

Board of Zoning Appeals

Minutes

June 12, 2018

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

City officials present: Paul Eschenbacher (secretary).

The meeting was called to order at 7:02 pm in City Council Chambers, third floor of City Hall. The Chairperson noted that, with the absence of two full-time Board members, both alternates would be voting members of the Board for this meeting. On a motion by Ms. Kopelwitz, seconded by Mr. Baum, the Board voted 4-0 to have Ms. Tousley as acting Chairperson 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 #18-13V 16 Meadow Lane Zone R-3 Liz Maule Gleason, appellant

Appellant is requesting a variance from ACC 23.10, Table A, Schedule of Bulk Controls, to allow an addition to a building with a left side setback of zero feet (0') where eight feet (8') is the minimum requirement, and a rear setback of twenty-five feet (25') where thirty feet (30') is the minimum requirement.

The Chairperson called on the secretary to testify.

The secretary noted that the left side and rear setbacks are for the existing building, and the addition of the attached garage brought those setbacks into review. He also said the setbacks for the garage placement met bulk controls.

The Chairperson called on the appellant to testify.

Liz Maule Gleason said that a potential buyer of the property wants the garage. Ms. Maule Gleason stated that in the Meadow Lane development, there are 22 units with a garage and 15 without a garage. She said that those without garages have storage closets in the front where a garage would be located.

Mr. Baum asked about the ownership of the property south of this lot. Ms. Maule Gleason said that the City owns it. Mr. Baum asked if there was a neighborhood association for this street. Ms. Maule Gleason said that there was not an association.

The Chairperson called on anyone wanted 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.

The Chairperson called on the secretary to testify.

The secretary said the proposed change of use does not involve a change in the building's footprint, height or square footage. He noted the building had previously been a fraternity before becoming law offices. The Chairperson asked if future ADA-related requirements would affect the building's bulk controls. The secretary said that ADA compliance was an exception to bulk controls.

The Chairperson called on the appellant to testify.

T. Michael Corathers addressed the Board. Mr. Corathers said the building would remain in Victorian style, with minimum changes and updates to the site. He indicated that, as for parking, they had two possibilities: either a variance for no parking, or a variance for deed-restricted parking more than 250 feet from the lot. Mr. Corathers said this property is land-locked, and that they cannot add to the property. Mr. Gutekanst asked about the driveway between this lot and the building next door (35 North College Street). Mr. Corathers said that he believes it to be a City right-of-way.

Bryan Wharton (82 North Court Street) addressed the Board. Mr. Wharton referenced a previous case at 14 North High Street (Case #17-26V) where a parking variance was granted for one parking space. He also said that the alley between the two properties is owned by both.

Mr. Wharton said that he would be happy to deed-restrict parking spaces at lots owned by him on North Congress Street behind the Masonic Lodge. He also noted the other residential uses on North College Street. Mr. Wharton said that changing the use of the building to residential will require state-approved plans for fire safety and egress.

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

Jonathan Sowash (6607 Fox Run Road, Athens, Ohio) addressed the Board. Mr. Sowash said he bought the property in the 1980s. He said that Domino's Pizza owns the parking lot behind the building. Mr. Sowash said that the law offices next door rent two parking spaces from Domino's Pizza.

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

The secretary read aloud a letter from Mollica Gall Sloan and Sillery Co. LPA indicating their opposition to the parking section of the variance request.

David J. Mott (Mollica Gall Sloan and Sillery Co. LPA, 35 North College Street) addressed the Board. Mr. Mott said that parking there has been easy for 30 years with the Sowash law offices next door. He said that if the building becomes a residence, the residents will probably use the parking lot in back improperly. Mr. Mott said that parking located more than 250 feet away is not better, as the residents will still park there. He said approval of the variance will cause an overwhelming increase in problems there.

The Chairperson asked if the property were to remain in commercial use, would there be a parking problem there. Mr. Mott said that it would be possible, but that they could work it out. Mr. Gutekanst asked if fraternities and sororities along this street have off-street parking. The secretary said that most of them do have it.

Mr. Wharton rebutted that if there were parking problems there, he is accessible daily,

and noted that he has towed illegally parked vehicles out of other of his lots. He added that the residents would probably storage-park their vehicles in the North Congress Street lots and leave them there until they go back home.

Mr. Corathers said that ADA compliance would come into effect if the building was returned to commercial use and this could cause hardship. Mr. Mott said it currently still is in commercial use, and thus grandfathered from ADA regulations.

The Chairperson closed the floor for discussion.

On a motion by Mr. Baum, seconded by Mr. Gutekanst, the Board moved to grant to the property at 39 North College Street a variance from ACC 23.10, Table A, Schedule of Bulk Controls, to allow a change of use for a building from business office to rooming house with eight (8) tenants:

--with lot size of four thousand three hundred fifty-six (4,356) square feet where ten thousand (10,000) square feet is the minimum requirement,

--building lot coverage of forty-one percent (41%) where forty percent (40%) is the maximum allowance,

--a front setback of six feet five inches (6'5") where twenty-five feet (25') is the minimum requirement,

--a right side setback of nine feet two inches (9'2") where twelve feet six inches (12'6") is the minimum requirement,

--a rear setback of eleven feet (11') where forty feet (40') is the minimum requirement,

and from ACC 23.11, Table B, Off-Street Parking Requirements to have eight (8) deed-restricted parking spaces at 94 and 98 North Congress Street.

FINDINGS:

- 1.) **EXCEPTIONAL CIRCUMSTANCES:** It was previously in residential use. The house is exceptional. The Athens City Code is not structured for buildings like this.
- 2.) **HARDSHIP AND DIFFICULTY:** The Athens City Code is not structured for buildings like this.
- 3.) **PRESERVATION OF EQUAL PROPERTY RIGHTS:** No special privilege.
- 4.) **MINIMUM VARIANCE:** Yes.
- 5.) **ABSENCE OF DETRIMENT:** Yes, but there could be a temporary parking issue.
- 6.) **NOT OF A GENERAL NATURE:** Yes.

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

Appellant is requesting a variance from ACC 23.04.01(A)(1) to allow a duplex rental building in an R-1 zone, where a single family dwelling is the maximum allowance.

The Chairperson called on the secretary to testify.

The secretary noted that the building was built as a duplex, and that at one time had an approved rental permit for a duplex, which was allowed to lapse by a previous owner. He added that there would be no change to the building's footprint, height or square footage.

The Chairperson called on the appellant to testify.

Xueying Lin addressed the Board. Mr. Lin said that his English is not good, and he would have someone speak for him.

David Telega (3 Applegate Drive) addressed the Board. Mr. Telega said that he will be Mr. Lin's property manager. He said that he plans on being an active manager should there be problems of disturbing the neighbors.

Mr. Telega said that considerable improvements have been made to the building.

Mr. Gutekanst asked if Mr. Lin is to live there. Mr. Telega said that he would not. Mr. Thomas asked if the building was vacant. Mr. Telega said that it was not, as Mr. Lin has been housing employees of his restaurant there, unaware that he needed a rental permit, as the employees did not pay rent.

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 comments about the variance.

Cheryl Schroer (245 East State Street) addressed the Board. Ms. Schroer asked about the definition of a family as it relates to rental properties. The secretary said the definition included parents, children, grandparents, aunts and uncles. He added that if the tenants are unrelated, no more than three tenants per unit is allowed. Ms. Schroer stated that the appellant had done an amazing job in fixing up the building.

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 247-249 East State Street from ACC 23.04.01(A)(1) to allow a duplex rental building in an R-1 zone, where a single family dwelling is the maximum allowance.

FINDINGS:

- 1.) **EXCEPTIONAL CIRCUMSTANCES:** It was built as, and functions as, a duplex.
- 2.) **HARDSHIP AND DIFFICULTY:** It was built as, and functions as, a duplex.
- 3.) **PRESERVATION OF EQUAL PROPERTY RIGHTS:** Yes; no other duplexes in the area.
- 4.) **MINIMUM VARIANCE:** Yes
- 5.) **ABSENCE OF DETRIMENT:** Yes, but concern from neighbor about number of tenants.
- 6.) **NOT OF A GENERAL NATURE:** Yes.

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

OTHER BUSINESS:

--Disposition of minutes from May 8, 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 8:01pm.

Kay Tousley, acting Chairperson

Paul Eschenbacher, secretary

