Levy Information
 Transfer
 Value History
 Board of Revision
 Payment Detail
 Tax Distributions
 Images
 Special Assessment/Payoff
 Tax Lien Certificates
 CAGIS Online Maps
 Aerial Imagery
 Owner Names

Print:

Current Page
 Property Report

July 12, 2021

Amberley Village Board of Zoning Appeals
7149 Ridge Road
Cincinnati, OH 45237

Dear Board of Zoning Appeals,

Our names are John and Jessica Pascoe. We moved to Amberley Village in August of 2018 after looking at over 50 homes. We were attracted to the neighborhood's abundance of trees and green space. John is an avid gardener, so we wanted to have ample space for a vegetable garden in addition to space for our children and Australian Shepherd. We did not have a garden the first fall, but we immediately became aware of our property being on a deer trail. It is not abnormal to see 8 deer in our yard at once or deer walking and eating plants across our patio. As such, the first rendition of the garden in 2019 used a less permanent but still tall (more than 6 feet) black fence. Ultimately, the deer got in. We then realized a sturdier garden setup was needed. A Google search stated white-tailed deer can jump 8 feet. Thus, an 8-foot fence was and is needed. In Amberley, with the appreciation for nature, the thought never crossed our minds that a code existed for the height of a garden fence. Rather it seemed logical that the height needed to keep deer out would be forefront.

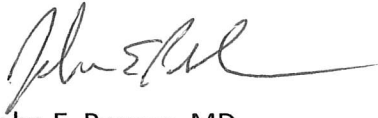
The garden in its current form has been up since April 2020. Numerous neighbors from multiple parts of Amberley Village (Fair Oaks/Meadowbrook/Willowbrook area) and nearby neighborhoods (Ridgewood/Grand Vista) have stopped to share compliments on the appearance of the garden and that they've enjoyed seeing it built as well as the plantings each year. The garden was a huge investment and took a great deal of planning. John has received numerous questions from neighbors about logistics as they've shared their issues with wildlife in their own gardens and want suggestions. It's clear that neighbors have no qualms with the fence, and instead see it as an asset to the neighborhood. In fact, the sign above the door was created by a neighbor who walks by daily.

On the Amberley Village website, the rationale for the fence height policy is to 'maintain the vistas' of Amberley Village. Again, with the appreciation for nature, trees, and wildlife, it seems counterintuitive that the fence height to keep wildlife out of a garden would be in question. Especially when the policy explicitly states the "fence height of 6 feet is to keep wildlife out of agricultural gardens" when one of the main concerns is white-tailed deer. It is reliably documented that a white-tailed deer can jump 8 feet. We again confirmed this with the Cincinnati Nature Center and the Cincinnati Zoo. As a frequent user of the Greene, John noticed the Community Gardens followed this advice by using the appropriate height of fencing. Had we known we needed to apply for a zoning variance when in the planning phase, we certainly would have. We are not seeking trouble, but truly do not understand the issue. The fence itself is black and cannot be easily seen. We have no qualms with pools or playsets, but a garden is much more natural and in-line with the 'vistas' of Amberley Village than one of these structures.

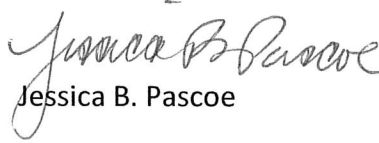
We believe part of the issue is the fact our lot has a road on three sides making our backyard readily visible for now; an issue we cannot help. The spruce trees, planted by the seller, made little sense as they would become quite large and grow into the road, requiring the lower limbs to be trimmed. We financially invested in our yard, and ultimately Amberley, by transplanting the spruce trees and planting fast growing viburnums to create a more private backyard. We are confident that if our backyard were not visible, we would not be writing this letter. If tall fences are allowed at the Greene and in private backyards, so should ours as we cannot help our lot; the backyard will have more privacy as the viburnum grow.

We respectfully ask you to accept our variance request for garden fencing.

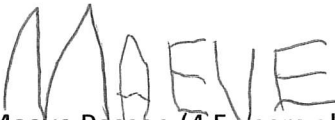
Thank you,



John E. Pascoe, MD



Jessica B. Pascoe



Maeve Pascoe (4.5 years old)



Grant Pascoe (4 months old)



Jackson Pascoe (art)



Amberley Village
7149 Ridge Road
Amberley Village, OH 45237

RE: PLANNING COMMISSION MEETING NOTICE, Board of Zoning Appeals, Monday, October 4th, 2021,
7:00PM ("the letter")

Dear Mr. Lahrmer,

Thank you for your letter regarding the Board of Zoning Appeals review of variances requested by John and Jessica Pascoe, the property owners of 3194 North Farmcrest Drive. My wife (Lauren) and I (Keith) are neighbors to the East of the Pascoe's property, and while we are officially City of Cincinnati residents, our investment in the Amberley Village community is as close as our property proximity to the Village. Our property is situated a stone's throw from the Village border. We are long time members of the Jewish Community Center and parents of Early Childhood School students. As an employee of Standard Textile, Lauren's commute to the office takes her through the heart of Amberley, and she works daily with many residents/family members of the Village.

I am writing to strongly recommend approval of the two (2) variances granted as outlined within the letter. While I will not claim to be an expert on wildlife in the region or Amberley Village zoning rules, I do feel that I have a unique level of personal experience regarding our corner of the community that is in question and wish to share that with you here as the Board takes all facts into consideration.

First, the garden and garden fencing have been impeccably maintained by the Pascoe family. The fencing materials are of high quality, have been installed correctly, and blend in with the natural environment. Second, given the unique layout of the property (3 front yards), I believe that a fence taller than 6' in height is required to protect the garden from the local deer population. From our property we see approximately 4-5 deer daily and their typical movement is westward from the empty lot adjacent to ours, across Kincaid, towards the Pascoe property. Many times the deer are startled by cars coming through the three-way stop sign and end up running full speed towards the area where the garden is located. For this reason, I believe that a fence higher than 6', provides the protection needed for the garden. Lastly, on a personal note, the Pascoe's have been generous with sharing of the delicious organic vegetables grown within the garden. The neighborhood appreciates their ongoing dedication to the garden.

In closing, I believe that the essence of the Pascoe's back yard garden (and fencing) is aligned with Amberley Village's history, progressive values, rural atmosphere, as well as the Village's commitment to protect and preserve property values and the quality of the residential environment. I appreciate your time, review, and consideration and stand ready should any further comment be required.

Sincerely,

Keith & Lauren Harris



9.29.2021