

AGENDA

May 7, 2018

PLANNING COMMISSION/BOARD OF ZONING APPEALS

7:00 PM

Roll Call

Minutes

Meeting of April 17, 2018

Cases

CASE NO. 2018-25

Resident Dianne Dunkelman of 7351 Ridge Road is seeking a variance from Village Code Section 154.14 (A). The variance would allow for a fence that would range from 7' to 9' in height in the side and rear yards of the residence.

Proposed Property Maintenance/Zoning Modifications

Staff Memo Reviewing Proposed Changes

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
TUESDAY, APRIL 17, 2018

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 Tuesday, April 17, 2018 at 7:00 P.M.

Roll was called: PRESENT: Richard Bardach, Chairperson
 Susan Rissover
 Scott Rubenstein
 Scott Wolf

 ALSO PRESENT: Kevin Frank, Esq., Solicitor
 Scot Lahrmer, Village Manager
 Nicole Browder, Clerk
 Wes Brown, Zoning & Project Administrator

Chair Bardach welcomed everyone to the meeting and led them through the pledge of allegiance.

Chair Bardach asked if there were any corrections to the minutes of the March 5, 2018 meeting minutes. There being none, the minutes were accepted as submitted.

Case No. 2024

Chair Bardach introduced the application from Rabbi Ben Travis the representative for the Cincinnati Hebrew Day School/Atara High School, is requesting a variance from Village Code Section 154.14 (A). The variance would allow for the installation of a 6' high fence surrounding the playground in the rear of the building at 6701 Elbrook Avenue.

Wes Brown, Zoning & Project Administrator for the Village, provided the staff report for the application. He informed the Board that Citing the increasing need for security at schools and places of worship, Rabbi Binyamin Travis has submitted plans to install a 6' high chain link fence around the asphalt recreational area behind the Cincinnati Hebrew Day School located at 6701 Elbrook Avenue.

Mr. Brown reported that a letter was submitted from the Jewish Federation of Cincinnati in support of fence, stating the increase in attacks and vandalism and presenting several cases of attacks in the US and around the world.

The 6701 Elbrook property is surrounded by residential properties to the north and east, Industrial B properties to the west and a mixture of residential and business properties to the south (in Golf Manor).

The recreational area to be fenced is adjacent to the rear of the building and sits lower in elevation than the right of way for Elbrook Avenue. The fence is proposed to be 6' high with barbed wire at the top, approximately 114' south of the residential properties on Bluegrass Lane, 270' west of the right of way line for Elbrook Ave and 375' from the front of the houses to the east along Elbrook.

The north property line is lined with trees that separate the schoolyard from the residential properties on Bluegrass Lane and there are trees between the building and Elbrook Avenue to screen the property from the street.

Village Code Section 154.14 states that fences shall not exceed four and a half feet in height, therefore a variance is required for the project.

Chair Bardach invited Rabbi Travis to speak on the application.

Rabbi Ben Travis thanked the Board for the opportunity to speak. He provided background to the Board on how the request for the fence originated from parent feedback at a recent school event to provide additional security for the children from the perspective of an active shooter.

Rabbi Travis shared statistics about school shootings and that he has had conversations with a number of Chiefs and Safe Cincinnati in regard to fencing a portion of the school's campus for security.

Rabbi Travis explained that the fence is a costly project and was not budgeted in this year's school budget, however, the school received approval from the Ohio EMA to utilizing remaining funds from a security grant to help defray the costs of the fence, noting that funds needed to be spent by April 30, 2018.

Rabbi Travis provided reference to a number of articles supporting that chain link fencing is safer for children as opposed to other types of decorative fences and shared an example photo with the Board of the type of proposed fence (attached).

Rabbi Travis commented that he did become aware of one of the neighbors that expressed opposition to the fence. He shared that while he had a number of discussions with the neighbors a consensus was not reached and continues to be open to work together on this project to achieve a less obtrusive and aesthetically pleasing fence type.

Rabbi Travis informed the Board that a black vinyl fence type would add 25% to the cost of the project, and that would mean the project could not proceed due to the financial constraints of the school. He offered that the project could be modified to include planting trees as well.

Chair Bardach asked if there were any persons present in the audience that wished to speak on the application.

Rabbi Weinrib, 6605 W. Farmacres, spoke in support of the fence, and thanked the Board for its previous approval two years ago for perimeter security at the Section Road synagogue. He commented that his children go to the school and he would urge the Board to help protect the children as best as possible with the most security.

A.D. Motzen, 2179 Bluegrass, spoke in support of the fence as an adjacent property owner. He expressed that there is no more important asset than our children and encourage the Board to approve this reasonable request to ensure the children's safety, citing school incidents across the country, and noting that Jewish schools are more of a target. He stated that while the fence will not be intruder proof, he supports the highest and toughest fence allowable by the Village. He stated that his view from his property changed from the expansion at Topicz and he does not mind the view of this fence over the safety of children.

Mark Kirschner, 2182 Bluegrass Lane, expressed opposition to the fence. His comments included support for school safety, but this particular proposal was rushed and short-sighted and the school could do better. His view was that the chain link fence would create more safety issues such as climbing, and injuries from the deterrent along the top of the fence.

Mr. Kirschner also referenced a report about the benefits of school fencing, and its disadvantages. He stated that he spoke to Safe Cincinnati and while there is a letter that supports the fence, a separate conversation was held where Safe Cincinnati would not provide a professional recommendation for the fence. Mr. Kirschner also stated that the Village Police Department was neutral on the issue.

Mr. Kirschner expressed his disappointment for the school not reaching out to stakeholders and others about the proposal. He also commented that he believed the fence type of become an ongoing maintenance item and that it was not aesthetically pleasing. He urged the Board to deny the request.

Michelle Kirschner, 2182 Bluegrass Lane, expressed her opposition for the fence. She also supported the report Mr. Kirschner referenced about perimeter fencing for school security. She felt that this fence proposed was not perimeter fencing, and that it was simply a fence for enclosing a playground to keep children from wandering. She commented fence plan leaves other areas around the school vulnerable. She noted Chief Wallace confirmed vandalism and skateboarding as far as police issues occurring at that location.

Mr. Kirschner commented that the proposed fence is not a good security plan nor is it aesthetically pleasing. She stated that she felt it would set a precedence for all residential properties abutting non-residential properties, noting that it would apply to all residents along Elbrook adjacent to the industrial zone.

Chair Bardach asked if any correspondence was received by the Village regarding this application. Mr. Lahrmer confirmed that none were received.

There was discussion among the Board regarding where gates and emergency access existed on the proposed fence plan. It was noted that there were two pedestrian gates with panic bars and a 12-foot swing gate for police and fire access.

Ms. Rissover expressed her concern for the top of the fence becoming dangerous, especially at night, if someone were to climb over the fence (and become injured). Mr. Lauer pointed out that he did not feel variance requirements were being met by reason of general safety.

There was discussion about safety in general public spaces where people gather and the application of a fence in those settings. It was noted that there may not be enough information pertaining to the variance request and if the case should be continued. The fence height was also discussed as to whether a six-foot fence was safer than a four-foot fence when it comes to shootings. Mr. Lauer commented that that the need for a variance has not been met.

Chair Bardach offered to the applicant the opportunity to continue the request to allow for modification to the proposed plan. Mr. Travis cited that he would need more time and has limited time and resources for this project.

Mr. Wolf moved to approve the plan as proposed. Seconded by Ms. Rissover and the motion failed unanimously.

Case No. 2023

Chair Bardach introduced the application from Dara Wood and Kathy Hass, the representatives for Adath Israel Synagogue are requesting a variance to Village Code Sections 154.25 (C) and 154.12 (A). The variances would allow the installation of four new bollards along the front driveway, modifications to the existing lighting and additional exterior building lighting.

Mr. Brown provided the staff report and informed the Board that as part of their visibility and security upgrades in and around the Synagogue, the representatives of Adath Israel submitted plans to upgrade the existing exterior lighting and add additional lights around the perimeter of the building.

Mr. Brown shared that the letter to the Board states that the existing lighting does not sufficiently illuminate the building and for security and safety purposes, they would like to add additional flood and canopy lights. The new lights, as well as the existing lights, would be upgraded to 50 watt LED fixtures and would be mounted at the top of the building to illuminate the ground at the base of the building.

He reported that the plan also proposes to add 4 bollards between the building and the driveway near the north entrance to the building and upgrade the rear parking lot pole lights. The bollards will be 4" wide and 36" high with 16 watt LED fixtures and will be installed on a timer so they are not on overnight.

The 3 existing light poles in the rear parking lot are 20' high with 4-400 watt incandescent fixture on each pole. The new poles and LED fixtures would be installed at the same 20' height and consist of 4-281 watt fixtures, which is equivalent to the existing fixtures. The pole light in the northwest corner of the rear parking lot currently has 2-400 watt fixtures and is proposed to be upgraded with 3-281 watt LED fixtures.

The lighting plan submitted with the proposed upgrades show a reading of 0.0 foot-candles at the right of way light for Galbraith Road, on the east and south residential property lines. The reading at the west residential property line is 0.0 foot-candles at 8100 Ridge Road and 0.1 at 8120 Ridge Road. The reading at 8120 Ridge Rd drops to 0.0 foot-candles, approximately 20' into the rear yard. The rear of the house at 8120 Ridge Rd is approximately 235' west of the property line and approximately 277' from the existing/proposed new pole light in the northwest corner of the parking lot.

It has been stated to staff that the parking lot lights are adjustable and will be installed with automatic dimmers to dim the lights when people are not present.

Adath Israel is a permitted conditional use in the Residence A Zoning District but does not have a conditional use permit to regulate improvements to the property, therefore a variance is required for the proposed lighting project.

John Stillpass, Vice President of Adath Israel Congregation, reviewed in detail the application request with the Board, noting that the Ohio Emergency Safety grant will fund the project, and the proposed lighting would not spill over onto adjacent properties. He expressed that the security and safety of the surround properties would be enhanced by the addition of the lighting and contribute to the peaceful occupancy of the neighbors. He commented that the aesthetics of the facility are not changing through this propose plan. He also offered that Meyer Electric was

present at the meeting for questions from the Board along with Assistant Administrator Kathy Haas and Education Director Dara Wood.

Mr. Wolf asked if there would be timers on the lights. Mr. Stillpass confirmed that the lights would turn off at 11 p.m. It was also clarified that the sensors on the lights will activate up to 50% when there is activity, then shut off automatically after five minutes.

Mr. Lauer noted that if the fixtures are the same, there is no need for a variance on the fixtures.

Chair Bardach asked if there were anyone present to speak on this application or if any communications were received by the Village. Mr. Lahrmer stated that a call was received from a resident inquiring about the proposed plan, which was discussed, and the resident was also encouraged to come to the office to view the plans.

Mr. Rubenstein moved to approve the plan as submitted. Seconded by Mr. Bardach and the motion carried unanimously.

NEW BUSINESS

Mr. Lahrmer shared with the Board that staff has begun discussions regarding changes to property maintenance code sections relative to issues where the code may not be effective, which led into some code sections regarding zoning. He stated that Board may have items they would like to change and asked for submissions of code sections to be included in the review. He noted that changes were not ready and could be discussed at the next meeting. Mr. Wolf asked for the proposed changes to be shared with the Board for its feedback. Mr. Lahrmer confirmed that the document would be sent to the Board and discussion would be planned for the May 7 meeting.

There being no further business the meeting was adjourned.

Nicole Browder, Clerk

Richard Bardach, Chairperson



7149 Ridge Road
Amberley Village, OH 45237

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

amberleyvillage.org

BOARD OF ZONING APPEALS
MEETING NOTICE

WHEN: May 7, 2018 at 7:00 PM

WHERE: Amberley Village Municipal Building, 7149 Ridge Road

FROM: Scot Lahrmer, Village Manager

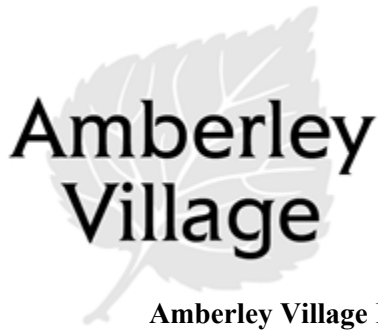
Please be advised there will be a public meeting held by the Amberley Village Board of Zoning Appeals **Monday, May 7, 2018** at 7:00 p.m. in the Council Chambers of the Amberley Village Municipal Building, 7149 Ridge Road. The public meeting will be held to review the following item:

Resident Dianne Dunkelman of 7351 Ridge Road is seeking a variance from Village Code Section 154.14 (A). The variance would allow for a fence that would range from 7' to 9' in the side and rear yards of the residence.

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 **May 7, 2018** Board of Zoning Appeals public meeting. If you should have any questions, please feel free to contact Scot Lahrmer at (513) 531-8675.

cc: Dianne Dunkelman, 7351 Ridge Road
Elinor Ziv, 2955 Belkay Lane
Robert Dizenhuz & Sharon Elikan, 7420 Belkay Drive
Larry & Victoria Temin, 7400 Belkay Drive
Michael Ruthemeyer, 7420 E. Aracoma
Members of the Board of Zoning Appeals
Mayor Thomas C. Muething
Amberley Village Council Members
Scot F. Lahrmer, Village Manager
Kevin Frank, Wood & Lamping LLP
Village Posting Boards (5)
Cincinnati Enquirer

POSTED 05/01/18



7149 Ridge Road
Amberley Village, OH 45237

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

amberleyvillage.org

Amberley Village Board of Zoning Appeals Staff Report

May 7, 2018

Subject:

7351 Ridge Road

Variance:

7' to 9' high fence

Item: Case#2018-25

Variance Request: Resident Dianne Dunkelman of 7351 Ridge Road is seeking a variance from Village Code Section 154.14 (A). The variance would allow for a fence that would range from 7' to 9' in height in the side and rear yards of the residence.

Zoning Code Review: Section 154.14 Fences, Walls and Hedges states: 'Notwithstanding other provisions of the Zoning Code, fences, 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 sides or front edge of any front yard or in any part of the front yard shall be permitted. Hedges not over two and a half feet in height may be permitted in a front yard.'

Variance Review: Ms. Dunkelman, property owner of 7351 Ridge Road is seeking a variance from Village Code Section 154.14 (A). The variance would allow for a fence that would range from 7' to 9' in height in the side and rear yards of her residence.

The letter to the Board states that in addition to all of the security measures they have put in place, the proposed replacement fence is an extra layer of deterrent that is an added safety measure for both her and the Amberley community.

The letter also states other reasons for the proposed fencing are the size and shape of the 3-acre lot and securing the cottage that is located in the rear of the property. The house and cottage have been broken into and kids have jumped the existing fence to see or play on the sculptures in the rear yard, which also causes a hazard due to the swimming pool.

The proposed fencing across the front (side yard) is proposed to be made of wood with stone at the base of each post and vary in height from 7' to 9'. The stone bases and lower four and a half feet of this section of the fence was approved as a normal zoning request. The elements of the fence proposed at the south side of the house are designed to fit the architectural features of the house including the stone work, posts, color and the cottage. Significant detail in the stone bases and proposed fence match the house and the nearby portico which leads to the entrance of the house extended as a colonnade, with a roof structure over the walkway and leading to the area of the circular drive. All of these are supported by columns that bring together the architectural features of the house. The proposed fence across the front (south side of house) replaces a previous picket fence with less architectural features but had varying heights similar to the proposed fence. The proposed fencing does not alter the character of the home or neighborhood.

The fencing around the perimeter of the rear yard is proposed to be a 7' deer fencing with metal post and mesh fabric.

Zoning Code Section 154.14, states that notwithstanding other provisions of this zoning code, fences, walls, and hedges not exceeding four and a half feet in height may be permitted in any required side or rear yard. Therefore a variance is required for the fence to be built as proposed.

Project Recommendations: Staff recommends consideration of the request on its merits.

Dianne Dunkelman
7351 Ridge Road
45237
513-235-9900

Dear Board Members,

At the request of the Zoning Board, I am happy to be able to share with the Board my reasons for the fence surrounding my property.

In addition to all of the security measures that I have already put into place, the fence provides an extra layer of deterrent that is an added safety measure for both me and our Amberley community.

1. I am seeking a variance because of the lot size and shape of my property. My property is about 3 acres and, as you know, it is very deep. The reason this variance is needed and is an exceptional or extraordinary circumstance is due to the fact that very few, if any, properties in the zone or vicinity have the same lot size and shape containing a cottage. I am unable to see the back of the grounds or any of the corners. Teenagers have hopped over the lower fence and come into the cottage ~~ heaven knows what for ~~ I hope it is not a quiet place where they were using or planning to use drugs. I cannot see the comings and goings or who is in the cottage when I am in my house, as the cottage is quite far in the back of the property. The cottage is used by our children and grandchildren from time-to-time, and they need to be safe while staying in the cottage.
2. Over the years, my home has been broken into twice resulting in robberies. One time the culprits had climbed over the fence on the side yard and put a ladder up to the house to break in. Another time they came across the fence/gate by the front.
3. We often have cars that drive up through our driveway to get a better look at the property. The Amberley Police can also attest to this. The variance requested is the minimum which would alleviate the hardship because a person looking through the shorter fence could be tempted to gain entry into the cottage as the cottage is secluded, away from the house.
4. Additionally, younger kids have boosted themselves up over the fence and told us it was because they heard we had fun sculptures in the yard (among them I am sure they also meant the large frog). Fence hopping to gain entry just to see the sculptures creates a very dangerous pool hazard.

5. I employed the same architect who has made all of the architectural plans for my home since the late 1970s, Donald Beck, to create beautiful fencing and gates that would be most discreet and in keeping with the nature of my house, which was built by Mr. French in 1903. This front gate will not be seen from the street. In fact, none of the fence will be visible from the street. I used the same builder who has done all of the work on my house as we extended it beginning in the early 1980s. These were major changes and applauded by all of the Amberley zoning committees over the years. In fact, the new fencing and gate that has been put in is a special green to make it blend in with the environment, even more than the last one.

6. The distance from the street to the fence is approximately a 125 foot setback up a winding, hilly, landscaped drive.

7. My neighbors contiguous to us on Ridge Road, Jay and Kathy Freeman, are wonderful friends and neighbors. We have shared much over the years, including the cherries for pies that grow along our border, and they are fully in favor of this fencing. I have also gone to the expense to rebuild and maintain a secure gate along our neighboring border. I am providing you with a letter from the Freemans stating that they are in total favor of our fence. They do not like honeysuckle, and we have a very large 15 foot tree that was in front of the proposed fence. Because of our friendship, we have offered to remove that tree. They are very appreciative.

8. Our other neighbors who abut our yard on the Belkay side closer to Ridge Road are dear friends and appreciate what we have done with my property. In fact, Mr. Binem Dizenhuz calls to see how I am doing and to assure me that they are always there should I ever need help. He is completely supportive and offered to send an email to Mr. Scot Lahrmer to that effect.

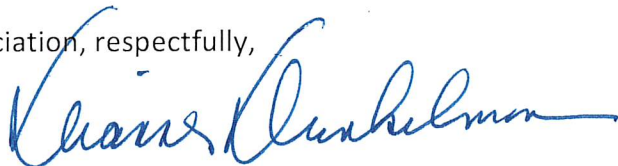
9. Additionally, our neighbors contiguous on the Belkay Drive side of our property thanked us profusely when, a few years ago, our greenery along our border began to die and looked shabby. We ripped out the shabby shrubbery and replanted that entire hillside with new trees and shrubbery. It is very beautiful and now looks fully grown.

10. I have done all of this in the interest of making my home more secure for my safety while upholding the architectural style and landscaping of the house and look of the Village. I have also installed a completely new alarm system which, as always, will tie us directly to the Amberley police and fire department. I appreciate the Village giving us the options to look at so that we could upgrade our security and still be in direct contact to the Amberley police and fire.

11. This variance would not be materially detrimental to the vicinity of Amberley. In fact, it will enhance the safety of Amberley residents, as it will deter potentially unlawful trespassers.

With thanks and appreciation, respectfully,

Dianne (Dunkelman)



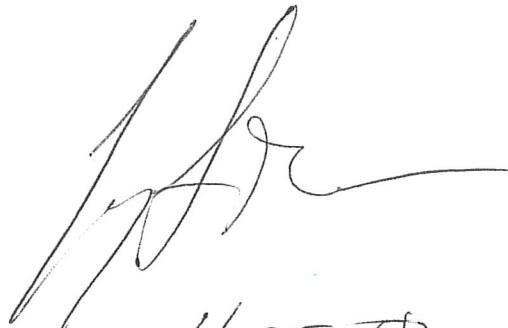
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Dianne, or "Howdy Neighbor" as we call across the yards all of the time,

This is a note that you may give to the Amberley Village Zoning board letting them know that Kathy and I fully support the fence that divides our yards that you want to have to protect you. We are aware that there have been some issues at your house and although we do not know the specifics, we are aware that you need special protection. I trust that the Zoning board will allow this.

By the way, thanks for taking down that huge honeysuckle that is in front of where you want the fence.

Kathy Freeman
4-25-18



4-25-18

Scot Lahrmer

From: Robert Dizenhuz <dizenhuz@yahoo.com>
Sent: Tuesday, April 24, 2018 10:27 PM
To: Scot Lahrmer
Cc: ddunkelman@clevercrazes.com
Subject: Fwd: Dunkleman Fence Variance request

Resending hopefully with the correct email address.

Sent from my mobile device.

Begin forwarded message:

From: Robert Dizenhuz <dizenhuz@yahoo.com>
Date: April 24, 2018 at 9:47:01 PM EDT
To: slahrmer@amberley.org
Subject: Dunkleman Fence Variance request

Mr Lahrmer

I recently spoke with Diane Dunkleman and understand that a request for a variance for a fence is pending before the Amberley Village Board of Zoning Appeals.

My wife and I own and live at 7420 Belkay Drive. The rear of our home, and many of our floor to ceiling windows, face the side of Ms. Dunkleman's home. We would appreciate it if you would provide the Board of Zoning appeals this email when it meets to consider the pending request for a variance for the fence as installed.

My wife and I are fully supportive of the fence as it exists for a number of reasons. While I understand that it was installed for valid security reasons, following a number of thefts at her home, it has also had the added benefit of also significantly reducing the number of deer that previously invaded (and damaged) my back yard. The fence that was installed is also quite frankly very hard for us to see. We Have a total of nine windows on our first floor looking toward the property line with the fence. I can say without doubt that the fence is artfully installed and with its design and color very difficult to see. There was clearly thought, consideration and added expense with this quality and professional installation.

Sharon and I fully support the fence as constructed and urge that a variance be granted. Everyone who lives in Amberley is entitled to feel safe in their homes, and this fence will provide an excellent first line of defense against a curious casual thief.

If it would be helpful to the BZA, I can be available to answer any questions or provide additional information

Binem Dizenhuz
7420 Belkay Dr
Amberley Village, OH 45237

Sent from my mobile device.

To: Scot Lahrmer
From: Wes Brown, Zoning and Project Administrator
Anna Shaw, Administrative Assistant
Date: February 22, 2018
RE: Zoning and Property Maintenance Code Update

During 2017 a list was maintained by Wes Brown and Anna Shaw of items found either not addressed or were included in outdated Code sections. In the current Zoning Code and Property Maintenance Code. These items continue to be frequent requests (zoning) or issues (property maintenance) and therefore need to have some level of direction in the Code as to how to handle each occurrence. Outlined below are the recommended changes to each part of the Code with an individual explanation as to why the change is warranted. Those items highlighted are suggestions for addition to the Code; the explanations are italicized.

GARBAGE CAN STORAGE

Residents along service drives have been found to continuously leave their garbage cans along the service drive curb and are not removing them, placing them out of site of the neighbors. There has been an increase in complaint volumes on this issue, as well as cans being left at curbs in other areas of the Village, has made staff seek alternate code options.

Communities like Blue Ash and Montgomery have stricter guidelines, but we would seek to mirror the language related to storage only. This ordinance change would reduce code enforcement efforts. Both comments are related to an increase in code enforcement complaints.

159.233 STORAGE

- No garbage or rubbish whether in a garbage container or otherwise shall be kept in the front yard of any premises.

Proposed additions or modifications to Section 159.233.

- Trash containers shall be stored within garages or other buildings authorized for such purpose, or so located, or hidden by landscaping, fencing, or an enclosure, as to not be visible from all public and private drives; provided, however, that trash containers may be stored in side yard areas so long as the containers are screened from the right of way, have lids that are sufficiently sealed so as to prevent animal or insect foraging and infestation, the containers are located immediately adjacent to the residential structure, and the containers are stored in a clean and orderly manner.

FENCING MATERIAL

Modify Amberley to read:

154.14 FENCES, WALLS, AND HEDGES.

- (A) Notwithstanding other provisions of this Zoning Code, fences, 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 sides 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.

Proposed additions or modifications to Section 154.14 (A).

In order to maintain high property values, the aesthetic of the fence being installed must be considered. Split rail or Kentucky board are the most prevalent fences found in Amberley. Eliminating the ability to install chain link will help maintain the current ambiance.

Mandating the finished side be facing out will alleviate the increase in complaints of neighbors forced to look at the unfinished side of a fence. The unfinished side facing the neighborhood does nothing to improve the overall appearance of the street itself.

(1) Residential fences constructed in Amberley Village are not permitted of the following material: barbed wire, farm, chain link, or other commercial fences. Fences constructed with a finished side must have the finished side facing adjacent properties. All fences must be properly aligned so as to make a straight line.

Temporary fences around landscaping can be found Village wide and permits are rarely sought. There are currently no regulations related to this type of fencing. This would allow the Village to regulate these fences to some extent.

(2) Temporary fences constructed around trees and shrubs so as to protect them from wildlife damage are not to exceed four and a half feet in height, must be constructed of fencing liner or mesh so as to be less conspicuous, and must be removed within two years of construction. Should these be allowed in a required front yard?

Gardens are found Village wide in the yards of residents. There currently are not any regulations to help residents maintain their gardens, most of which are fenced with tall fencing to avoid issues with wildlife. As the level of requests increases we suggest the above regulations in order to be more agriculturally friendly to our residents.

(3) Vegetable/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 strictly for agricultural purposes and may not be visible from the street.

(B) Privacy panels are permitted in a rear yard located directly behind, and attached to or immediately adjacent to, the principal structure. The finished side of a panel shall face adjacent properties. The unfinished side of a panel, with any exposed posts or supports, shall face in toward the principal structure of the subject property. The construction and appearance of privacy panels shall be aesthetically pleasing and appropriate for the location. Materials such as brick, block, lumber, vinyl, natural materials or landscaping, shall be used and are to be similar or complementary in appearance and style to the principal structure. Alternate materials may be considered for approval by the Village Manager. Privacy panels are subject to the village Property Maintenance Code. Privacy panels shall be located as close as possible to the object or area intended to be screened so as to allow for limited screening but also minimize adverse effects on neighboring properties and sight lines. The maximum height of a privacy panel, as measured from the bottom of a panel, shall be no more than six feet. The maximum height of a privacy panel as measured from the ground or deck surface shall be no more than six and one-half feet. The maximum length of a privacy panel, whether constructed singularly or in combination, is 16 linear feet.

Edit Chicken ordinance:

As the chicken ordinance is newer to the Village, we have learned as each permit is issued. In order to provide adequate protection as well as human access for maintenance, six foot "fencing" is the most requested item. It would therefore be easier to continue the zoning approval process without having to seek a variance on each occasion.

Proposed additions or modifications to Section 154.54.

Edit 154.54 (4) to include "fencing may not exceed 6 feet in height and must be constructed of fencing liner or mesh so as to be less visible."

ALGAE GROWTH and DIRTY SURFACES

Algae growth is currently not covered in the property maintenance code but is becoming a more frequent occurrence. This would allow some enforcement of cleaning.

159.191 PROTECTIVE TREATMENT

All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

Proposed additions or modifications to Section 159.191.

Any surface found to have algae, mold, or like growth shall be cleaned and maintained free from growth.

PATIO FURNITURE

The Code currently does not speak to the allowed locations of patio furniture, an increasing complaint in certain areas of the Village. It is suggested the following is added:

Proposed addition or modification to Section 159.172.

No patio furniture may be stored forward of the home for a period in excess of 72 hours, except on a front porch.

This is the same language as 159.172 (toys) but modified for patio furniture.

MEADOWLANDS

While the Code stipulates land can be designated as a meadowland, it fails to provide a set of rules and/or stipulations for seeking the classification. This addition would prohibit residents from designating a portion of their land as meadowland, therefore allowing them to forgo mowing the property.

Proposed additions or modifications to Section 159.164.

159.164 WEEDS.

Except for those publicly owned lands which have been designated as meadowlands by the Village Council, all premises and exterior property shall be maintained free from weeds in excess of ten inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs, provided however, this term shall not include cultivated flowers, decorative grasses and gardens. The designation of meadowland is reserved exclusively for publicly owned lands and cannot be applied to residentially owned property.

SANITARY LINES

After encountering several of these over the years and an increase in complaints. With the code citing a time frame, this would allow for enforcement of restoration to the yard as well as the ambiance of the neighborhood.

Proposed additions or modifications to Section 153.02 (C) (4) (C) or add to section 159.161

- The keeping, storing, depositing or accumulating of dirt, sand, gravel, concrete or other similar materials in a manner that constitutes visual blight or reduces the aesthetic appearance of the premises for more than 30 days is prohibited. These piles are not permitted in the front yard of any premises.

- All work related to the replacement of a residential sanitary line must be completed within 6 months of commencement. This time frame is to include restoration to the dirt and grass of the yard so as not to create blight.

ZONING APPROVAL TERMS

Currently permits are sought without a deadline stipulated. Work, in some cases, is then not started for a long period of time. This would allow greater ease for employees to research issued permits.

Proposed additions or modifications to Section 154.57.

§ 154.57 APPROVAL OF PLANS AND ISSUANCE OF BUILDING PERMIT.

(A) It shall be unlawful for the Building Commissioner to approve any plans or to issue a building permit for excavation of construction, or for the moving, alteration or repair of any structure, until he has inspected such plans in detail and found them to be in conformity with provisions of this Zoning Code. To this end, the Building Commissioner shall require that all building permit applications for a new structure or major alteration be accompanied by plans drawn to scale and submitted in duplicate, and that they show:

- (1) Accurate shape, location, and dimensions of the lot to be built upon;
- (2) The shape, size, and location of all buildings or other structures to be erected, altered, or moved, and of any structure already on the lot;
- (3) The existing and intended use of all such buildings or other structures;
- (4) Such other information concerning the lot or adjoining lots as may be necessary for determining whether the provisions of the Zoning Code are being observed.

(B) All dimensions on submitted plans relating to the location and size of the lot to be built upon, and of any structures already on the lot, shall be based on an actual survey if the building permit sought is for a principal structure, and when deemed necessary by the Building Commissioner if for an accessory structure. The lot and the location of the proposed structure thereon shall be staked out on the ground before excavation or construction is started.

(C) One copy of such plans shall be retained by the Building Commissioner, and one copy returned to the applicant when such plans shall have been approved by him, together with such permit as may be granted.

(D) If the proposed excavation, construction, alteration, or repair, as set forth in the application for a building permit, conforms with the provisions of this Zoning Code and applicable building code, the Building Commissioner shall issue a building permit for such work. If a building permit is refused, the Building Commissioner shall state such refusal in writing, with the cause.

(E) Construction must begin within 90 days from the date of permit issue and is to be completed within 12 months unless more time is sought and granted by the building commissioner. If the work has not been completed in the allotted time, a new permit must be sought.

There is a rise in the number of residents seeking multiple permits without ever completing the work from the previous, making it difficult to determine what is actually on the property. This would help to streamline the permitting process and eliminate confusion with open files, determining what has been completed, and future permits for the property.

(F) Work from the most recently issued permit to a Village property owner must be completed before a permit for an unrelated project may be sought.

BZA FEES

When a BZA meeting is convened, the expense to the Village includes: overtime for employees, BZA board member pay, and countless hours of employee work during regular business hours. This adds up to a great expense for the Village for work related to permits being sought on a whim.

Residents continue to seek a variance for work they know isn't justifiable but, because it's free to apply, they want to try anyway. In fact, residents have made this very comment.

Additionally, in the case of the vacant lot at 8200 Springvalley, multiple potential buyers came to BZA with a variety of plans for the property just to see what they could build. None of these people ended up building on the property. A fee associated with BZA would help deter those that don't have a true hardship on their property but rather are trying just because it's free.

Proposed additions or modifications to Section 154.64.

154.64 APPLICATIONS AND APPEALS TO BOARD; HEARINGS; STAY OF PROCEEDINGS.

(A) Applications.

(1) An application to the Board, in cases in which it has original jurisdiction under the provisions of this Zoning Code, may be taken by any affected property owner, including a tenant, or by governmental official, department, board, or bureau.

(2) Such application shall be filed with the Building Commissioner who shall transmit the same, together with all plans, specifications, and other papers pertaining to the application, to the Board of Appeals.

(3) A fee of \$200 will be assessed to those applications where the lot is considered a conforming lot to its designated residence A or B classification. Lots deemed non-conforming will have their fee waived. Non-conforming in this usage is defined as a lot smaller in acreage than the minimum amount for its classification set forth in the Village Code.

(B) Appeals.

(1) An appeal to the Board may be taken up by any affected property owner, including a tenant, or by any governmental official, department, board, or bureau affected by any ruling of the Building Commissioner.

(2) Such appeal shall be taken within a reasonable time, as prescribed by the rules of the Board, by filing with the Building Commissioner and with the Board a notice of appeal specifying the grounds thereof. The Building Commissioner shall forthwith transmit to the Board such notice of appeal, together with all the plans and papers constituting the record on which the action appealed from was taken.

(C) *Hearing; decision.* The Board shall fix a reasonable time for the hearing of an application or of an appeal. The Board shall serve notices to the applicant or appellant, to the owners of all properties adjoining the lot involved in the application or appeal, and to the Building Commissioner, at least five

days before the time when the application or appeal shall be considered by the Board. Any party may appear at such hearings in person or by agent or by attorney. The Board shall decide the application or appeal within a reasonable time.

(D) *Stay of proceedings.* An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Building Commissioner certifies to the Board of Appeals, after notice of appeal shall have been filed with him, that, by reason of facts stated in the certificate, a stay would in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by order which may, on due cause shown, be made to the Board of Appeals on application, after notice to the Building Commissioner.

Temporary Structures

The number of permits sought for tents continues to rise without any guidelines in the Code. This is merely establishing guidelines for staff to follow.

Proposed addition to Section 154.12.

Permits issued for accessory structures erected on a temporary basis (including but not limited to tents, portable parking structures, and construction structures) are only valid for the time frame stipulated in the permit and must be disassembled in a timely manner. These permits may not exceed a time frame of more than 120 days unless otherwise indicated by the zoning official.

Firewood

The number of complaints on the location of residential firewood piles continues to rise without any guidelines in the Code. This is merely establishing policy for the location of firewood piles.

Proposed addition to Section 159.

Firewood piles must be neatly stacked and cannot be stored in the front yard of any residence.

Non-Conforming Lots:

There are a number of properties in each district (A and B) that will never meet the minimum code requirements. These same residents will always have to seek a variance for property enhancements like accessory structures and exterior improvements. By giving the zoning official some discretion on these matters it will cut down on the need to convene BZA, saving the Village money.

Owners of non-Conforming lots in residence B (less than half an acre in size) and non-conforming lots in residence A (less than one acre in size) are able to seek zoning approval without variance at the zoning official's discretion.

Accessory Structures Located in the Front Yard

Proposed additions of Modification to Section 154.12 (A).

The Code currently stipulates accessory structures cannot be built in the required front yard. Under normal circumstances you could, in theory, build a shed or swing set in the front yard of a residence so long as it's out of the required front yard. The language needs to be modified to read: "accessory structures exclusive of sheds, pools, and swing sets....". This still allows for garages to be constructed as necessary.

ABOVE GROUND POOLS

Above ground pools, while there's not a high volume in Amberley, they are heavily complained against as eye sores and property value detractors. Some who complain express disbelief that Amberley allows above ground pools currently. By discontinuing the allowance of them, property values may remain higher while complaints would be reduced.

Proposed additions of Modification to Section 98.02.

Above ground pools are not permitted to be constructed in Amberley Village. Those constructed and permitted prior to the adoption of this Code section may be grandfathered but not replaced once removed.

POOL FENCING

The Code currently requires pool fencing to be a minimum in height of three feet, which is superseded by the County's requirement of four feet. The Code needs to be updated to either meet the four-foot minimum or exceed it at four and a half feet (the max allowed by Village Code).

Proposed additions of Modification to Section 98.02.

98.02 FENCING OF POOLS REQUIRED.

(A) (1) No person who is the owner, occupant or tenant of any parcel of real property within the village limits shall permit a pool to be constructed or maintained thereon, unless surrounded by a fence at least three feet and not more than four and one-half feet in height.

(2) Exception: Hot tubs and Jacuzzis need not be surrounded by a fence so long as a secured cover is in place over them when they are not in active use.

(B) Each day a pool is permitted to remain unfenced, or uncovered if a hot tub or jacuzzi, shall be considered a separate offense.

Change the required fence height to read at least four feet and not more than four and a half feet in height

REPEAT OFFENDER

The current language in the Code stipulates a repeat offender shall be cited and fined \$150 after their first offense. Rather, the Code should declare someone a repeat offender with fines starting on the third and subsequent offenses.

Proposed additions of Modification to Section 159.063.

159.063 PENALTIES.

(A) *Violation of chapter.* Any person who shall violate a provision of this chapter, or fail to comply therewith, or with any of the requirements thereof, or with the orders or notices issued under this chapter, shall be prosecuted within the limits provided by state or local laws. If due notice has been served, each day that a violation continues after the time to remedy the violation expires shall be deemed a separate offense.

(B) *Repeat offender.* For each offense after the third violation of this chapter in any calendar year, the property owner shall be cited and fined \$150 as a repeat offender. Each repeat offense may be a violation of a new and separate provision of this chapter, or of the same provision as any prior offense. For the purposes of this division, notwithstanding division (A) of this section, a repeat offense shall not be deemed to occur each day the violation exists. Instead, a repeat offense is deemed to occur upon each additional notice issued by the village if the owner does not remedy the violation within the time prescribed by the notice. This penalty supplements and is in addition to any other penalty provided for in this code.

APPEALS BOARD

Proposed additions of Modification to Section 159.130.

159.130 APPLICATION FOR APPEAL

Any person directly affected by a decision of the Enforcement Officer or a notice or order issued under this code shall have the right to appeal to the board of appeals, provided that a written application for appeal is filed within the time prescribed for compliance with the order or 20 days after the day the decision, notice or order was served, whichever is less. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

OPEN BURNING AND RECREATIONAL FIRES

The Unified Fire Code of Hamilton County is no longer the standard, the code should be changed to reflect the State of Ohio Fire Code.

Proposed additions of Modification to Section 92.01.

92.01 ADOPTION OF FIRE PREVENTION CODE.

There is adopted for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the State of Ohio Fire Code, is hereby adopted as Amberley's Fire Code related to open burning, recreational fires, and portable outdoor fireplaces. From the date on which this chapter shall take effect, the provisions thereof shall be controlling within the limits of the village.

The code currently does not have a section that address the construction and location of portable or permanent fire pits. The following is suggested in conjunction with Chris Fritsch from the AV Fire Department. See below from the ORC, modifying 92.18 of the Amberley Code:

Current reading of Section 92.18.

92.18 OPEN BURNING.

(A) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

GARBAGE. Any matter resulting from the handling, processing, preparation, cooking, and consumption of food or food products.

LANDSCAPE WASTE. Any vegetable or plant matter except garbage, including trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, yard trimmings and crop residues.

OPEN BURNING. The burning of any materials wherein air contaminants resulting from combustion are emitted directly into the air, without passing through a stack or chimney from an enclosed chamber. For purposes of this definition, an enclosed chamber is one which has only those ducts, stacks, or chimneys necessary to provide combustion air and to permit the escape of exhaust gas. The burning of any materials in metal cans, barrels, containers, wire baskets, or any home-made device is open burning. The burning of materials in incinerators is governed by Ohio Environmental Protection Agency Regulation AP-3-10.

(B) Compliance required: No person shall cause or allow open burning within the village except as provided in the following subsections: 18(C), 18(D), and 18(E).

(C) Burning permitted for certain purposes:

(1) Open burning shall be allowed for the following purposes:

- (a) Cooking food for human consumption on a grill or similar device.
- (b) Heating tar, welding, acetylene torches, highway safety flares, heating for warmth of outdoor workers, smudge pots, and similar occupational needs.

(2) Fires allowed by this section shall be so confined in a device so designed for that specific use so intended and the fire to be contained within. Fire allowed by this section shall not be used to burn garbage, landscape waste, or any other waste material and shall be of minimum size sufficient for their intended purpose. The fuel used shall be a clean fuel, that is, a fuel chosen to minimize the generation and emission of air contaminants.

(D) Permission with prior notice to village and state.

(1) Open burning shall be allowed for the following purposes with prior notification to both the Village Police Department, the Village Manager, and the Southwestern Ohio Air Pollution Control District, as provided by Ohio Environmental Protection Agency Regulation EP-12-05:

(a) Prevention or control of disease or pests.

(b) Ceremonial purposes; ceremonial fires shall be less than five feet by five feet and shall burn no longer than two hours.

(2) Fires allowed by this section shall not be used to burn garbage, landscape waste, or any other waste material. The fuel used shall be a clean fuel, that is, a fuel chosen to minimize the generation of emission of air contaminants.

(E) Permission by written state permit.

(1) Open burning shall be allowed for the following purposes upon receipt of written permission from the Southwestern Ohio Air Pollution Control District provided that any conditions specified in the permit are followed.

(a) Disposal of hazardous or toxic materials where the Ohio Environmental Protection Agency determines that there is no practical alternate method of disposal.

(b) Instruction in method of firefighting or for research in the control of fire.

(c) In emergency or other extraordinary circumstances for any purpose determined to be necessary by the Ohio Environmental Protection Agency.

(2) Receipt of written permission shall be obtained as provided by Ohio Environmental Protection Agency Regulation EP-12-05.

Proposed Additions of Modifications to Section 92.18.

Adopt the Ohio Fire Code Section 307 Open Burning, Recreational Fires and Portable Outdoor Fireplaces, including the following changes.

General. A person shall not kindle or maintain or authorize to be kindled or maintained any open burning unless conducted and otherwise approved.

Prohibited open burning. Open burning shall be prohibited when atmospheric conditions or local circumstances make such fires hazardous.

Exception: Setting a back fire for the purpose of reducing the impact of a wildland fire as set forth in sections ORC [1503.11](#) and ORC [1503.22](#) of the Revised Code or from any prescribed burn operations authorized under section ORC 1503.18 of the Revised Code.

Ban on open burning, recreational fires, and portable outdoor fireplaces. The state fire marshal, in the sole discretion of the state fire marshal, may issue a ban on open burning, recreational fires, or the use of portable outdoor fireplaces at any time when the state fire marshal determines that atmospheric or drought or other environmental conditions necessitate such a ban. The ban may be issued state-wide or may be tailored to a specific area, region or county of the state as conditions warrant.

(i) No open burning or recreational fires shall occur and no portable outdoor fireplaces shall be used in any area where a ban is in effect or at any time during a period when the state fire marshal has issued a ban.

(ii) No permit authorizing open burning, recreational fires or the use of portable outdoor fireplaces shall be issued during anytime or in any area where a ban has been issued by the state fire marshal.

Exception: A permit authorizing open burning, recreational fires, or the use of portable outdoor fireplaces may be issued for any area, if any, that is not subject to the ban.

(iii) Nothing in this paragraph shall prohibit a local fire code official with authority to do so from issuing a local ban on open burning, recreational fires, or the use of portable outdoor fireplaces at any time when conditions warrant, including during times when the state fire marshal has issued a ban as long as the local ban does not contradict the ban issued by the state fire marshal.

(2) Permit required. A permit shall be obtained from the fire code official prior to kindling a fire for recognized silvicultural or range or wildlife management practices, prevention or control of disease or pests on public land by designated officials. Application for such approval shall only be presented by and permits issued to the owner of the land upon which the fire is to be kindled.

(a) Authorization. Where required by state or local law or regulations, open burning shall only be permitted with prior approval from the state or local air and water quality management authority, provided that all conditions specified in the authorization are followed.

(3) Extinguishment authority. Where open burning creates or adds to a hazardous situation, or a required permit for open burning has not been obtained, the fire code official is authorized to order the extinguishment of the open burning operation.

(4)(original ORC language: Location. The location for open burning shall not be less than 50 feet (15 240 mm) from any structure, and provisions shall be made to prevent the fire from spreading to within 50 feet (15 240 mm) of any structure.) Open burns are strictly prohibited in residential areas, except for on public land by designated officials.

Exceptions:

1. Fires in approved containers that are not less than 25 feet (4572 mm) from a structure.

2. The minimum required distance from a structure shall be 25 feet (7620 mm) where the pile size is 3 feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height.

(a) (original ORC language: Bonfires. A bonfire shall not be conducted within 50 feet (15 240 mm) of a structure or combustible material unless the fire is contained in a barbecue pit. Conditions that could cause a fire to spread within 50 feet (15 240 mm) of a structure shall be eliminated prior to ignition.) Bonfires are strictly prohibited in Amberley Village.

(b) Recreational fires. Recreational fires shall not be conducted within 25 feet (7620 mm) of a structure or combustible material. Conditions that could cause a fire to spread within 25 feet (7620 mm) of a structure shall be eliminated prior to ignition.

(i) Fire pits. Recreational fires conducted in gas-fired recreational pits shall not be conducted within 15 feet of a structure or combustible materials.

(c) Portable outdoor fireplaces. Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within 15 feet (3048 mm) of a structure or combustible material.

(5) Attendance. Open burning, recreational fires and use of portable outdoor fireplaces shall be constantly attended until the fire is extinguished. A minimum of one portable fire extinguisher complying with paragraph (F)(906) of rule ORC [1301:7-7-09](#) of the Administrative Code with a minimum 4-A rating or other approved on-site fire-extinguishing equipment, such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization.