

TO: Village Council
FROM: Scot F. Lahrmer, Village Manager
DATE: October 2, 2013
**RE: Proposed Amendment to the Zoning Code Section 154.15
Pertaining to Panhandle Lots**

ITEM: Amend Zoning Code Chapter 154.15 revising and updating the regulations pertaining to the creation of panhandle lots.

ACTION REQUESTED: Adoption of the proposed Ordinance No. 2013-17

PURPOSE: To adopt amendments to the regulations for the creation of panhandle lots.

The Village Planning Commission/Board of Zoning Appeals has been working with staff and the Village Solicitor to amend the regulations pertaining to panhandle lots, Section 154.15.

Recently, cases involving the creation of panhandle lots through both subdivision and consolidation have been heard by the PC/BZA. While hearing these cases, the Board recognized its desire to have additional information and tools to assist with its decision-making process as it pertains to the impact of proposed developments on existing neighborhoods.

The existing code section does not provide the Board with the authority to require actual house plans or establish conditions under which this type development might occur. The Board found that a concept plan presented while obtaining the PC permission to create the panhandle lot could be changed drastically after gaining authorization to establish the lot. For example, one person (the current property owner) could seek and receive permission to create the lot, then upon selling it, an entirely different plan could be developed by the new owner changing many dynamics from house size, style and placement to access, storm water impacts and view shed impacts.

The proposed modifications to the code are intended to address these issues. Under the revised regulations, a proposed panhandle lot approval could be conditioned on building substantially similar to the concept plan (or the actual plan) presented to the BZA. The requirement to present a well considered, comprehensive plan will enable the Board to better determine the proposed project's impact on the existing neighborhood. The ability for the Board to place conditions on an approval would tie the proposed plan to the approval and will help the Board require conditions to mitigate the impact of the development if approved.

These changes include, but are not limited to, requiring an increase in the size of the 'back' lot requiring the new panhandle to be either 150% of the minimum required size in the applicable zoning district or 100% of the remaining front lot, whichever is larger. These area calculations for the panhandle will be exclusive of the area utilized in the panhandle strip. The proposed rules also require that the new lot and plan "be compatible with the surrounding properties and land uses, not unreasonably and adversely impact the surrounding properties when considering any and all impacts of the proposed lot and plan" and meet certain other criteria, which can be reviewed in the attached redline copy of the proposed ordinance.

As with the process to gain approval for a conditional use, establishing criteria to base a review and approval upon will remove a great deal of subjectivity from the process and provide the Board the information they seek to make an informed decision regarding this type development in our established neighborhoods.

The proposed ordinance was presented at a public hearing held by the PC/BZA at its September 30 meeting and no public input received at that time. The PC/BZA then approved the draft amendment, only changing the notification distance to be consistent with other Village notification processes, and referred this item to Council for consideration.

Recommendations: The PC/BZA and staff recommends approval of the ordinance establishing these regulations so on October 15, a 1st reading of Ordinance 2013-__ should be held. If Council would like to refer this item to a committee, it should be done before the public hearing, noting that it takes 5 council members to modify what PC has recommended.

Before adopting any proposed amendment to the Zoning Code, Council needs to hold a public hearing giving 14 days prior notice of the time and place of such public hearing. If council proceeds without referral to a council committee, I would propose a public hearing be held on Monday, November 11 at 6:30 p.m. during the council meeting. Notice should be stipulated by council to include our E-News, website and Village posting boards or any other media. After the 2nd reading on November 11, Council can opt to waive the 3rd reading and adopt the ordinance or wait until the 3rd reading on December 9. The regulations go into effect 45 days after council's adoption.

Adoption of Ordinance 2013-17 is recommended.

If you have any questions, please let me know.

PASSED:
BY:

ORDINANCE NO. 2013-17

ORDINANCE AMENDING SECTION 154.15 OF THE VILLAGE CODE
PERTAINING TO PANHANDLE LOTS

WHEREAS, Amberley Village is a beautiful community with residences, large lots, rolling hills, and lush vegetation;

WHEREAS, the topography and historical development of the Village lends itself to irregular-shaped lots and larger lots on which certain owners want to develop;

WHEREAS, the Village has received an increase in the number of owners wanting to subdivide their lots and develop panhandle lots in order to maximize the utility of their property;

WHEREAS, while panhandle lots may at times be desirable and appropriate, Council determines that panhandle lots are generally not favored or encouraged because of the adverse impacts on neighboring property owners and property values in the area;

WHEREAS, the Planning Commission reviewed the existing Zoning Code and regulations enacted by other jurisdictions and has recommended changes to the Zoning Code and the way the Village treats panhandle lots;

WHEREAS, Council determines it is in the best interest of the Village and its residents to review the Planning Commission's recommendations and adopt new regulations governing panhandle lots;

NOW, THEREFORE, BE IT ORDAINED BY THE Council of Amberley Village, State of Ohio, _____ members elected thereto concurring:

SECTION 1: Section 154.15 of the Municipal Code of Ordinances is hereby amended to read as follows:

§ 154.15 ACCESS TO PUBLIC OR PRIVATE STREET.

(A) Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved public or private street, and all structures shall be located on lots as to provide safe and convenient access for ~~servieing~~ providing public services, fire protection, and required off-street parking.

~~—(B) Panhandle lots may be permitted subject to approval by the Planning Commission where severe topography, existing surrounding development or other physical conditions make such lots reasonable and not undesirable as building site. The strip of land providing~~

~~access from the building site to the street shall be no less than 20 feet wide at any place. No panhandle shall exceed a length of 800 feet.~~

(B) Panhandle Lots. Panhandle lots are not generally encouraged or accepted as a form of land development, but are allowed as a conditional use only as provided herein and not subject to any other section pertaining to conditional uses. Panhandle lots do not enhance a community, particularly single-family residential areas, unless their use and development are strictly regulated to ensure they do not unreasonably and adversely impact the surrounding property, access points, number of curb cuts, service of utilities, aesthetics, provision of public services, or public safety requirements, whether as to the proposed panhandle lot or nearby lots.

(1) Applications for panhandle lots shall contain the following information:

(a) Name, address, and phone number of the owner(s) of the property.

(b) Name, address, and phone number of the applicant(s) and relationship to the owner(s).

(c) Street address of subject parcel.

(d) Existing zoning of subject property and all other lots within 200 feet of any portion of the subject property.

(e) Name and address of each record property owner within 200 feet of any portion of the subject property as determined by the Hamilton County Auditor at the time of application.

(f) Signatures of the owner(s) and applicant(s).

(g) Such additional information as may be deemed appropriate by the Village Manager to assist Village staff in evaluating and processing the application.

(2) Applications for panhandle lots shall be submitted with the following information, which is collectively referred to in this section as the “development plan” for the panhandle lot:

(a) Legal description of the subject property, including but not limited to all property that would comprise the proposed panhandle lot and, if the front lot is of common ownership, the front lot, as the property exists at the time of the application.

(b) A plat in a form satisfactory for recording at the Hamilton County Recorder’s Office.

(c) Plat(s) or drawings to scale depicting the following:

(i) Distances of lots lines and area of all lots that would comprise the proposed panhandle lot.

(ii) The topography of the proposed lot as it exists at the time of the application, with contour lines showing each two-foot change in elevation.

(iii) Existing utilities on, adjacent to, or available for serving the proposed lot, as well as any additional utilities necessary to serve the lot, including documentation from the appropriate government agency showing how the front lot and the panhandle lot will be served by sewers.

(iv) Existing and proposed surface storm water drainage patterns. Significant changes in direction or quantities must be identified and certified by a qualified engineer that such surface water can be appropriately managed, such as by tying into existing storm sewers, non-erosive drainage systems, or adequate retention basins.

(v) Existing easements on or serving the proposed lot.

(vi) Location of all dwellings on or proposed to be located on the site, including the direction of the front of the dwelling, building elevations, exterior dimensions, parking areas, garages, driveways, access points, and other areas intended to be improved or altered on the proposed lot, with indications of proposed setbacks.

(3) Procedure. Applications must be filed with the Village Manager. Completed applications will be submitted to the Board of Zoning Appeals for hearing and approval. For good cause, the Village Manager may submit an incomplete application to the Board, but the lack of required information may be cause for the Board to reject the application. Prior to the Board's approval of an application, the Manager shall seek input on the application from the public safety department, the Village Engineer, and public works department, which input shall be communicated to the Board. The Manager shall cause written notice of applications submitted to the Board at least ten calendar days prior to the first hearing on the application to all record property owners within 200 feet of any portion of the proposed lot.

(4) Criteria for Approval. The Board of Zoning Appeals shall approve the creation of a panhandle lot only if the application meets the following criteria:

(a) All information and documents required to be submitted by the applicant have been submitted, including but not limited to the information stated under paragraphs (B)(1) and (2) above.

(b) The strip of land providing access from the body of the lot to the lot frontage shall be no less than 20 feet wide at any place and shall not exceed a length of 800 feet.

(c) Multiple panhandle lots "stacked" one behind the other are not permitted.

(d) The size and area of the proposed panhandle lot shall be at least 150% of the minimum zoning requirements of the district, or at least 100% of the area of the remaining front lot, whichever is larger.

(e) In calculating the area of either the panhandle lot or the front lot for purposes of determining whether they meet size and area requirements, the strip of land providing access to the rear lot shall not be considered part of either respective lot.

(f) Except as otherwise provided in this section, the application meets all requirements of the Zoning Code.

(g) The proposed panhandle lot and plan must be compatible with surrounding properties and land uses, and not unreasonably and adversely impact surrounding properties when considering any and all impacts of the proposed lot and development plan. To approve a panhandle lot, the Board must make the following findings:

(i) The construction and operation of the proposed lot or plan will not be materially detrimental to the peaceful occupancy of proximate dwelling houses;

(ii) The construction and operation of the proposed lot or plan will not have a substantial detrimental effect upon the property values in the neighborhood;

(iii) The design of the proposed lot or plan is such that it will not have a substantial adverse impact upon the residential quality of the neighborhood;

In making these findings, the Board shall consider the impact of the proposed application on the neighborhood and adjoining properties, including but not limited to the following: Traffic, noise, lighting, aesthetics, surface water drainage, screening, views and view corridors, architectural features and aesthetics of proposed structures, compatibility and consistency with other nearby properties and uses, access points, curb cuts, grading, topography, all information and documents required to be submitted by the applicant including but not limited to those stated under paragraphs (B)(1) and (2) above, and any other factor pertaining to the public health, safety, and welfare.

(h) If the application is approved, development or use of the panhandle lot is conditioned on substantial conformity with the development plan proposed for the lot, including any conditions on, or alterations of, the plan required by the Board.

(i) If the application as submitted fails to satisfy the criteria for approval, the Board may either deny the application, or approve the application with conditions as necessary to bring it into compliance. Conditions, restrictions, or limitations may be imposed on the proposed panhandle lot, or on the front lot if it is under common ownership with the panhandle lot. All conditions, restrictions, or limitations shall be made a part of the record by the Board and issued in writing to the applicant.

(5) Variances from any of the criteria set forth in this section shall be considered by the Board of Zoning Appeals, which criteria are deemed to be area or dimensional under a practical difficulties standard.

SECTION 2: Section 154.02 of the Municipal Code of Ordinances is hereby amended to read as follows:

§ 154.02 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY STRUCTURE. A permanent or portable structure on the same lot with, and of a nature incidental and subordinate to, the use of the principal structure.

BASEMENT. That portion of a building, the floor of which is wholly or partly below the adjoining grade.

BUILDABLE AREA. The portion of a lot remaining after required yards and setbacks have been provided.

BUILDING. Any structure for the shelter, support, or enclosure of persons, animals, or property of any kind. **BUILDING** includes the term **STRUCTURE**.

BUILDING, HEIGHT OF. The vertical distance from grade to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the top of the highest gable of pitched or hip roof.

CARPORT. A structure with floor and roof and one or more open sides to provide shelter for a motor vehicle.

CONDITIONAL USE. A use of land which may be permitted provided that the Board of Zoning Appeals determines that it is in the interest of the public health, safety and general welfare in accordance with the provisions of § [154.661](#).

DISTRICT. Any section of the village for which there are uniform regulations governing the height, area, and use of buildings and of land.

~~**DRIVE, PRIVATE.** A nondedicated street or common driveway restricted as to use.~~

~~**DRIVE OR DRIVEWAY.** A paved pathway extending from the frontage of the lot that provides vehicular and pedestrian access to the lot, as well as provides parking or storage of vehicles or other property as authorized by the Village Code.~~

DWELLING. Any building or portion thereof, designed or used exclusively for residential purposes.

DWELLING, ONE-FAMILY. A building designed for or occupied exclusively by one family.

FAMILY. One or more persons occupying a single dwelling unit, provided that all members are related by blood, adoption or marriage, and further provided that domestic servants employed on the premises may be housed on the premises.

FAMILY PETS. Small animals kept in or around a family home and are customarily animals such as dogs, cats and small furry animals and does not include any animal except a dog which when grown to maturity weighs more than 30 pounds.

FARM. An undivided parcel of land used primarily for agricultural and livestock purposes containing one or more dwellings and such accessory structures as may be required by use of the property. Only products produced on the premises may be sold thereon.

FARM ANIMAL. A farm animal is any type of animal customarily raised for profit except riding horses which are not maintained for commercial purposes.

FENCE. A barrier intended to enclose or restrict access to an area or mark a boundary constructed of wood, wire, or other material supported on posts.

FRONTAGE. The portion of a lot which abuts a public or private street, right of way, easement, or driveway.

GARAGE, PRIVATE. An accessory structure or building, or a structure or building that is a part of or attached to a dwelling, located in a residence district, and which is designed or used for storage of automobiles, other motor driven vehicles or trailers.

GRADE. The average level of the finished surface of the ground adjoining a building.

HOME OCCUPATION. A professional or business activity conducted in a dwelling unit.

LOT. Includes the words **PLOT**, **PARCEL**, and **PREMISES**, and is a parcel of land of at least sufficient size to meet minimum zoning set back requirements for use, coverage, and area, and to provide such yards, and other open spaces as are herein required, and intended for buildings. The total area to be occupied by such buildings and accessory structures shall not exceed 50% of the total area of such lot. Such lot shall have frontage or contact (private drive or panhandle lot) on a dedicated public street, and may consist of:

- (1) A single lot of record;
- (2) A portion of a lot or record;

(3) A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record;

(4) A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Zoning Code.

LOT, CORNER. A lot abutting on two or more streets at their intersection, provided the interior angle formed thereby is 135 degrees or less.

LOT, DOUBLE-FRONTAGE or THROUGH LOT. A lot other than a corner lot abutting on two streets.

LOT, INTERIOR. A lot other than a corner lot with only one frontage on a street.

LOT FRONTAGE. That portion of a lot adjacent to a street or private drive. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets or private drives shall be considered frontage.

LOT LINES. Lines bounding a lot.

LOT MEASUREMENTS. Shall include the following:

(1) The **DEPTH** of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

(2) The **WIDTH** of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard. However, width between side lot lines at their foremost point (where they intersect with the right-of-way) shall not be less than 80% of the required lot width, except in the case of lots on the turning circle of cul-de-sacs, where the 80% requirement shall not apply.

LOT, PANHANDLE. A lot being otherwise landlocked, ~~having a portion of its area extending in a narrow strip of land, narrower than the required frontage of the lot, to a frontage on a street or drive for the purpose of providing an access to it.~~ access to the lot. A panhandle lot is also known as a "flag lot;" or a "rear lot." The narrow access strip is referred to as the "panhandle," and the remaining part of the lot is referred to as the "body."

LOT OF RECORD. A lot which is part of a subdivision recorded in the office of the Hamilton County Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

NONCONFORMING USE. A non-permitted activity in a structure on a lot or in a district.

NONCONFORMITY. A non-permitted land area or structure setback.

PARCEL, PREMISES. See *LOT*.

PARKING SPACE, OFF-STREET. A space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public or private street and maneuvering room. Required off-street parking areas for three or more automobiles shall have individual spaces marked, and shall be designed, maintained, and regulated so that no parking or maneuvering incidental to parking shall be on any public or private street, or walkway, and so that any automobile may be parked and unparked without moving another. For purposes of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated at 300 square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, improved in a manner appropriate to the circumstances of the case and in accordance with all ordinances and regulations of the village.

PETITION. A proposal to amend or modify the Zoning Code that has been filed with the Clerk of Council, accompanied by a proposed ordinance effecting the change desired and by such other information and data as the Planning Commission shall designate. **PETITION** as used in this chapter shall not mean or pertain to a proposed change to the Zoning Code initiated by Council or the Planning Commission.

RIGHT-OF-WAY. A publicly owned strip of land 50 feet or more in width between property lines which provides or is intended to provide public vehicular and/or pedestrian traffic.

SET-BACK. The distances from structures to right-of-way and/or lot lines.

SIGN. Any device designed to inform or attract the attention of persons not on the premises on which the sign is located. However, the following shall not be included in the application of the regulations herein:

- (1) Signs not exceeding one square foot in area and bearing only property numbers, name of occupants of premises, or other identification of premises not having commercial connotations;
- (2) Flags and insignia of any government, except when displayed in connection with commercial promotion;
- (3) Legal notices; identification, informational, or directional signs erected or required by governmental bodies;
- (4) Integral decorative or architectural features of buildings;
- (5) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

STORY. That portion of a building included between the surface of any floor and the surface of the floor next above it; or if there is no floor above it, then the space between the floor and the ceiling next above it.

STORY, HALF. A story with at least two opposite exterior sides meeting a sloping roof not more than two feet above the floor of such story.

STREET. A paved or improved area which provides for public vehicular traffic.

STREET LINE. The right-of-way line (lot front line: on either side of a street.)

STRUCTURE. Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground, including buildings, walls, fences, swimming pools, radio towers, patios, and porches, but not including driveways, sidewalks, or other facilities, the sole purpose of which is to provide customary access to any structures.

STRUCTURAL ALTERATIONS. Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any substantial change in the roof or exterior walls.

TRAVEL TRAILER. A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight feet.

USED or OCCUPIED. Includes the words "intended," "designed" or "arranged to be used or occupied."

VARIANCE. A relaxation of the terms of the Zoning Code where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Zoning Code would result in unnecessary and undue hardships or practical difficulties. A variance is authorized only for height, area, and size of structure or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district which are not on the applicant's property or uses in an adjoining zoning district.

YARD. A required open space between the principal building and the adjoining lot lines unoccupied and unobstructed by any structure or portion of a structure. However, fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard, subject to height limitations and requirements limiting obstructions of visibility.

YARD, FRONT. A yard extending between side lot lines across the front of a lot adjoining a public street.

(1) In any required front yard, no fence or wall shall be permitted, and no hedge or other vegetation shall be permitted which materially impedes vision across such yard between heights of 30 inches and ten feet.

(2) In the case of double frontage lots, front yards of the required depth shall be provided on all frontages.

(3) In the case of corner lots, a front yard of the required depth shall be provided on both frontages.

(4) The depth of required front yards shall be measured at right angles to a straight line adjoining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lines would have met without such rounding. Front and rear front yard lines shall be parallel.

YARD, REAR. A yard extending across the rear of the lot between inner side yard lines.

(1) In the case of double frontage lots there will be no rear yards, but only front and side yards.

(2) In the case of corner lots there will be one rear yard and one side yard to be proposed by the property owner and approved by the village.

(3) The depth of a required rear yard shall be measured at right angles to a straight line adjoining the rear most points of the side lot lines. Front and rear yard lines shall be parallel.

YARD, SIDE. A yard extending along the full depth of the lot, and being the least distance between the side lot line and the principal building. The width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the side lot line.

WALL. Walls (other than retaining walls) shall not exceed four and one-half feet in height.

SECTION 3: This Ordinance shall apply only to the creation of panhandle lots for those applications submitted to the Village on or after the effective date of this Ordinance.

SECTION 4: This Ordinance shall take effect and be in force at the earliest date allowed by law.

Passed this ____ day of _____, 2013.

Mayor Byar

Attest:

Nicole Browder, Clerk of Council

Ordinance Vote:

Moved: _____ Second: _____

Byar _____
Wolf _____
Hattenbach _____
Muething _____
Bardach _____
Warren _____
Doering _____

I, Clerk of Council of Amberley Village, Ohio, certify that on the ____ day of _____, 2013 the forgoing Ordinance was published pursuant to Article IX of the Home Rule Charter by posting true copies of said Ordinance at all of the places of public notice as designed by Sec. 31.40(B), Code of Ordinances.

Nicole Browder, Clerk of Council