

Board Of Zoning Appeals

Minutes

March 13, 2018

Members present: John Golzy (Chairperson), Edward Baum, John Gutekanst, Kay Tousley, Aaron Thomas (alternate), Jessica Kopelwitz (alternate).

City officials present: Rick Sirois (Zoning Administrator), Paul Eschenbacher (secretary).

The meeting was called to order at 7:00 pm in City Council Chambers, third floor of City Hall. The Chairperson noted that, with the absence of one Board member, Mr. Thomas would be a full voting member of the Board for this meeting. 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 #18-08V 110 West Union Street Zone B-1 Cetide LLC/Star
Partnership, appellants**

Appellant is requesting a variance from ACC 23.10.01, Table A, Schedule of Bulk Controls, to allow the construction of a fence with a left side setback of six inches (6") where twelve feet six inches (12'6") is the minimum requirement.

The secretary noted the variance this property received last year (#17-08V) which included a left side setback of one foot six inches for the building. Mr. Baum asked if the proposed fence would be in the City right-of-way. The secretary said that it would not be.

The Chairperson called on the appellant to testify.

John Kotowski (14 Northwood Drive) addressed the Board. Mr. Kotowski said that he is a partner in Star Partnership. He stated that the old building on the site was in the right-of-way, but that building was torn down.

Mr. Kotowski indicated that the fence was not part of the plans presented to the Board last year, as it was not sure how it would come together. He said the fence would be to contain people. Mr. Kotowski said that if the variance is not granted, they would have to install a railing at the overhead doors.

The Chairperson called on anyone wanting to speak in favor of the variance. No one came forward. The Chairperson called on anyone wanting to make general comment about the variance.

John Lefelhocz (104 West Union Street) addressed the Board. Mr. Lefelhocz said that he supports outdoor seating for businesses, but wants conditions set for this property. He said he wants the outdoor area to be closed during the designated quiet times of the City noise ordinance. Mr. Lefelhocz said that the current regulations in a B-1 zone in Athens are archaic, and referred

to other cities' regulations as better examples. He also stated that no parking was added for the outdoor patrons that would be at the bar, and that there should be added parking for the staff.

Ms. Kopelwitz asked Mr. Kotowski if the fence was required due to state liquor laws. Mr. Kotowski said that it was necessary, but that there would be no outdoor service. He said patrons would have to go inside for purchases.

Mr. Baum asked about the suggestion to shut down the outdoor area according to noise ordinance hours. Mr. Kotowski said that the partnership is leasing the building to the bar proprietor so he and his partners would not be setting hours. He added that the outdoor space would hold no more than two or three tables, and that there would be no live bands. Mr. Kotowski also noted that the bar next door has outdoor business beyond the noise ordinance hours and that it would be unfair to the business on the partnership property.

The Chairperson called on anyone wanting to speak against the variance. No one came forward.

The Chairperson closed the floor for discussion.

On a motion by Mr. Baum, seconded by Mr. Thomas, the Board moved to grant a variance to the property at 110 West Union Street from ACC 23.10.01, Table A, Schedule of Bulk Controls, to allow the construction of a fence with a left side setback of six inches (6") where twelve feet six inches (12'6") is the minimum requirement.

FINDINGS:

- 1.) **EXCEPTIONAL CIRCUMSTANCES:** Reference the previous variance for this property.
- 2.) **HARDSHIP AND DIFFICULTY:** The fence addresses safety issues.
- 3.) **PRESERVATION OF EQUAL PROPERTY RIGHTS:** Other similar businesses have outdoor patios.
- 4.) **MINIMUM VARIANCE:** Yes.
- 5.) **ABSENCE OF DETRIMENT:** Yes.
- 6.) **NOT OF A GENERAL NATURE:** Yes.

The Chairperson called for a vote: Yes – Baum, Golzy, Gutekanst, Thomas, Tousley. No – no one. Motion approved 5-0; variance granted.

Appellant is requesting a variance from ACC 23.10.01, Table A, Schedule of Bulk Controls, to allow the construction of an accessory structure with a left side setback of one foot (1') where five feet (5') is the minimum requirement, and building lot coverage of thirty-two percent (32%) where thirty percent (30%) is the maximum allowance.

The secretary affirmed to the Board that the proposed space would not be a complete living unit.

The Chairperson called on the appellant to testify.

Corinne White addressed the Board. Ms. White said the garage was built about 1900 and they want to preserve it. She said the space in question would be used for a bedroom and a pocket bathroom. Ms. White said that they intend to add heating and air conditioning to the space. She added that the bedroom would be used for family and friends. Ms. White said that she understands concerns about turning this into a rental unit. She also said that the living space would be approximately 250 square feet.

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

The Chairperson closed the floor for discussion.

On a motion by Ms. Tousley, seconded by Mr. Gutekanst, the Board moved to grant to the property at 37 Maplewood Drive a variance from ACC 23.10.01, Table A, Schedule of Bulk Controls, to allow the construction of an accessory structure with a left side setback of one foot (1') where five feet (5') is the minimum requirement, and building lot coverage of thirty-two percent (32%) where thirty percent (30%) is the maximum allowance.

FINDINGS:

- 1.) **EXCEPTIONAL CIRCUMSTANCES:** It is an historical building.
- 2.) **HARDSHIP AND DIFFICULTY:** It is an historical building.
- 3.) **PRESERVATION OF EQUAL PROPERTY RIGHTS:** Others have accessory buildings. No new space added.
- 4.) **MINIMUM VARIANCE:** Yes.
- 5.) **ABSENCE OF DETRIMENT:** Yes.
- 6.) **NOT OF A GENERAL NATURE:** Yes.

The Chairperson called for a vote: Yes – Baum, Golzy, Gutekanst, Thomas, Tousley. No – no one. Motion approved 5-0; variance granted.

Appellant is requesting a variance from ACC 23.03.02(A) to allow an owner-occupied bed-and-breakfast use in an R-1 zone where such use is not allowed.

Mr. Baum stated that when he was on City Council, he recalls an executive Council session in which it was clear that bed-and-breakfast use was not to be done in R-1 zones.

The Chairperson called on the appellant to testify.

Kendall Brown-Clovis noted that the property is across the street from a business zone. She indicated that the property had been a rental unit in the past, and that she rented to friends. She said the plan is to use the house as a part-time bed-and-breakfast and the other times be their home. Ms. Brown-Clovis said the hardship in this case is that they could not use the home if it was a regular rental unit. She said that there are three bedrooms in the house.

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

The Zoning Administrator noted that the City currently does not recognize “Air Bed-and-Breakfast” uses.

On a motion by Mr. Thomas, seconded by Ms. Tousley, the Board moved to grant to the property at 220 West State Street a variance from ACC 23.03.02(A) to allow an owner-occupied bed-and-breakfast use in an R-1 zone where such use is not allowed.

FINDINGS:

- 1.) **EXCEPTIONAL CIRCUMSTANCES:** No. It is near a business district but is located in an R-1 zone.
- 2.) **HARDSHIP AND DIFFICULTY:** The property can be used as a rental unit or a home.
- 3.) **PRESERVATION OF EQUAL PROPERTY RIGHTS:** There is no bed-and-breakfast in any R-1 zone.
- 4.) **MINIMUM VARIANCE:** No.
- 5.) **ABSENCE OF DETRIMENT:** Yes.
- 6.) **NOT OF A GENERAL NATURE:** Yes.

The Chairperson called for a vote: Yes – no one. No – Baum, Golzy, Gutekanst, Thomas, Tousley. Motion denied 5-0; variance denied.

OTHER BUSINESS:

--Disposition of minutes from February 13, 2018 meeting. On a motion by Mr. Thomas, seconded by Mr. Baum, the Board voted 5-0 to accept the minutes as presented.

The meeting was adjourned at 7:43 pm.

John Golzy, Chairperson

Paul Eschenbacher, secretary