

MINUTES OF THE REGULAR MEETING OF THE AMBERLEY VILLAGE
BOARD OF ZONING APPEALS/PLANNING COMMISSION
HELD AT THE AMBERLEY VILLAGE HALL
MONDAY, JULY 1, 2013

Chairperson Richard Bardach called to order a regular meeting of the Amberley Village Board of Zoning Appeals/Planning Commission held at the Amberley Municipal Building on Monday, July 1, 2013, at 7:00 P.M.

Roll was called:

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

ALSO PRESENT: Steve Rasfeld, Public Works Supervisor
Chief Rich Wallace, Police/Fire Department
Kevin Frank, Esq., Solicitor
Nicole Browder, Clerk

ABSENT: Scot Lahrmer, Village Manager
Susan Rissover

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 June 3, 2013, 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. 1071

Mr. Bardach introduced the case and asked for the staff report presentation. Mr. Rasfeld informed the Board that Stephen Cushard of 3205 North Whitetree Circle have requested a variance to allow for the construction of an accessory structure (shed) with the principal access facing the street.

Mr. Rasfeld read the staff report that included a review of the variance and a stated that the recommendation was to consider the case on its merits. It was noted that the topography on the subject lot in combination with the proposed location of the shed in the rear of the lot and the limited line of sight due to the location of the house and the existing trees and bushes on the lot, should contribute to limiting the view of the shed from the street.

Mr. Cushard commented that he felt the topography of the lot created a limitation on options for placement of the shed. He noted trees would need to be removed to place the shed in another location.

Mr. Wolf stated that he could not see the location from the street and he observed the difficult terrain on the property that slopes downward. He added that newer trees will eventually provide additional screening. Mr. Wolf moved to grant the variance as submitted due to the lot topography and available landscape screening. Seconded by Mr. McGraw and the motion carried unanimously.

Board of Zoning Appeals Case No. 1072

Mr. Bardach introduced the case and asked for the staff report presentation. Mr. Rasfeld informed the Board that Karen and Robert Mansfield have requested a variance to allow for the construction of an accessory structure (garage) with the principal access facing the street.

Mr. Rasfeld read the staff report that included a review of the variance along with the staff recommendation to review the case on its merits. The staff report referenced that the application indicated that to create a side entry by rotating the structure to face south, a new driveway apron would be required along with a retaining wall to allow enough room to establish a turning apron sufficient to access the south facing garage entry. The application points out the difficulties and the possible disadvantage for the neighbor to the north involved with that scenario.

The applicant supplied five letters with six signatures in support of this project. These letters are from the last three houses on the west side of Sagamore Drive (7451, 7421 and 7401 across the street), the next door neighbor to the north at 7420, and the neighbor to the rear at 3685 Gardner Avenue.

The architect for the Mansfield's was present and availed himself to questions from the Board. There was discussion among the Board about the proximity of the neighboring property on the left of the Mansfield's lot and whether this area was annexed into the Village. Mr. Rasfeld confirmed the area was annexed in the 1950s and no property in that area would comply with Residence A zoning. Mr. Lauer noted he was acquainted with the applicant because their kids go to school together. He stated he was in support of the variance.

Resident and adjacent property owner, Dan Vogt, at 7420 Sagamore, was present and spoke in favor of the variance because if the plan changes, it would give him a close view of the garage which does not appeal to him.

Mr. McGraw moved to approve the variance as submitted. Seconded by Mr. Wolf and the motion carried unanimously.

Board of Zoning Appeals Case No. 1073

Mr. Bardach introduced the case and asked for the staff report presentation. Mr. Rasfeld informed the Board that John J. Schmidt of 8695 Arborcrest Drive requested a variance to allow for a fence exceeding 4.5 feet in height to remain in the rear yard of their home per 154.14 (A). The applicant is seeking the variance for a higher fence for privacy and security reasons.

Mr. Rasfeld read the staff report that included a review of the variance along with the staff recommendation to consider the request on its merits. It was noted that the Board has granted some variances for fence heights primarily when the requested fence was located along the Ronald Reagan Highway, bordering the industrial zone or adjacent to the multi-family buildings located in neighboring communities.

Mr. Schmidt and his wife, Cathy, commented that they were 17 year residents and chose the height of the fence because other homes in the on the street had the same or similar fence heights and types. A photo was shared with the Board that showed various views of the fence. The applicants noted that their property is adjacent to the Ronald Reagan Highway. Mrs. Schmidt stated she desired the fence for aesthetic consistency and for security in response to a break-in experience they had. The Schmidt's also commented that the height of the fence is not noticeable from street.

Mr. Bardach informed the Board that he worked with Mr. Schmidt at a law firm 17 years ago but believed this did not impact his ability to be impartial in the matter.

Mr. Frank commented that the privacy panel regulation was not in effect at the time of application but is now if the Board would like to consider it.

After discussion on the street view and location of the property, Mr. Wolf moved to approve the fence variance as submitted. Seconded by Mr. McGraw and the motion carried unanimously.

Board of Zoning Appeals Case No. 1074

Mr. Bardach introduced the case and asked for the staff report presentation. Mr. Lauer recused himself due to being an adjoining property owner.

Mr. Rasfeld informed the Board that Sara Neyer, property owner of record for 2930 Belkay Lane has authorized Toby Ganz to seek this zoning approval and variance to allow for the construction of a fence (not to exceed 4 ½ feet) in a front yard. The applicant requested a variance for a front yard fence to enclose an area of the yard in front of the home for the safety of their two dogs. The Ganzs, Peter and Toby, stated they have considered the invisible fence options to contain their dogs but this option would not be viable as stated in the letter of request remarking that "the older dogs would not be able to be trained to stay put by an electric fence".

Mr. Rasfeld read the staff report that included a review of the variance along with the staff recommendation to consider the request on its merits. It was noted that the applicant is proposing to place a fence of compliant height in the front yard where a previously existing fence once stood. The applicant stated in the letter of request that the area they propose to fence is between the house and the dense shrubbery located along Belkay Lane.

Prospective property owner, Mr. Ganz, thanked the Board and appreciated the warm welcome he had received from the community. He commented that the fenced area was the same fence that Stan Chesley had in place for many years and the Neyers recently took it down. He stated that it is truly a dog enclosure for the older dogs of

which one is a runner that the proximity to the road is of concern. Mrs. Ganz commented that the proposed location is the only place where the enclosure would be accessible from a doorway into the house.

There was discussion among the Board including the previous fence in place. Mr. Wolf moved to approve the variance as submitted. Seconded by Mr. McGraw and the motion carried unanimously.

Panhandle Lots

Mr. Frank commented that at the last meeting it was his understanding that the Board wanted to draft new code language regarding panhandle lots because the current code was vague, more direction was needed, and possibly the Board would want to consider placing conditions on such properties. He noted that he circulated a draft ordinance to the Board for review. Mr. Frank informed the Board that he found that subjective decisions made by boards are more closely reviewed by courts.

Mr. Wolf commented that he would like more control and provide less subjectivity to legally protect the Village. Mr. Lauer agreed that the existing ordinance was not enough to assist the Board in considering panhandle lot requests and it does not bind the property owner.

Mr. Wolf noted that the current code does not require plans to be presented to the Board. He would prefer to have language that requires presentation of plans, protects the neighbors, and protects the Village from litigation.

Mr. Lauer commented on the similarities with conditional use permits. Mr. Bardach stated that he would prefer the Board to have a set of criteria to assist with the review. Mr. Lauer noted that he felt council should make the decision.

Ms. Wolf, the Village's Vice Mayor was present and spoke in favor of protecting the existing property owners and neighborhood. She reviewed a map with the Board that staff prepared which plotted the possible lots on which panhandle could exist.

Mr. Wolf commented that the Board should continue its review of the draft ordinance and once finalized, forward it to council for its consideration. There was discussion to incorporate panhandles into the code or prepare a separate ordinance for panhandles. It was determined that a separate ordinance would be appropriate. Mr. Lauer noted he appreciated the public safety input being included as a part of the review process.

There being no further business, Mr. Wolf moved to adjourn, seconded by Mr. Bardach.

Nicole Browder, Clerk

Richard Bardach, Chairperson