

MINUTES OF THE REGULAR MEETING OF THE AMBERLEY VILLAGE
BOARD OF ZONING APPEALS HELD AT THE AMBERLEY VILLAGE HALL
THURSDAY, JUNE 7, 2012

Chairperson Richard Bardach called to order a regular meeting of the Amberley Village Board of Zoning Appeals held at the Amberley Village Hall on Thursday, June 7, 2012, at 7:00 P.M.

The Clerk called the roll:

PRESENT: Richard Bardach, Chairperson
Rick Lauer
Larry McGraw
Susan Rissover
Scott Wolf

ALSO PRESENT: Scot Lahrmer, Village Manager
Nicole Browder, Clerk
Kevin Frank, Esq., Solicitor
Steve Rasfeld, Public Works Supervisor
John Eisenmann, CDS Associates, Village Engineer

ABSENT:

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

Mr. Bardach asked if there were any additions or corrections to the minutes of the May 7, 2012, meeting that had been distributed. There being none, Mr. Wolf moved to approve the minutes. Seconded by Mr. McGraw and the motion carried unanimously.

Board of Zoning Appeals Case No. 1055

Mr. Bardach asked the solicitor to present the findings of fact and conclusions of law as requested by the board at its May 7 meeting.

Village Solicitor Kevin Frank reported that the board concluded public hearing on 2400 Section Road and is now in deliberations considering reasons for and against granting a conditional use permit. He explained that the board had been provided two draft resolutions at its request: one granting the conditional use permit, with a separate attachment with a list of conditions, and one denying the permit. He referenced that the official record on the case was present and available for inspection. Solicitor Frank then asked if there were questions from the board.

Mr. McGraw moved to approve the conditional use permit as granted with conditions that include stipulating the applicant meet the Hamilton County Building Code, the Ohio Fire Code and ensure no line of sight obstructions exist. Mr. Bardach seconded the motion.

Mr. Lauer commented that he could not support the motion. He expressed his preference to read through each condition and discuss each item. He stated that private property rights are the most important rights from his perspective.

Mr. Lauer stated that the applicant has the burden to show it will not affect property rights and provided examples of what he felt had yet to be proven by the applicant:

- 1) Use of the bridge: interferes with access in and out of the property. Safety vehicles could be delayed.
- 2) Maintenance of the bridge: lifespan may be affected negatively by different level of usage.
- 3) Safety for all: ice forms on bridges and walkers on the bridge could pose additional risk to themselves and others. Separate pedestrian access should be included.

Mr. Lauer concluded by stating that an additional bridge must be built. He noted he does not know the feasibility of such construction, however, in his opinion he felt using the existing bridge would be dangerous and impact Mr. Guyer's property value.

Mrs. Rissover stated that she agreed with Mr. Lauer's perspective and noted the lack of accommodations for pedestrians on Section Road. There was discussion of denying the resolution and requesting the applicant re-work the submittal.

Mr. Wolf noted that walkers may legally walk on the street. Mr. Lauer referenced legal obligation to protect the Guyers' property rights.

The board held discussion regarding lighting and landscape and whether or not it should be dictated by the board or left for staff. Mr. Frank informed the board that a guideline should be provided by the board.

After additional discussion, Mr. Lauer asked if Mr. McGraw would withdraw his motion in order to conduct a line item review of the conditions that have been presented. Mr. McGraw agreed to withdraw his motion, and Mr. Bardach agreed, as well.

Mr. Wolf conducted a line item review of the proposed conditions and the following items were deleted or modified:

No. 12 was deleted.

No. 13 was modified to include trash collection.

No. 15 was modified to delete "muffled to be inaudible to adjoining residences" and replace it with "no greater than typical residential use".

No. 20 was deleted.

No. 21 was modified to include any future modification would require approval from the Board of Zoning Appeals.

No. 22 if any damage is done to the bridge during construction of the project, the applicant will be responsible for the repair.

No. 24 replace “Notwithstanding” with “In addition to”.

No. 25 was deleted.

No. 29 replace “shall discourage” with “shall not use”.

No. 30 delete second and third sentences. Replace with “signage is required in accordance with plans”.

No. 33 include language to ensure Village staff will work with the applicant to require where appropriate motion sensors for security lighting when property not in use.

No. 34 delete last sentence or rephrase to exempt other signage approved by BZA.

No. 35 add language that ensures all utilities be underground that connect to the new building.

No. 37 add language referencing best practices shall be used.

No. 39 add language “subject to final approval from staff” at the end of the sentence.

After additional discussion, Mr. Wolf moved to approve the conditional use permit based on the changes to the conditions just discussed, including the variances set forth in the written findings of fact and conclusions of law, and subject to the changes and amendments made into the record. Seconded by Mr. McGraw.

Discussion was had as to the variances. Mr. Lauer asked what hardship was proven by the applicant. There was additional discussion.

Mr. Wolf then clarified his motion was to incorporate the resolution granting the conditional use permit, including the findings of fact and conclusions of law prepared by the Solicitor at the board’s direction, excluding Alternate B in Paragraph 63 to be consistent with the amended conditions. Moved by Mr. Wolf, seconded by Mr. McGraw and the motion passed 3-2. Mr. Frank stated he would prepare the final resolution.

Board of Zoning Appeals Case No. 1057

Mr. Bardach invited Mr. Rasfeld to provide the introduction to the case. Mr. Rasfeld reported that the variance request is to allow for the construction of an addition to the side and rear of their existing house located at 7685 French Park Place. This is the original Justin Rollman home built in the late 1920s. The existing house does not meet the minimum setbacks for the side and rear yards. The proposed addition does not meet the minimum setbacks for the side and rear yards per Village Zoning Code. The request is to allow a side yard setback to the proposed addition of 23’ where 33’ is required due to the width of the lot. The request is to allow the rear yard setback to the proposed addition of 16’ where 75 feet is required due to the depth of the lot.

Mr. Kevin Little and Mr. Tim Jeckering provided testimony to the board that explained the application, their desire to update the home while preserving its history and the careful planning involved to adhere to the Village Code.

Mr. Bardach asked if there was anyone interested in speaking on the case.

Resident Bill Goeppinger, 9190 Ambercreek, asked if the landscape barrier would be altered in any way and expressed his desire for continued screening between properties.

Mr. Little commented that his property line actually stops before the landscape berm in question, therefore, it would not be disturbed.

There being no additional discussion, Mr. Lauer moved to approve the request as submitted. Seconded by Mr. Bardach and the motion carried unanimously.

Public Hearing: North Site District

Mr. Bardach announced that the board received the proposed regulations for the North Site District. Mr. Lahrmer reviewed the types of uses being proposed, which excludes residential and announced that the board would hold a public hearing on the regulations at this meeting.

Mr. Eisenmann commented about the process of receiving plans. He stated that the board should expect to receive a plan that would lay out the proposed concept, however, details such as sizes of pipes would not be on a conceptual plan.

Mr. Eisemann noted that he would see it as a two-step process. The plans need to show due diligence that the project can be buildable. With Village approval, then the detailed plans would proceed to be prepared.

After continued discussion regarding the proposed regulations, the following are changes to be incorporated into the regulations:

1. Recreational use to be added as a use type;
2. Page 9, (C) add "any approval will be subject to further review by village staff for general permitting purposes";
3. Page 9, (C) replace "(60)" with "(90)";

There being no additional revisions requested, Mr. Bardach then open the public hearing at 9:17 p.m.

Resident Al Lane, 7200 Fair Oaks, commented that he was not in agreement with a zone change at this time. He does not want the Village to get involved with Reading. He noted the cost of replacement of the maintenance facility was \$2 million. He felt the best use for the property was recreation to allow Mt. Notre Dame and JCC to utilize the property as such. He would like soccer fields and/or hockey on the property, along with a rescue substation. He felt that the recreational use would keep families in Amberley.

There being no additional comments, Mr. Bardach closed the public hearing at 9:24 p.m.

Mr. Lauer noted that he did not want recreation excluded. Mr. Lauer moved to approve the regulations as amended and refer to council for consideration. Seconded by Mr. Wolf and the motion carried unanimously.

Mr. Bardach stated that there being no further business, the meeting was adjourned.

Nicole Browder, Clerk

Richard Bardach, Chairperson