

AGENDA

March 4, 2019

PLANNING COMMISSION/BOARD OF ZONING APPEALS

7:00 PM

Roll Call

Minutes

Meeting of December 3, 2018

Cases

CASE NO. 2019-1356

Residents Jay and Melissa Bernstein, property owners of 6670 Glen Acres Drive, are requesting a variance to Village Code Section 154.16. The variance would allow for the parking and storage of a major recreational vehicle on residential property, not in an enclosed building.

New Business

Adjournment

MINUTES OF THE REGULAR MEETING OF THE AMBERLEY VILLAGE
PLANNING COMMISSION
HELD AT THE AMBERLEY VILLAGE MUNICIPAL BUILDING
MONDAY, DECEMBER 3, 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 Monday, December 3, 2018 at 7:00 P.M.

Roll was called: PRESENT: Richard Bardach, Chairperson
 Rick Lauer
 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 November 5, 2018 meeting minutes. There being none, the minutes were accepted as submitted.

Chair Bardach introduced proposed Ordinance 2018-13 relating to changes to the Village Code Chapter 154 pertaining to accessory structures for consideration by the Planning Commission.

Solicitor Kevin Frank stated that the Village has been talking about making changes to the zoning code for various reasons for the past several years. Most recently, the Village Council passed the moratorium related to accessory structures to allow time to consider and develop different regulations.

As part of that procedure in accordance with the Village Charter, the Planning Commission has to consider the ordinance and vote to recommend changes back to Council. If approved for Council, there would be a first reading at the December 10, 2018 regular Council meeting, and then Council would hold its own public hearing in January, and either adopt the ordinance then or conduct a third reading in February.

Solicitor Frank stated the Board had received a draft ordinance (attached) to consider this evening, and from a staff perspective specific and big picture changes for the ordinance are being sought. The gist of the ordinance is that accessory structures under 200 square feet are permitted for approval administratively without coming to the Board. If an applicant goes beyond the 200 square feet, then the application would come to the Board for review.

Mr. Wolf noted the following as changes and suggestions for the proposed ordinance:

Page 8, 154.12 B and C: Wolf clarified that would mean an accessory structure could be located no longer further beyond the normal residence already there. Solicitor Frank confirmed that was the case and mirrored existing language in the current code.

Page 9, 154.121: Wolf noted a numbering correction in the conditional accessory structures section; letter B should be C, and so on. He added that the proposed ordinance talks about accessory structures that may maintain a habitable space and asked what is currently permitted for a dwelling. Solicitor Frank clarified that currently there is almost no regulation. Frank stated that this section is intended to allow habitable space above the garage, similar to an in-law unit, or what used to be referred to as servants' quarters, thus allowing dwelling units when plans are submitted that are otherwise within code.

Solicitor Frank went on to clarify the difference between uses such that pool houses cannot be habitable. He also noted that existing dwellings would be grandfathered.

Ms. Rissover asked that when it comes to living units, is there anything differentiating an Airbnb? Solicitor Frank stated that currently there are no restrictions and this ordinance does not address it. However, some communities have put in code language for short-term and long-term rental to provide regulations.

Mr. Lauer asked if that in 154.12 (D), where it stated that an enclosed accessory structure not open to the sky and those are limited to 200 square feet without a variance; and, a detached garage shall not cover more than 800 feet or 50% of the principal structure—would be the language distinguish sheds from detached garages. Solicitor Frank affirmed it would. Mr. Lauer expressed that it may be difficult to administer, for example, if there is a garage use on one side and storage use on the other side. He suggested staying away from restrictions that deal with the use and state that it is an accessory structure not attached to the house without a variance or conditional use.

Next Mr. Lauer reviewed 154.25, inquiring about the rationale behind the different size limitation for detached versus attached garages, and then the floor area of the main principal structure. He asked how the floor area is measured. Solicitor Frank stated that the interpretation of the floor area is the footprint of the structure, for example, if one were looking down from an aerial or Google Earth view. Solicitor Frank offered that the definition could be modified by the Board. Mr. Lauer suggested adding a definition for a floor area to match Mr. Frank's explanation.

Solicitor Frank shared that the existing limit for garages is 1500 square feet, attached and detached. He stated that based on discussions, it seems the preference is to allow larger attached garages that are incorporated into a house to look similar with color and trim, whereas detached garages can stick out and look bad if they get too big. Additional discussion was held on how to view garages with a connecting piece like a "breezeway" and what constitutes attached and detached.

Solicitor Frank proposed adding a definition into 154.12 (D) to add that a detached garage is an accessory structure for parking and storing vehicles that is not connected to the principal structures by any material above ground. He noted that some codes have measurements related to distance, and some have dimensional restrictions. Mr. Lauer stated that it doesn't have to be put into the definition, however, it is something to consider.

Mr. Lauer commented that in Section D there is a reference to "not open to the sky" and asked what that is intended to clarify. Solicitor Frank explained that is a planning term that means it has a roof, and it is not a swimming pool, tennis court, basketball court or driveway—all of which are accessory structures as well.

Mr. Lauer stated that it would make some sense to add “including, but not limited to” language when talking about individual structures not open to the sky such as sheds or garden buildings.

Mr. Wolf commented whether it was correct as written that the storage of vehicles would be limited to the owner of the house. Solicitor Frank stated that the intent was to prevent properties from becoming storage lots and that is in the existing code and most codes among other communities. Mr. Brown read the code on Page 13 that reflected the existing Village Code.

Mr. Lahrmer asked about when the residential component of the ordinance was referenced, would the Board want anything related to residential for accessory structures.

Solicitor Frank stated that the Village is still reviewing many aspects of the zoning code related to fences, chicken coops, etc.

Mr. Wolf stated that he is concerned about the dwelling part of it, noting that a certain amount of space would have to exist and certain requirements met for making a dwelling. For example, sanitary issues and the like. He asked if it would also be subject to all other sections and codes for dwellings. Solicitor Frank confirmed that yes all applicable zoning codes would apply, including the County building codes defining dwellings.

Solicitor Frank stated that changes or clarifications had been requested to modify within the proposed ordinance and held discussion with the Board regarding the preference to include or not include those new changes:

Solicitor Frank recommended adding an introductory sentence in 154.12 to clarify that it permitted structures under 200 square feet: “An accessory structure is permitted in a residential district if it meets the following restrictions.” He also suggested adding language to the beginning of paragraph (D): “Except as otherwise provided in the Zoning Code,” Solicitor Frank recommended changing “building” to “structure” in paragraph (C), and deleting the extra use of “percent” in paragraph (D). In 154.12.(I), Solicitor Frank recommended deleting the word “residential,” and to add a new paragraph (J) (to be renumbered) as a catchall stating: “Accessory structures shall meet all other requirements set forth in the Village Code of Ordinances.” referring to setbacks, height requirements, etc.

Ms. Rissover asked where specifically the temporary garage structures would be prohibited. Solicitor Frank stated the proposed ordinance does not address it and that is part of other discussions about code changes. He stated that the Village has been discussing for a few years temporary tents, covers of fabric not secure to the ground, and how to regulate those.

Mr. Lauer stated that now is the time to add the restrictions on those if that is going to be the policy. He noted that he did not feel they should be permitted. He suggested it could be accomplished through a definition of accessory structure, for example, “other structures temporary in nature are prohibited”. He stated that a variance can always be requested.

Ms. Rissover asked where the code gets into materials and whether a shed would need defined. Solicitor Frank suggested that a temporary structure definition could address whether a fabric structure that wasn’t intended to be permanent. Mr. Lauer commented that smaller ones made of plastic would be under 200 square feet.

Ms. Rissover expressed the need to define carport further. Solicitor Frank read the section that defines carports and noted it was in response to carports being open on the sides and people

storing personal property. He stated the point is to have the clutter put into something enclosed. It was suggested to further define carport to preclude temporary structures.

Solicitor Frank continued reviewing suggested changes that had been received on the proposed ordinance:

Solicitor Frank explained that the first paragraph of 154.121 describes the goals of the Village in allowing conditional structures, and recommended that the first several sentences that discuss the Village's goals in enacting these changes be relocated to the top of the "Whereas" recitals in the ordinance.

Paragraph 154.21(3)(b): the suggestion was that it may be easier to state what materials are not allowed. He noted that it is basically regulating taste, and noted the goal was to address comments from the Board when it comes to accessory structures looking similar to the principal structure.

Mr. Lauer stated that when it comes to conditional use, the Board will have a fair amount of latitude. Plans will be submitted with details and then the Board can impose conditions. He stated that the Board could impose conditions to require different material, and all would be conditional in nature. He expressed that it is difficult to say (in the code) what materials are or not permitted.

Solicitor Frank noted that in 3(h) the term residential structures may be confusing. It could be limited to accessory structures or all structures, or delete the section.

After additional discussion, Chair Bardach opened the public hearing at 7:46 p.m. He asked if anyone present wished to speak. There being none, the public hearing was closed at 7:47 p.m.

Solicitor Frank announced to those present in audience that another public hearing will be held on the proposed ordinance before Council in January.

It was clarified that the first reading of the proposed ordinance would, if referred by the Board to Council, be conducted at the December 10 regular Council meeting.

Mr. Wolf added that the proposed changes to the whereas clause under 154.121 (A), to take some of that out, would be a good idea. Then the structural changes would also be made.

Ms. Rissover stated that at some point there should be definitions for structures that are temporary in nature, and garages and sheds. Solicitor Frank stated that wording related to limiting the use for vehicles may help. Mr. Lauer stated that he liked the idea of adding how many days it could be used to set it apart in the code.

Mr. Wolf discussed with the Board whether they were in agreement with the height and current content, in addition to the changes discussed. Ms. Rissover stated that she would like to add the catch all on (b)(5) and also on Page 9, section j.

Mr. Wolf moved to approve the ordinance as presented, including the changes as discussed and agreed by the Commission during the meeting and as recommended by Solicitor Frank, and directed the edited version of the ordinance to be sent to Council for consideration. Seconded by Mr. Bardach and the motion carried unanimously.

Solicitor Frank explained that the next step in procedure is for the Village Council to hold a first reading of the ordinance on December 10, 2018 and to schedule a public hearing for January.

There being no further business the meeting was adjourned.

Nicole Browder, Clerk

Richard Bardach, Chairperson



7149 Ridge Road
Amberley Village, OH 45237

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amberleyvillage.org

BOARD OF ZONING APPEALS
MEETING NOTICE

WHEN: March 4, 2019 at 7:00 PM

WHERE: Amberley Village Municipal Building, 7149 Ridge Road

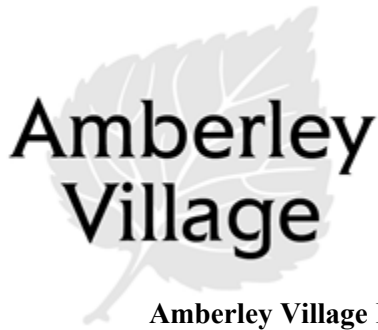
FROM: Scot Lahrmer, Village Manager

Please be advised there will be a public meeting held by the Amberley Village Board of Zoning Appeals Monday, March 4, 2019 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:

Residents Jay and Melissa Bernstein, property owners of 6670 Glen Acres Drive, are requesting a variance to Village Code Section 154.16. The variance would allow for the parking and storage of a major recreational vehicle in a residential district, not in an enclosed building.

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 March 4, 2019 Board of Zoning Appeals public meeting. If you should have any questions, please feel free to contact Scot Lahrmer at (513) 531-8675.

cc: Jay and Melissa Bernstein, 6670 Glen Acres Drive
Bruce Allen, 6695 Fair Oaks Drive
Charles Fixler, 6665 Fair Oaks Drive
Susan Zipkin, 6721 Glen Acres Drive
Mark and Marie Boyle, 6700 Glen Acres Drive
Alan Tarshis, 6675 Glen Acres Drive
Stephen and Christina North, 6631 Glen Acres Drive
Alyce and Joel Ellison, 6630 Glen Acres Drive
Gail Arnow, 2526 Beech Lane
Members of the Board of Zoning Appeals
Mayor Thomas C. Muething
Amberley Village Council Members
Scot F. Lahrmer, Village Manager
Kevin McDonough, Wood & Lamping LLP
Village Posting Boards (5)
Cincinnati Enquirer



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amberleyvillage.org

Amberley Village Planning Commission Staff Report

March 4, 2019

Subject:

6670 Glen Acres Drive

Variance:

Parking of a major recreational vehicle on residential property, not in an enclosed building.

Item: Case#2019-1356

Variance Request: Residents Jay and Melissa Bernstein, property owners of 6670 Glen Acres Drive, are requesting a variance to Village Code Section 154.16. The variance would allow for the parking and storage of a major recreational vehicle on residential property, not in an enclosed building.

Zoning Code Review: 154.16 PARKING, STORAGE, OR USE OF MAJOR RECREATIONAL VEHICLES.

(A) For purposes of these regulations, MAJOR RECREATIONAL VEHICLE includes boats, boat trailers, buses, trailers, noncommercial trailers, mobile homes, semitrailers, recreational vehicles, travel trailers, motor homes, truck campers, fifth wheel trailers, park trailers, and cases or boxes used for transporting major recreational vehicles, whether occupied by such vehicles or not.

(B) No major recreational vehicle shall be parked or stored on any lot in a residential district except in an enclosed building. However, such vehicle may be parked anywhere on residential premises for not to exceed 24 hours during loading or unloading. No such vehicle shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot.

Variance Review: Mr. and Mrs. Bernstein, property owners of 6670 Glen Acres Drive are requesting a variance from Zoning Code section 154.16. The variance is to allow for the parking of the recreational vehicle on their property.

Village code section 154.16 states that no major recreational vehicle may be parked or stored in a residential district except in an enclosed building or for loading and unloading.

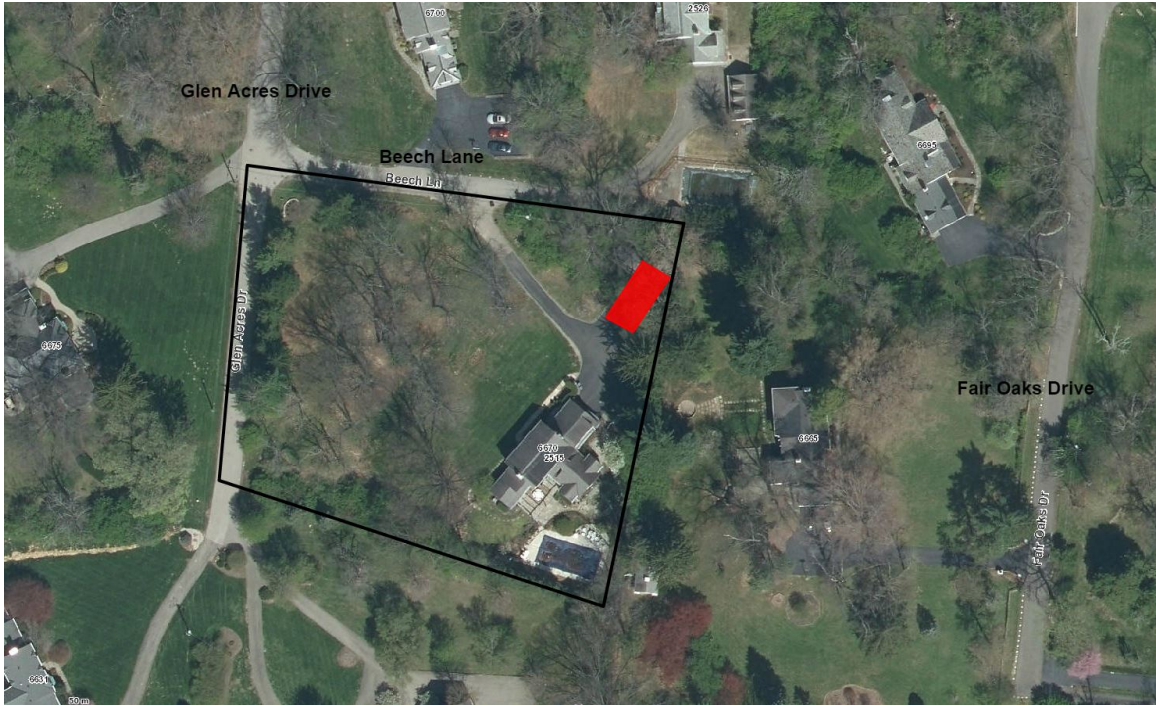
Attorney Aryeh Younger wrote a letter on Mr. and Mrs. Bernstein's behalf and stated that the need to park the RV on the property was due to Mr. Bernstein being an emergency physician.

The letter to the board states that in the past few years Mr. Bernstein has worked in various hospitals around the state and often times he has to respond on very short notice. The letter also states that Dr. Bernstein has found that his recreational vehicle is a suitable way to travel and stay between shifts, especially when working in remote areas.

Dr. Bernstein's letter says states that the RV is barely detectable from the street in the winter and undetectable in late spring and summer and he believes it has no effect on home values. Also, Dr.

Bernstein stated that he wants the RV parked as close as possible in case he is called for an emergency.

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











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February 8, 2019

Dear Mr. Lahrmer:

I am writing to you on behalf of my client, Dr. Jay Bernstein, a long-time Amberley Village resident whose address is 6670 Glen Acres. Dr. Bernstein is an Emergency Physician and military veteran who served in Kuwait during the recent Iraq War.

Over the past few years, Dr. Bernstein has worked around the State of Ohio at various hospitals in underserved populations. Last year, he spent most of his time in Youngstown, and his work continues to bring him around the State.

One of Dr. Bernstein's destinations is Mansfield, Ohio, a small city located roughly between Columbus and Cleveland. On these occasions, in which Dr. Bernstein is required to leave his family in Amberley to treat patients in underserved areas like Mansfield or Cambridge, or Shelby, OH, Dr. Bernstein has found that his recreational vehicle (RV) is a suitable way in which to travel and stay between shifts in order to efficiently be where he needs to practice, especially when he is often on very short notice. Sometimes, in remote areas, a hotel is too far from the emergency department in order to be a practical option. For this purpose, Dr. Bernstein purchased a Class A RV and he has found that the use of this RV enables him to perform his work in the most efficient manner.

In the recent past, Dr. Bernstein has parked the RV on his driveway. The RV is barely detectable from the road in the winter, and is undetectable during the early fall, late Spring, and Summer months due to the foliage. As the RV is hidden in this manner, this has no effect on housing values. Dr. Bernstein has kept the RV on his property in this manner because he wants the RV to be as close as possible to his home. In the event that he gets called in to emergency, Dr. Bernstein is able to jump in his RV and travel to a shift or several shifts in a row (at which point he needs a place to sleep in between) at a far away hospital.

On January 25, 2019, Dr. Bernstein received a letter indicating that he was no longer allowed to park his RV in his driveway. The letter cites to Section 154.16 of the Amberley Village Zoning Code. Upon review of the ordinance, it is clear that under ordinary circumstances Amberley Village residents are prohibited from parking RVs on their property. However, in light of Dr. Bernstein's unusual circumstances relating to his career as an Emergency Physician, Dr. Bernstein would like to seek a variance pursuant to Section 154.67 of the Amberley Village Code, in order to permit him to continue parking his RV on his driveway.

Dr. Bernstein or a representative would like to testify before the Amberley Village Council regarding the undue hardship he will face if he is not allowed to park his vehicle in his driveway. It is Dr. Bernstein's contention that storing his RV on his real estate does not infringe on any public interest. In fact, as an Emergency Physician who is dedicated to serving underserved locations across the state, Dr. Bernstein continues to perform a great service to the people of Ohio.

Dr. Bernstein intends to provide the Amberley Village Council with images and other supporting documentation to bolster his need for a variance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Aryeh Younger', written over a horizontal line.

Aryeh Younger, Esq

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