

**MINUTES OF THE REGULAR MEETING OF THE
AMBERLEY VILLAGE BOARD OF ZONING APPEALS/PLANNING COMMISSION
HELD ONLINE VIA ZOOM
MONDAY, APRIL 6, 2020**

Chairperson Richard Bardach called to order the regular meeting of the Amberley Village Board of Zoning Appeals/Planning Commission held via the Internet on Monday, April 6, 2020 at 7:00 p.m.

Roll was called:

PRESENT:

Rich Bardach
Rick Lauer
Susan Rissover
Scott Wolf
Scott Rubenstein

ALSO PRESENT:

Kevin McDonough
Wes Brown
Scot Lahrmer
Tammy Reasoner

Chairperson Bardach welcomed everyone to the meeting and asked if there were any corrections to the minutes of the March 3, 2020 meeting. There being none, the minutes were accepted as submitted.

CASE NO. 2020-1598

Mr. Bardach called for Case No. 2020-1598, which was continued from the March 3, 2020 meeting of the Board of Zoning Appeals. Mr. Brown introduced the case, in which homeowners Ira and Miriam Younger, the property owners of 2699 Willowbrook Drive are requesting a variance to Zoning Code Section 154.12 (A) (4). The variance would allow for the construction of a 336 square foot accessory structure. Village code states that an accessory structure not open to the sky, and shall not cover more than 200 square feet in floor area.

Ms. Younger joined the meeting via phone, and stated the home is built on a slab, with no basement and no room for storage. She said the need for additional storage was initiated by the inheritance of family heirlooms which she wishes to save to pass on to her children when they marry.

Mr. Brown showed an aerial map of the neighborhood to represent the Youngers' property in relation to the rest of the surrounding homes. Ms. Rissover stated she was concerned about setting a negative precedent, but appreciated the structure would not be visible from other properties. She questioned the hardship when off-site storage could be considered, and asked if the door would be considered opening to the street based on its position on the lot.

Mr. Brown stated the door would open toward the neighbor's house, and not toward the street. Discussion was held to clarify where the doors would face based on the map. Mr. Brown clarified there was a property between the shed doors and the private drive.

Ms. Younger said off-site storage could become costly between now and when her children get married. She stated the shed should not affect any of her neighbors. Ms. Rissover said the code requires demonstration of hardship.

Mr. Wolf stated he has had things in storage long-term, but felt the difference was that Ms. Younger's house was built on a slab. He said this difference could justify a hardship.

Mr. Rubenstein agreed that given the limited visibility of the shed in this case, he was inclined to support the variance.

Mr. Bardach asked if there were any other questions or comments. Mr. Lahrmer suggested a review of code section 154.67 (B) to clarify any issues regarding the consideration of acceptable reasons for a variance by the Board of Zoning Appeals.

After consideration of the factors for consideration of a variance, Mr. Wolf moved to grant the variance, which was seconded by Mr. Lauer. Mr. Rubenstein stated he felt the variance would not have any negative impact on neighbors, and he supported the variance. Mr. Lauer felt the intention of the changes to the zoning code were not to restrict sheds like the one under consideration. He said this would not have previously required a variance, so he was in support of it, and Mr. Bardach agreed with his reasoning.

Ms. Rissover stated the shed wouldn't be seen from the street for the purposes of precedent, but she still had concerns over setting precedent by allowing several accessory structures on the property. However, she felt the request was reasonable given the yard size and circumstances. Mr. Wolf felt the variance would be justified based on the Younger's unique circumstances including the yard, its location and the house being built on a slab. He also commented on how well done the proposed shed appeared.

The Board voted unanimously to allow for the variance.

CASE NO. 2020-1612

Mr. Lahrmer stated a public hearing of the Planning Commission was required to invite feedback from residents regarding proposed changes to the Zoning Code as it pertains to the property maintenance code. The Planning Commission would then be asked to make any changes for referral back to Council.

Mr. Lahrmer said the Law Committee had been working on changes to section 154.14 to disallow barbed wire, farm fencing and razor wire. In addition, with fences with only one finished side would be required to be built with the finished side facing adjacent properties, and be constructed to create a straight line.

Vegetable and fruit garden fences would be permitted up to six feet with an area of no greater than 400 square feet. Agricultural fencing would be required to be constructed of a see-through type of green or black material for the purposes of protecting agricultural gardens. These will not be permitted to be visible from the street.

The final proposed changes would allow chicken coop fencing to be constructed up to 6' in height. The current code only allows fencing up to 4.5', which has been determined to be inadequate protection against predators. This change would be consistent with the requirement to provide adequate protection. Code also requires chicken coops to be kept clean, and the additional height would allow for easier entry by persons caring for the coop.

Mr. Wolf asked for clarification regarding the color and material of permitted garden fencing. Mr. Lahrmer said it was a mesh-type fencing similar to that used at the Amberley Village Community Garden.

Ms. Rissover said she felt these were excellent changes and provided important clarification to the current code.

Mr. Lauer asked for clarification on farm fencing. Mr. Brown stated it was wire fencing constructed in four-inch squares. Mr. Lauer asked why chain link fence was not prohibited, and stated he would like them to be included. He felt chain link fence should be considered on a case by case basis. He also felt the 400 square feet restriction on the garden size would generate a significant number of BZA cases.

Mr. Brown stated the garden size limit was to prevent people from fencing their entire yards. Mr. Lauer said he didn't want to have attend a bunch of meetings just to approve garden fencing. Mr. Lahrmer said the Law Committee was trying to prevent abuses, and the size was considered by the committee to be reasonable.

Mr. Lahrmer stated the chain link fence was originally considered for omission from permitted fence materials by the Law Committee, however, it was decided to allow it. Mr. Bardach said he wished to refrain from comment, as he has chain link fencing in his yard, and replacing it would be extremely costly.

Discussion was held regarding the cost of fencing materials and the rationale of the Law Committee behind allowing chain link fence. Mr. Lahrmer said the Planning Commission was a recommending body on the proposed changes, but that Council would have the final say.

Mr. Lauer said while he didn't care for chain link fencing, he could understand someone wanting it for its more reasonable cost. He said he'd prefer, though, to have cases where chain link fencing is desired to be heard by the Board of Zoning Appeals.

Mr. Lahrmer recommended generating commentary to explain why chain link fence is not preferred by the Planning Commission so Council would understand its position. Mr. Lauer said his opposition is primarily aesthetic. He said many of the chain link fences in the Village appear to be very old and in poor repair, and they do not look much better than farm fencing, which we're restricting.

Ms. Rissover said if the purpose of restricting fencing is to prevent obstructing the views in the Village, the aesthetic argument is a good one. She also said it would put us in line with many of the surrounding neighborhoods, which do not allow chain link fence.

Mr. Lahrmer stated there had been a complaint regarding a stockade-type fence on Springvalley, which surrounds a swimming pool, and brought it to the attention of the Planning Commission for consideration.

At 7:47 p.m., Chairman Bardach opened the public hearing regarding proposed changes to the Village Code.

There being no one to comment, and having received no written feedback from residents, the public hearing was adjourned at 7:48 p.m.

Mr. Lahrmer said the Planning Commission would need a vote to make its recommendations back to Council. Mr. Bardach moved to approve the Council-recommended changes; Ms. Rissover seconded the motion, but with the additional restriction on chain link fencing.

The Planning Commission then passed the recommended changes with the additional restriction on chain link fencing in a 4 to 1 vote. Mr. Bardach stated his vote against the motion was to remain consistent with the recommendations of the Law Committee, of which he is a member.

There being no further business, Mr. Bardach adjourned the meeting at 7:52 p.m.

Tammy Reasoner, Clerk of Council

Richard Bardach, Chairperson