

Board of Zoning Appeals

Minutes

February 9, 2016

Members present: John Golzy (Chairperson), Lisa Carson, Betty Hollow, Joan Kraynanski, Kay Tousley, Edward Baum (alternate).

City officials present: Paul Eschenbacher (secretary).

The meeting was called to order at 7:00pm in Council Chambers, third floor of City Hall. The Chairperson introduced a video about the policies and procedures of the Board of Zoning Appeals. The Chairperson then swore in, under oath, those intending to give testimony.

Case #16-01C 450 Richland Avenue Zone B-2 Mitchell Endick, appellant

Appellant is requesting a conditional use permit to allow a bed-and-breakfast business in a B-2 zone.

The Chairperson called on the secretary to testify.

The secretary reminded the Board that they approved a bed-and-breakfast at 469 Richland Avenue several months ago. He also said that this house has been a rental, and regularly inspected as such.

The secretary said that City Council and the City Planning Commission are currently discussing bed-and-breakfast legislation, including definitions.

Ms. Hollow asked about the B-2 zone limitation of no residential use. The secretary said that bed-and-breakfast/hotel/motel use is considered different than long-term residential use.

The Chairperson called on the appellant to testify.

Mitchell Endick said that this bed-and-breakfast would be close to the university and have plenty of parking. He said this would be a better use for the house. Mr. Endick said that there are no neighbors living nearby until recently, at the house next door. Mr. Endick noted the bed-and-breakfast would have three bedrooms, and would be expensive at which to stay.

Ms. Hollow asked the appellant to describe the bed-and-breakfast. Mr. Endick described the layout of the house, saying that they would probably add a second bathroom downstairs.

Ms. Kraynanski asked about the accessory building at the back of the lot. Mr. Endick said that it is used as storage for medical records by a local medical facility. Ms. Kraynanski asked the secretary if the change of use would bring City Code bulk controls into the process. The secretary said that the appellant would have to conform to bulk controls only if the building were enlarged; a change of use would not trigger this.

Ms. Hollow asked about the accessory building not being of accessory use to the bed-and-breakfast. The secretary replied that the accessory building need not be connected to the

main use, if the main house can function in its use without the accessory building.

Ms. Kraynanski asked about blocked parking. The secretary said all parking for the bed-and-breakfast must be accessible. Mr. Endick said that there are two parking spaces on the lot, and four spaces on his lot next door.

Ms. Kraynanski said that City Council is trying to determine rules about bed-and-breakfast use, and that she is uncomfortable with making decisions about this. Ms. Hollow reminded her that this is for a conditional use and not a variance. Ms. Kraynanski stated that this house is next to residences on Hickory Street, particularly one behind this house. She also said that other cities have had problems with bed-and-breakfast places becoming rowdy party houses.

The Chairperson asked for anyone wanting to speak in favor of, make general comment about, or speak against the variance. No one came forward.

Mr. Endick said the neighborhood behind the house is part student rentals, part residences, and that the house to which Ms. Kraynanski referred is separate from this use. He also stated that his bed-and-breakfast would not be a party house.

At this point in the meeting, two other attendants asked to speak in favor of the conditional use. The Chairperson allowed it.

Laura Endick (6377 Avanelle Drive) addressed the Board. Ms. Endick said that she thinks this is a good idea, and that she supports it.

Cody Endick (6865 Avanelle Drive) addressed the Board. Mr. Endick said that he is for the conditional use, and said there would be a lot of construction done to the house.

On a motion by Ms. Kraynanski, seconded by Ms. Tousley, the Board moved to approve a conditional use for 450 Richland Avenue, zoned B-2, Case #16-01C, to allow a bed-and-breakfast business in a B-2 zone, as per ACC 23.04.05(A)(3).

FINDINGS:

1.) USE PERMITTED IN ZONE: Yes.

2.) USE AS INDIVIDUAL CASE: Yes.

3a.) COMPLIANCE WITH REGULATIONS: Yes. They will have to when the next permit application is submitted.

3b.) CONSISTENT WITH ZONE AND COMPREHENSIVE PLAN: Yes.

3c.) MINIMUM INTERFERENCE WITH TRAFFIC: Yes.

At this point, Ms. Kraynanski asked to discuss limiting the occupancy of this place. The secretary said that there are no current guidelines to determine occupancy, but if City Council comes up with a set of rules for bed-and-breakfast use, including occupancy limits, all bed-and-breakfast places would have to conform.

The Chairperson called for a vote: Carson, Golzy, Hollow, Kraynanski, Tousley – yes. No one – no. Motion approved 5-0, conditional use permit granted.

Appellant is requesting a variance from ACC 23.10.01 Schedule of Bulk Controls, Table “B” (Off-Street Parking Requirements) to allow construction of an apartment building with twelve (12) parking spaces where fifteen (15) parking spaces are required.

The Chairperson called on the secretary to testify.

The secretary presented plans of the project to the Board.

The Chairperson called on the appellant to testify.

Patrick Daugherty said the proposed apartment building would have six apartments with 15 total bedrooms. He said he is asking to have the other three required parking spaces located at his property at 7 Palmer Street, which would be more than 250 feet from this lot.

Mr. Daugherty stated that he is general manager for Bobcat Rentals, and is related to the owners. He said he plans to use parking spaces across the street from this lot that are owned by Bobcat Rentals, but said that he feels a variance would still be necessary in case of any future disagreements. Mr. Daugherty said this would be a smaller, greener project.

Mr. Daugherty said that he has checked with other apartment complexes, and they claim that parking lot capacity is 75% to 80% full. Mr. Daugherty also referred the Board to the City Comprehensive Plan to have this neighborhood with higher density. He added that a public sidewalk would be built where there was none before on this lot.

Mr. Daugherty said denying the variance would create a hardship for the appellant, and would be denying the design set forth in the Comprehensive Plan for this neighborhood.

Mr. Daugherty said the building would look similar to Bobcat Rental buildings across the street. He said the building would not increase congestion, because of off-street parking. Mr. Daugherty stated that current Mayor Steve Patterson and former Zoning Administrator John Paszke have both spoken of re-doing the parking regulations, including the required number of spaces for rental use.

Mr. Daugherty said that he believes the majority of people would approve of this project. He said the property would be taken of, as Bobcat Rentals do for their properties. Ms. Hollow asked if this would be a Bobcat Rental. Mr. Daugherty said that it would be all him. Ms. Kraynanski asked if this is the appellant’s first new construction. Mr. Daugherty said it would be his fourth project, but first apartment building.

The Chairperson called on anyone wanting to speak in favor of the variance.

Beau Goodrich (103 W. Third St., The Plains, Ohio) addressed the Board. Mr. Goodrich said that the variance would be beneficial to the community. He said that he is a former tenant of the appellant, and knows that he will take care of the property.

The secretary noted that 14 letters of support was received for this hearing, and read one aloud. The secretary presented all of the letters to the Board.

Tony Fahrion (8800 Lavelle Road) addressed the Board. Mr. Fahrion said he is the owner of Bobcat Rentals. He said that, for the last five years, his parking lots have been 20% empty. Mr. Fahrion also stated that he had proposed for another property an apartment project with 83 beds, 70 parking spaces, with greenspace and community area. He said it was turned

down for lack of parking. Mr. Fahrion reminded the Board that the appellant can deed-restrict off-site parking for his project.

The Chairperson called on anyone wanting to make general comment about, or speak against the variance. No one came forward. The Chairperson offered the appellant the right for rebuttal. The appellant declined.

Ms. Kraynanski said that, when she visited the site, the rental at 53 Stewart Street had one empty space in its parking lot. She said that there may be statistics about parking lot capacity, but that they are not all the statistics. She spoke of the River Gate project (10 South Green Drive) having green parking, combining grass and hard surface, and said that she would prefer that on this lot over a variance. Mr. Daugherty said that it is difficult to find more space for parking that is not in the setback. Ms. Kraynanski asked the appellant if he had considered asking for a variance for smaller parking spaces. Mr. Daugherty said that he thought it in his best interest to ask for the fewest variances he could, but is willing to entertain such an idea.

Ms. Hollow asked how far it is to 7 Palmer Street to this lot. Mr. Daugherty said that it is approximately 1000 feet away.

Ms. Kraynanski said that the appellant is asking for a fictitious variance that will not be used. Mr. Daugherty reiterated that it would be in case he could no longer use Bobcat Rentals parking across the street.

On a motion by Ms. Tousley, seconded by Ms. Carson, the Board moved to grant a variance, in Case #16-02V, Zone R-3, 125 East Union Street from ACC 23.10.01 Schedule of Bulk Controls, Table “B” (Off-Street Parking Requirements) to allow construction of an apartment building with twelve (12) parking spaces where fifteen (15) parking spaces are required, with an additional three (3) deed-restricted off-site parking spaces at 7 Palmer Street.

FINDINGS:

- 1.) **EXCEPTIONAL CIRCUMSTANCES:** The shape of the lot. But it is sufficiently large to cover all the needs.
- 2.) **HARDSHIP AND DIFFICULTY:** No, not as the Board of Zoning Appeals is asked to define it.
- 3.) **PRESERVATION OF EQUAL PROPERTY RIGHTS:** In a previous case for a California-based company building an apartment building, when the variance for less parking was denied, the appellant changed his plans
- 4.) **MINIMUM VARIANCES:** Yes. But the property can be used without the variance.
- 5.) **ABSENCE OF DETRIMENT:** Don't know.
- 6.) **NOT OF A GENERAL NATURE:** Yes.

The Chairperson called for a vote: Golzy – yes. Carson, Hollow, Kraynanski, Tousley – no. Motion denied 4-1; variance denied.

OTHER BUSINESS:

--*Disposition of minutes from December 8, 2015 meeting.* On a motion by Ms. Kraynanski, seconded by Ms. Tousley, the Board voted to accept the minutes as presented 4-0.

--*Annual Board organizational meeting.* On a motion by Ms. Kraynanski, seconded by Ms. Hollow, the Board nominated John Golzy as Chairperson for the coming year. Motion approved 6-0.

The Board moved to adjourn the meeting. The meeting was adjourned at 8:19pm.

John Golzy, Chairperson

Paul Eschenbacher, secretary