

# Board of Zoning Appeals

## Minutes

### June 9, 2020

Members present: John Golzy (Chairperson), Lisa Carson, Jon Gutekanst, Kay Tousley, Aaron Thomas (alternate), Robert DeLach (alternate).

City officials present: David Riggs (Zoning Administrator), Paul Eschenbacher (secretary).

The meeting was called to order at 7:04pm online as an Internet conference. The Chairperson noted that, with the absence of one Board member, Mr. DeLach would be a full voting member for this meeting. The Chairperson then reviewed the policies and procedures of the Board. He then swore in, under oath, those intending to give testimony.

**Case #20-01V      17 ½ South Lancaster Street      Zone R-2      University Rentals, appellant**

**Appellant is requesting a variance from ACC 23.04.02 to allow construction of a parking lot in an R-2 zone, where such use is not allowed (parking for use on premises only).**

The Chairperson called on the secretary to testify.

The secretary noted past variance requests for this property (for a duplex) which were refused. He also said that the lot has been empty for at least 25 years.

The Chairperson called on the appellant to testify.

Rusty Rittenhouse (appellant's representative, Lavelle & Associates, 449 East State Street) addressed the Board. Mr. Rittenhouse presented photographs of the site to the Board online. He also presented a diagram of the proposed parking lot, indicating 18 spaces. Mr. Rittenhouse said that it is a pretty level lot, and would have to be cleared of overgrowth for construction.

Mr. Rittenhouse said that street parking in the area is difficult for lack of available spaces and for parking regulations in effect for the Athens Middle School across the street.

Mr. Gutekanst asked if the parking would be for the appellant's tenants, or would he lease out the spaces. Mr. Rittenhouse said it would all be for the appellant's tenants.

Mr. Rittenhouse noted the recent approval of a parking lot off an alley at 59 North Lancaster Street, and said the appellant's proposed lot would provide better parking. The secretary reminded the Board that, if the parking lot variance is approved, the appellant would be required to have full plans for the site, including paving and storm water run-off.

The Chairperson asked if anyone wished 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 a variance to the property at 17 ½ South Lancaster Street from ACC 23.04.02 to allow construction of a parking lot in an R-2 zone, where such use is not allowed (parking for use on premises only).**

**FINDINGS:**

- 1.) **EXCEPTIONAL CIRCUMSTANCES:** It may be the only use for the lot. It is bad parking on the area streets.
- 2.) **HARDSHIP AN DIFFICULTY:** It is a small lot that is difficult to use.
- 3.) **PRESERVATION OF EQUAL PROPERTY RIGHTS:** Other area properties do not have space to do this.
- 4.) **MINIMUM VARIANCE:** Yes.
- 5.) **ABSENCE OF DETRIMENT:** Yes.
- 6.) **NOT OF A GENERAL NATURE:** Yes.

The Chairperson called for a vote: Yes—Tousley, Gutekanst, DeLach, Golzy. No—Carson. Motion approved 4-1; variance granted.

**Case #20-06V      134 Columbus Road      Zone B-3      RVC Architects,  
appellant**

**Appellant is requesting a variance from ACC 23.03.11(A)(1) to allow an accessory structure with a right side setback of two feet (2’) and a rear setback of one point five feet (1.5’) where five feet (5’) is the minimum requirement for each setback.**

The Chairperson called on the appellant to testify.

Colin Widdoes (RVC Architects, 131 West State Street) addressed the Board. Mr. Widdoes noted that this lot is where the Security Title Building is located. He said the accessory structure would be a garage. Mr. Widdoes stated that the lot comes to a point where the garage would be located, pushing the setbacks forward for the building. He added that it is intended to also maintain the existing parking behind the building.

The Chairperson asked if the garage could be moved. Mr. Widdoes said that would affect the ease of access to the parking spaces there.

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

**On a motion by Ms. Carson, seconded by Mr. Gutekanst, the Board moved to grant a variance to the property at 134 Columbus Road from ACC 23.03.11(A)(1) to allow an accessory structure with a right side setback of two feet (2') and a rear setback of one point five feet (1.5') where five feet (5') is the minimum requirement for each setback.**

**FINDINGS:**

- 1.) **EXCEPTIONAL CIRCUMSTANCES:** The shape of the lot.
- 2.) **HARDSHIP AN DIFFICULTY:** The shape of the lot.
- 3.) **PRESERVATION OF EQUAL PROPERTY RIGHTS:** No additional privilege will be given the appellant.
- 4.) **MINIMUM VARIANCE:** Yes.
- 5.) **ABSENCE OF DETRIMENT:** Yes.
- 6.) **NOT OF A GENERAL NATURE:** Yes.

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

**Case #20-07V            102 Mill Street            Zone R-3            Alice Whealey, appellant**

**Appellant is requesting a variance from ACC 23.03.14 to allow a fence in the front setback where a fence is not permitted.**

The Chairperson called on the secretary to testify.

The secretary stated that the appellant will have to get a revocable license from Athens City Council to place the fence near the sidewalk. The Chairperson asked the secretary about the appellant's reference to a previous fence on the property, and if that fence was 'grandfathered.' The secretary said that he did not know. Mr. Gutekanst asked where the right-of-way line is on the front yard of this building. The secretary said he would look it up on plat maps he has available.

The Chairperson called on the appellant to testify.

Alice Whealey addressed the Board. Ms. Whealey said that she has to pick up dog droppings constantly on her property. She claimed that there had been a fence there previously when she was growing up in the neighborhood. Ms. Whealey indicated that she would not put a fence up in the backyard.

Ms. Whealey stated that private homes should not have to accommodate street parties on

their property where people walk across the lot. She said that she has not seen any horse patrols for street parties use the front yard of this building. The Chairperson commented that she is not the only resident in the area who has to contend with this. Ms. Whealey said that there is one other area property that has a fence, at 146 Mill Street. Ms. Whealey said she is the owner of the property and not a renter.

Mr. Gutekanst asked to confirm that the fence is to keep people and dogs out the front yard. Ms. Whealey said that was so, and that the back yard is less of an issue. She added that she has been harassed by neighbors there.

The Chairperson said that the Board does not take safety issues into consideration when making decisions.

The secretary asked the appellant if she planned to use the fence that is there now as the proposed fence. Ms. Whealey said it would not be, but would be similar in height. The secretary asked to confirm that the proposed fence would be no more than three feet in height. Ms. Whealey said that would be so.

Ms. Carson asked how long the current fence had been in the yard. Ms. Whealey said she had put in pieces of the fence beginning last fall. Ms. Carson remarked that she has seen other fences damaged and then eventually removed, and said the appellant's fence could still be damaged. Ms. Whealey said her fence would be metal and placed in concrete.

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 secretary and the Chairperson read aloud an e-mail from the Athens Police Department and a letter from a neighboring property owner showing their opposition to the variance.

The Chairperson called on the appellant for rebuttal. Ms. Whealey said that she was not aware of the Police Department presenting this e-mail to the Board, and that the neighbor does not know where she will place the fence, and that the neighbor is not an objective observer. Ms. Whealey added that she would want to meet with Athens Police Chief Thomas Pyle to discuss his opinions on the subject.

Ms. Carson said that it would make sense to table the hearing until after the appellant can meet with the Police Chief.

The secretary said in response to Mr. Gutekanst's question about the right-of-way location that it would be approximately halfway between the inner edge of the sidewalk and the front porch of the building.

**On a motion by Ms. Carson, seconded by Mr. Delach, the Board moved to table the hearing for 102 Mill Street to allow the appellant to meet with City officials about the case.**

The Chairperson called for a vote: Yes—Carson, DeLach, Golzy, Gutekanst, Tousley. No—no one. Case hearing tabled until next meeting.

**OTHER BUSINESS:**

--*Disposition of minutes from May 12, 2020 meeting.* On a motion by Ms. Carson, seconded by Ms. Tousley, the Board moved to accept the minutes as presented 5-0.

--*Secretary retirement.* The secretary notified the Board that he was retiring at the end of July, and the Board is responsible for finding a replacement.

The meeting was adjourned at 8:20pm.

---

John Golzy, Chairperson

---

Paul Eschenbacher, secretary