

AGENDA

February 6, 2023

PLANNING COMMISSION/BOARD OF ZONING APPEALS

7:00 PM

Roll Call

Minutes

Meeting of December 5, 2023

Cases

CASE NO. 2023-339

Shai and Tova Scherer, property owners of 6700 Elbrook Ave, are requesting variances to Zoning Code Sections 154.12 (A) (2) (3) and (4). The variance would allow for the construction of a 280-square-foot accessory structure located in the rear yard one foot along the south property line and 10' from the east/rear property line.

New Business

Adjournment

**MINUTES OF THE REGULAR MEETING OF THE
AMBERLEY VILLAGE BOARD OF ZONING APPEALS/PLANNING COMMISSION
MONDAY, DECEMBER 5, 2022**

Chairperson Richard Bardach called to order the regular meeting of the Amberley Village Board of Zoning Appeals/Planning Commission at the Amberley Village Municipal Building in Council Chambers on Monday, December 5, 2022 at 7:00 p.m. Absent from the meeting was Rick Lauer. Roll was taken as follows:

PRESENT:

Rich Bardach
Susan Rissover
Scott Rubenstein
Craig Cappozzo

ALSO PRESENT:

Wes Brown, Zoning Administrator
Scot Lahrmer, Village Manager
Chris Fritsch, Zoning Administrator
Tammy Reasoner, Clerk of Council
Andrew Kaake, Village Solicitor

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

Mr. Bardach asked if there were any corrections to the minutes of the November 7, 2022 meeting. There being none, the minutes were accepted as submitted.

CASE NO. 2022-305

Zoning Administrator Chris Fritsch introduced Case No. 2022-305, in which Marc Fisher, the representative for the Mayerson JCC, requested to renew previously approved modification to the JCC's Conditional Use Permit (CUP), to allow a temporary accessory structure to be located in the front yard during the pandemic. The modification also allows the temporary structure to be erected for more than seven consecutive days and more than 30 days in a calendar year.

The request to renew is to allow the frame of the structure to remain in place, while the fabric top and sides are removed for the winter months. The top and sides of the tent would be reinstalled in April 2023 to remain in place through October 31, 2023.

Jennifer Kash, the COO of the Mayerson JCC, addressed the board stating she appreciated the opportunity to request permission to leave the tent frame up until spring.

Ms. Rissover told Ms. Kash she never sees anyone in the tent, and wanted to know its purpose. Ms. Kash said the tent was originally erected to accommodate members who had concerns with COVID-19 exposure, and has served as meeting space for luncheons and other events, particularly those for compromised groups.

Ms. Rissover said JCC building protocols were no longer making concessions for COVID-19, and asked if the tent was more intended to provide an immediate solution for a long-term goal of expansion. Ms. Kash said an expansion in the long-term was a possibility, but the tent was cost-effective for now.

Mr. Bardach asked if there were any residents at the meeting who wished to speak. **Mr. Steve Moses of 2191 Bluegrass Lane** said he was in support of the tent, which had been used to host a Senior Congregate event which wouldn't have otherwise been held.

Mr. Bruce Lazarus of 3140 Whitetree Circle said that while the JCC has definitely been an asset to the Village, he felt it has a corporate responsibility to the community to best represent the Village at its northern gateway. He said a tent was meant to be a temporary structure, and should be treated as such by the JCC. Mr. Lazarus said the tent frame was an eyesore, and as a resident in the neighborhood, he has only seen the space used a handful of times. He said with COVID now over, the plastic covering no longer over the frame, and all other restrictions lifted in the building, the tent frame no longer makes sense based on the reasons originally provided. Mr. Lazarus said the frame has been up for three years, and asked if the Board of Zoning Appeals would have approved a multimillion dollar building with a revival tent in front. He requested that if permission for the frame was granted, it should include a definitive end date.

Mr. Fran Niehaus of 2510 Appleridge Lane said he was opposed to the tent. He pointed out that tonight was the third meeting on the topic, and recounted that the JCC was denied permission for a permanent tent at the first meeting, and if approved tonight, it would appear to be inching its way toward permanent. He said we are no longer in a state of pandemic, and the months between April – November are less of a concern. He said the website has no reference to the pandemic, so when the extension for the tent was originally approved, he was surprised, since the Village has specific limitations for residents. Mr. Niehaus said the tent frame needed limitations, and that noise from events isn't muffled by closing the windows. He said the limitations outlined by the Village are meant to keep the community attractive, but the tent frame is not attractive. He said notices were not sent to residents on the south side of Appleridge.

Mr. Bardach asked Mr. Lahrmer if any communication regarding the case had been received by the Village, to which Mr. Lahrmer replied he had not.

Mr. Cappozzo asked how many and what types of events were hosted in the tent annually. Ms. Kash said she did not have that information, but could gather it.

Ms. Rissover asked if the JCC were to host a special event, could they request and get permission for a similar tent. Mr. Fritsch said they could, and Mr. Brown said tents were permitted for up to 7 days in a front yard.

Ms. Rissover asked for the JCC's reason for wanting to keep it up. Ms. Kash said the cost of assembly and storage of the tent was the reason for wanting to keep it up.

Mr. Rubenstein asked if the plan was to keep the frame up on an ongoing basis. Ms. Kash said there had been internal discussion about this being the final year for the tent, but no final decision has been reached.

Ms. Rissover said it would be helpful to have a plan, as well as an understanding of the purpose for the tent. She said there are no restrictions inside the building related to COVID, and policies regarding the tent are not clearly stated.

Mr. Bardach suggested tabling the discussion to gather information and reconvening in January.

CASE NO. 2022-308

Mr. Fritsch introduced Case No. 2022-308, in which Adam Greenberg, President of Novelart MFG CO, is seeking a zoning change to 3.4 acres of the Topicz property located at 2121 Section Road. The zoning change is to reclassify approximately 3.5 of the property's 11.2 acres

from Residence A to Industrial B. This would be consistent with the other 7.7 acres currently zoned Industrial B, and permit industrial use of the property in its entirety.

The areas affected by the zoning change are along the Section Road frontage, the east and the southern property lines.

Mr. Bardach said the process for the application required a public hearing, which would be held at tonight's meeting. The Planning Commission would then have up to 60 days to make a recommendation to Council, which would then hold a public hearing of its own before making a decision.

Mr. Lahrmer said the zoning request was recommended in order to retain Topicz in the Village. He said the economic impact of the business was substantial, and Topicz had the potential to bring more jobs to Amberley Village. At the same time, he said, any expansion would be required to follow zoning consistent with Industrial B.

Adam Greenberg and Mark Freemeyer of Topicz were present and agreed to take questions.

Ms. Rissover asked for clarification to the property line on the map, and asked if there were plans to add onto the east side of the building. Mr. Freemeyer said there were no plans to add onto the east side of the building at this time, but they were looking at expansion to the south.

Mr. Cappozzo asked if the back of the building was warehouse space. Mr. Freemeyer said it was, and that Topicz would seek to expand it.

PUBLIC HEARING

Chairperson Bardach opened the public hearing at 7:31 p.m., and invited those in Chambers to address the Planning Commission.

Michelle Kirschner of 2182 Bluegrass Lane asked if anyone knew the original intention of the Planning Commission with regard to the Topicz property. Ms. Rissover said the most relevant information she could find was from a book about Amberley Village written in 1990. While the book is not a legal document, she said, it suggested the property was zoned to mirror that of the property at 2100 Section, where the former Gibson Greeting Cards stood. She said the zoning rules were created decades ago, and that other cities simply utilize a 200-foot buffer.

Ms. Kirschner asked what the responsibility of the Board was to protect residents. She said when the last addition was put in place, Topicz spoke to many residents. If the property were zoned Industrial, there would be no need for a variance, and therefore no need to talk to residents. She expressed concern that it had only been ten years since Topicz' last expansion, and asked for projections on how long before another expansion would be needed. She said she worried that if the property was sold, there would be no protections for residents whose homes abutted the property, and they would be over their 50% allotment.

Josh Krinsky of 2177 Bluegrass Lane said he was not in support of a full expansion, but stated Topicz is valuable to the community. His concern, he said, was with the residential strip between Topicz and the residential properties on Bluegrass Lane. He said he just moved here 2.5 years ago, and was impressed with the gorgeous views and sunsets. In order to preserve quality of life and property values, he said, he wouldn't want those views blocked.

Mr. Krinsky suggested a condition be placed on the zoning change to retain the residential zoning along Bluegrass, and require Topicz to plant pine trees. He said perhaps this would make a good compromise.

Avraham Motzar of 2179 Bluegrass Lane said he loves living on a quiet cul de sac, where he has appreciated the views for many years. He said overall, Topicz has been a good neighbor, but he had concerns regarding the proposed zoning change. He said there were no guarantees that Topicz would stay in the Village if the zoning is changed, and he hadn't seen any plans. He asked if the Port Authority had been approached regarding changing the requirements for 2100 Section Road to accommodate Topicz.

Mr. Freemeyer said Topicz had no objections to leaving a buffer zone of Residential A along the Bluegrass property line.

Moysha Hive of 2189 Bluegrass Lane said he appreciated Topicz' agreement to preserve a strip of land along the residential border. He said he had lived in the Village for 28 years.

Brophy Weckner of 2193 Section Road stated he wanted no changes to the property. He said expansion would mean more trucks, and he cited quality of life as his opposition.

Mr. Rafael Zuroff of 2183 Bluegrass Lane said he had concerns regarding the increase in truck noise and traffic, and said he would like to see a beautiful mural on the side of the building. He said would like the east side of the property to remain as is.

Mr. Bob Pransky of 2186 Bluegrass Lane said he appreciated Topicz' approval of leaving the residential strip. He said was in favor of Topicz remaining in the Village. He said has lived in the Village for a year and a half and loves it.

Mr. Dale Gubin of 6821 Meadow Ridge Lane said he was disappointed that the Section Road frontage has no landscaping, and would like to see a sidewalk along Section. He said even with a \$4 million expansion, there was no landscaping.

Mr. Stephen Moses of 2191 Bluegrass Lane said he wished to acknowledge staff for their assistance with retrieving background information and records, as well as special accommodations for audio. He said Topicz was a good neighbor, and that expansion to the south was understandable. However, he objected to expansion on the residential side. Mr. Moses cited a meeting from 1950, where similar concerns were raised by residents with regard to a Topicz expansion. He said he wants consistency with the original BZA ruling, and urged the Board to retain the residential zoning.

Zev Mizels of 2198 Bluegrass Lane said it was his fifth year in the Village after moving from Chicago. He said it was beautiful here, and he appreciates that there are no businesses next to residents. He said Topicz serves as the front door to Amberley Village, and its beautiful green grass makes for a wonderful welcome. He asked the Board not to lose the special feeling of the Village by encroaching on the residential buffer.

Mr. Krinsky returned to the podium to thank Topicz for agreeing to retain the residential buffer.

Ms. Kirshner said the extension would be going up directly behind an existing school, and she had concerns regarding noise during school hours. She requested consideration of formalizing an abutment between residential and industrial zoning.

Mr. Bardach called for any additional speakers. There being none, the public meeting was concluded at 8:05 p.m.

Mr. Bardach asked the Village Manager if there had been any correspondence regarding the case. Mr. Lahrmer said the Village had received two communications, one each from Steve Moses and Dale Gubin, and their comments had been reflected in their testimony before the Planning Commission.

Ms. Rissover said the compromise was a good suggestion, and she was in support of an expansion to the rear and leaving a buffer of residential zoning between Topicz and Bluegrass Lane. Mr. Brown reminded her that plans couldn't be submitted without a zoning change.

Mr. Rubenstein asked what type of zoning was in place for 2100 Section Road. Ms. Rissover said it was all industrial, however, the topography and the creek keep the property contained. She recommended that the entire property at 2121 Section Road be redesignated Industrial B with the exception of the 75 foot strip that served as a buffer between Topicz and Bluegrass. She added that Topicz should be responsible for landscaping. She said whatever is decided at this meeting will go to council as a recommendation.

Mr. Cappozzo said the strip of Residential A property was of no value to Topicz, as they were more concerned with warehouse space. He said the east side is green and he felt confident preserving the Residence A buffer, but asked about making recommendations for the front.

Ms. Rissover asked if a conditional use could be placed on the front of the property. Mr. Lahrmer said no expansion plans have been submitted, and the discussion is only about land use. He said no conditional use can be placed on land; he said this could be an issue when planning takes place.

Ms. Rissover moved to recommend zoning changes from Residence A to Industrial B in the front and rear portions of the property, and to preserve the Residence A buffer zone along the east property line. Seconded by Mr. Cappozzo, the motion passed unanimously.

NEW BUSINESS

There being no further new business, the meeting was adjourned at 8:16 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: February 6, 2023 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 Board of Zoning Appeals on **Monday, February 6, 2023** 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:

Shai and Tova Scherer, property owners at 6700 Elbrook Avenue, are seeking a variance from Zoning Code Section 154.12. If approved, the variance would allow for the installation of a shed in the rear yard near the south and east lot lines.

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 6, 2023** Board of Zoning Appeals public meeting. If you have any questions, please feel free to contact Scot Lahrmer at 513-531-8675.

cc: *6701 Elbrook LLC, 4555 Lake Forest Drive, #645, Cincinnati, OH 45242*
Shai & Tova B Scherer, 6700 Elbrook Avenue
Ariel & Suzanne Goodman, 6690 Elbrook Avenue
Elliott & Julia Polsky, 6710 Elbrook Avenue
Seth & Sharon Barry, 6661 Meadow Ridge Lane
Leroy Blannon, 6691 Meadow Ridge Lane



7149 Ridge Road
Amberley Village, OH 45237

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

amberleyvillage.org

Amberley Village Planning Commission Staff Report

February 6, 2023

Subject:

6700 Elbrook Avenue

Variance:

Shed in the rear yard over 200 square feet, and within a minimum distance of lot lines

Item: Case#2023-339

Variance Request: Shai and Tova Scherer, property owners of 6700 Elbrook Ave, are requesting variances to Zoning Code Sections 154.12 (A) (2) (3) and (4). The variance would allow for the construction of a 280-square-foot accessory structure located in the rear yard one foot along the south property line and 10' from the east/rear property line.

Zoning Code Review: § 154.12 ACCESSORY STRUCTURES.

(A) An accessory structure is permitted in a residential district if it meets the following restrictions:

- (1) No accessory structure shall be erected in a front yard.
- (2) No accessory structure shall be erected in any side yard within a distance from the near side lot line less than the least width of the side yard required for the principal building.
- (3) Accessory structures may be built in a rear yard not nearer to a rear or side lot than the side yard requirement for the principal structure.
- (4) Except as otherwise provided in the zoning code, individual enclosed accessory structures that are not open to the sky, either wholly or partially, such as sheds, garages, garden buildings, and pool houses, shall not cover a total of more than 200 square feet of floor area. Floor area means the area of the ground floor of the structure that creates a footprint of the structure on the property. A detached garage shall not cover more than 800 square feet, or more than 50% of the floor area of the principal structure, whichever is less. A detached garage is an enclosed accessory structure used for storage, including but not limited to the parking or storage of vehicles, that is not connected to the principal structure by means of an above ground structure, material, or equipment. No combination of accessory structures, whether enclosed or open to the sky, shall have an aggregate floor area greater than 50% of the principal structure, or greater than 50% of the required rear yard, whichever is less.
- (5) On a corner lot, no accessory building shall project beyond the front yard line on either street.
- (6) No accessory building shall be constructed on a lot until construction of 50% or more of the principal building has been completed.
- (7) The principal access of an accessory structure, such as primary access doors to a shed or garage, may not face a street.
- (8) No accessory structure shall be located in a public right-of-way or utility easement.
- (9) Accessory structures cannot be used as a dwelling, and may not be used as part of a home business or home occupation. Accessory structures may only be used in a manner consistent with, and incidental and subordinate to, the principal use on the property.

(10) Accessory structures with roofs or walls that are not rigid or durable, such as tents, canopies, and structures covered or clad in collapsible or other similar material such as fabric, nylon, plastic, or tarps, including but not limited to temporary utility or storage structures, portable carports, and shelters, may not be maintained for more than seven consecutive days or more than a total of 30 days in a calendar year.

(11) Accessory structures shall meet all other requirements set forth in this code.

('69 Code, § 151.12) (Ord. C-285, passed 7-8-68; Am. Ord. C-666, passed 10-10-89; Am. Ord. C-692, passed 10-9-90; Am. Ord. 2018-13, passed 2-11-19) Penalty, see § 154.99

Variance Review: Mr. and Mrs. Scherer, are the property owners of 6700 Elbrook Avenue and are requesting variances to Zoning Code Sections 154.12 (A) (2) (3) and (4). The variances would allow for the construction of a 280-square-foot accessory structure in the rear yard within a 12' distance from the side lot line and within a 40' distance from the rear lot line.

The letter to the board states the residents plan on converting their garage into a living space, which will reduce the storage area for outdoor items such as bikes and lawnmowers. The proposed shed will neatly store items indoors when not in use and secure them safely.

The proposed shed would be 14'x20' totaling 280 square feet and 10'5' tall. The plans show the shed as wood built, with one 24"x36" window, one 72" double barn door, and a metal roof. The doors are shown facing the interior of the property to the north.

The Village Code section 154.12 A (2) (3) and (4) state that the accessory structure cannot be over 200 square feet in size, cannot be within 12' of the side lot line, and cannot be within 40' of the rear lot line. Therefore, the variance is required for the shed to be installed in the rear yard of the property.

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



Amish Sheds Direct of
New Hampshire
67 W. Market St.,
New Hampshire, OH
45870
(419) 293-5028

Date: 01 / 16 / 2023

Est. Delivery Window: _____

This quotation expires on Monday, January 23rd

This is an estimated delivery window. Weather permitting, your building will be delivered in this time frame. You will be contacted once the actual delivery date becomes available.

Pickup At: _____

Sold To: Tova Sherer

Cincinnati, Ohio 45237

Ship To: Tova Sherer

Cincinnati, Ohio 45237

Pri Phone #: _____ Sec Phone #: _____

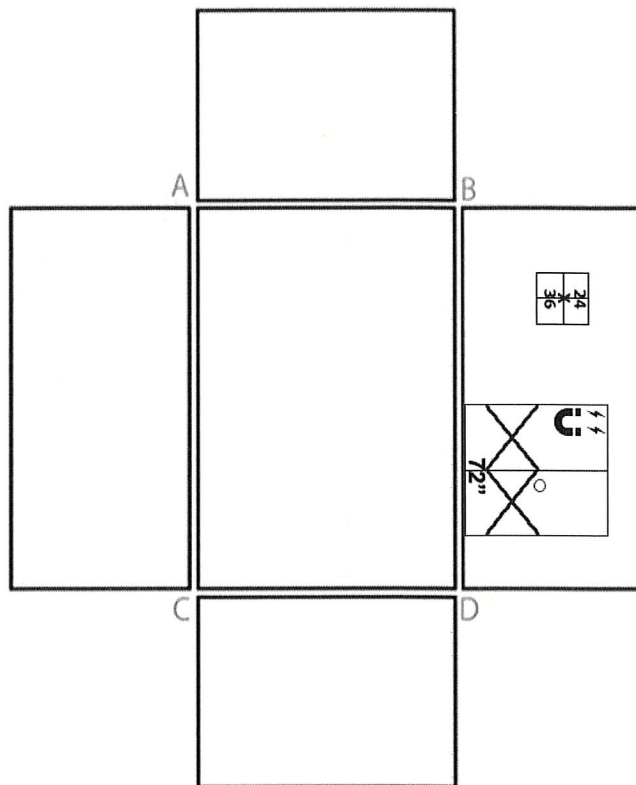
Serial #: _____

Size #: 14 X 20 Style: Smart Shed

(TO BUILD)

Base Price		\$9435.06
1	Roof: Burgundy (Out of Stock) +\$103.50 (Metal Roof);	\$103.50
1	Siding: Cream (Exterior Grade Stain);	
1	Trim Color: White (Exterior Grade Trim Stain);	
3	Flooring: 50 Year Floor 3/4"T&G (14' wide) (OH) +\$155.25; 16" on-center floor joists; 2x6 Floor Joists	\$155.25
1	Window: (24x36 Window);	
1	Door: 72" Double Barn Door, 72" Magnetic Double Door +\$41.40;	\$41.40
2	Vent: Standard Rectangle Vents; Standard Rectangle Vents;	
1	Building Prep: Leveling Kit (14' Wide: 0-24" Tall) +\$336.38;	\$336.38
Fuel Surcharge		\$50.00
Subtotal		\$10121.59
Sales Tax (Hamilton: 7.80%)		\$789.48
Total		\$10911.07

Invoice# Q56628



NON-PLACED ITEMS:



Driver: _____ Mule: Yes No

Load largest door to:

Notes: _____

How did you hear about us: Craigslist

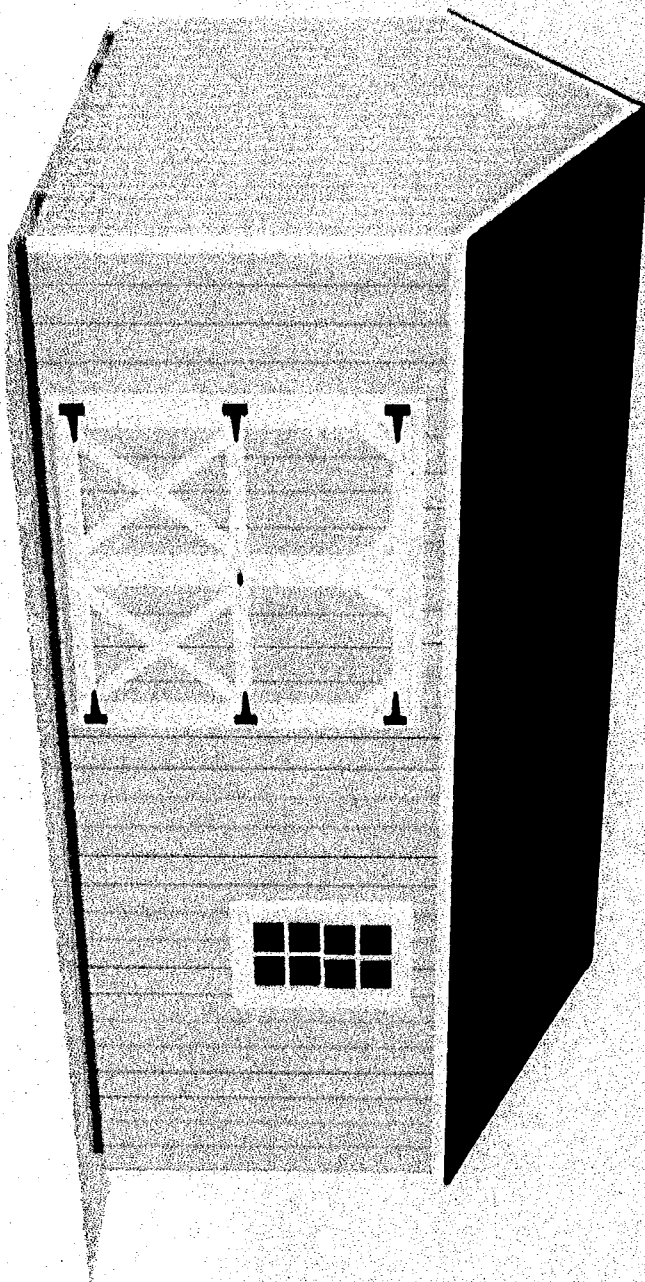
Dealer Business: Amish Sheds Direct of New Hampshire

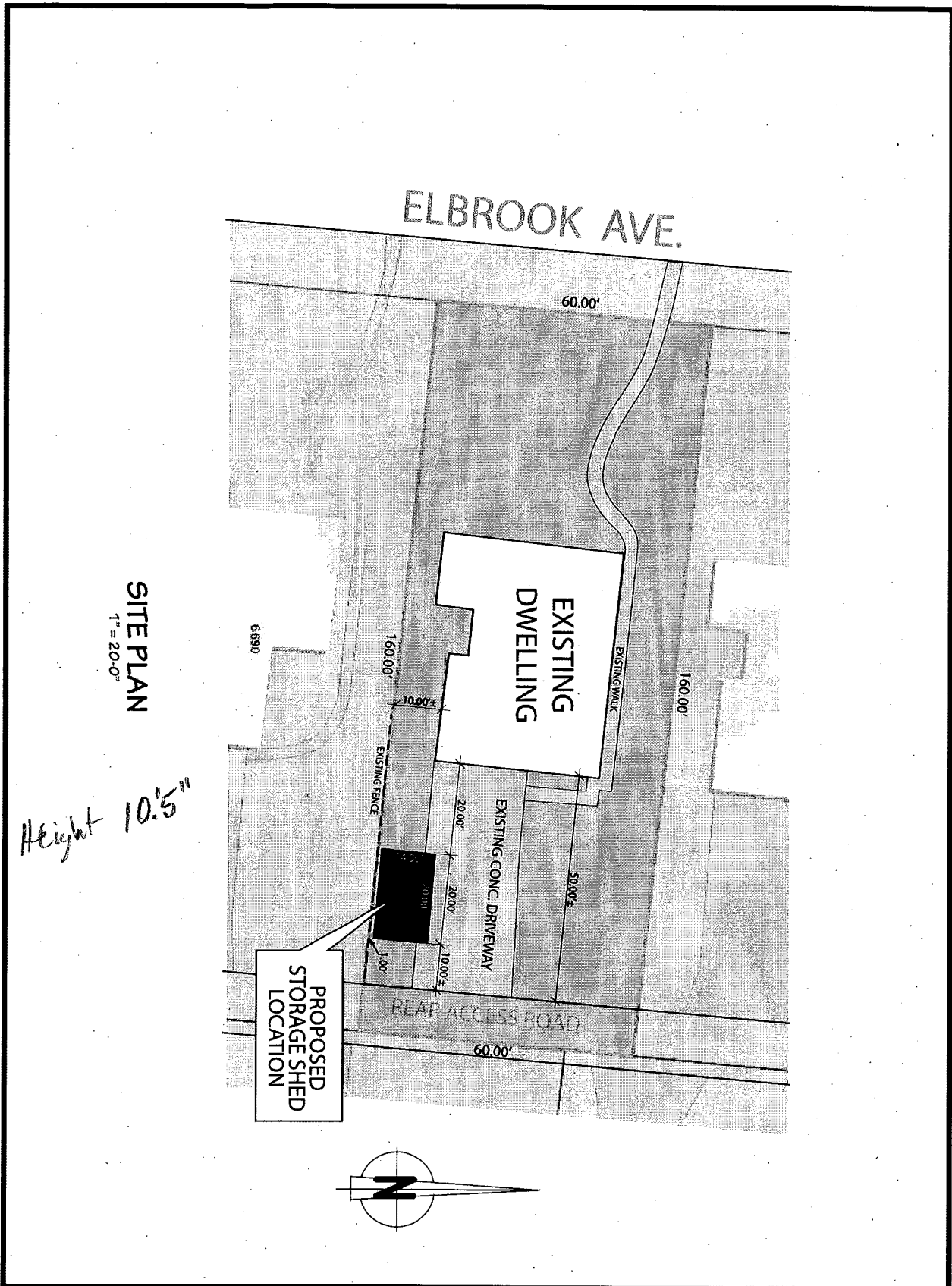
Customer Responsibilities

- Have a clear Path for access approximately 2' wider than building and 14' high
- Zoning and permitting
- Tracks or ruts left in yard during delivery
- Site preparation: making sure all trees, stumps, limbs and other obstacles are removed prior to delivery
- Someone MUST be present at the delivery site during the delivery to accept the building
- If you ordered anchors, please verify it is safe to dig where you want your building anchored by dialing 811 by phone or visiting call811.com

Signature

Painted Smart Shed - 14x20





S1 DATE: 07.03.23 DRAWING: VOT-LO-RO	NEW STORAGE SHED LOCATION FOR: SCHERER RESIDENCE 6700 ELBROOK AVENUE CINCINNATI, OHIO 45237	DEXPREP Solutions For Your Drafting And Design Needs SHEFFIELD VILLAGE, OHIO 44054 PHONE: 440.308.9227
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