

Board of Zoning Appeals

Minutes

November 12, 2019

Members present: John Golzy (Chairperson), Lisa Carson, John Gutekanst, Joe Krause, Robert Delach (alternate).

City officials present: David Riggs (Zoning Administrator).

The meeting was called to order at 7:01pm in City Council Chambers, third floor of City Hall. The Chairperson noted that, with the absence of one Board member, the alternate, Robert Delach, would be a voting member of the Board for tonight's meeting. The Chairperson introduced a video about the policies and procedures of the Board. The Chairperson then swore in, under oath, those intending to give testimony.

Case #19-08V 59 North Lancaster Street Zone R-2 Scott Hunter, appellant

Appellant is requesting a variance from ACC 23.04.02(A)(1) to allow construction of a commercial parking lot in an R-2 zone where such use is now allowed.

The Chairperson called on the Zoning Administrator to testify.

The Zoning Administrator said that the appellant's use permit application was denied because the parking lot use is not allowed in an R-2 zone. The Chairperson asked if anything could be built on the site in question without a variance. The Zoning Administrator said the existing building there does not meet current bulk controls but is 'grandfathered,' and that the appellant could seek variances if changes to the structure was done.

The Chairperson called on the appellant to testify.

Mr. Hunter addressed the Board. Mr. Hunter noted that the house had a fire and was badly damaged, and that he bought the property in September. He said he wants to put 17 parking spaces on the lot. He said the house was inches from the alleyway, and that he intends to remove it. Mr. Hunter said he wants to use this parking for his rental houses at 33 West State Street, 38 West Carpenter Street and 102 West State Street, all of which have 'grandfathered' parking with fewer spaces than currently required.

Mr. Hunter said that he would be under the maximum lot coverage allowed, and that the trees there would not be disturbed.

Mr. Hunter indicated that there is a hardship for this lot in that a rebuilt or new structure could not be practically done and would also require variances. He said that the exceptional circumstance for this property is its narrowness. For preservation of equal property rights, he noted that there are many paved parking areas in this lot's neighborhood and more off-street parking here would be good. Mr. Hunter said that he believes this is a minimum variance.

Mr. Gutekanst noted that two parking spaces will be located directly above a steep hill.

Mr. Hunter said that a curb would be put there as a barrier. Mr. Gutekanst asked about the space for pulling out of the parking spaces. Mr. Hunter said that he thinks there will be enough room. Mr. Krause asked about the feasibility of a tow truck operating to remove cars there. Mr. Hunter said that he has seen tow truck drivers do amazing work in removing vehicles from tight spots.

Mr. Hunter said that he will not be charging for parking there and that it will be for the use of his tenants.

Mr. Delach said the devaluing of the property for tax purposes is something that should be considered. The Chairperson noted that the Board does not take financial considerations into effect for case hearings.

Mr. Gutekanst asked to confirm that the neighboring properties are all rental properties. Mr. Hunter said that was true.

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

The Chairperson called on anyone wanting to speak against the variance. He noted an e-mail sent to Board members Mr. Golzy and Ms. Carson from Joan Kraynanski, and Ms. Carson read it aloud.

The Chairperson called on the appellant for rebuttal.

Mr. Hunter reiterated that he has no plans to remove any trees from the lot. Ms. Carson said she was concerned about granting a special privilege to the appellant, and that other rental owners may request similar projects. Mr. Hunter said that the Board can take this case by case, as his circumstances are unique.

On a motion by Ms. Carson, seconded by Mr. Gutekanst, the Board considered to grant a variance to the property at 59 North Lancaster Street from ACC 23.04.02(A)(1) to allow construction of a commercial parking lot in an R-2 zone where such use is not allowed.

FINDINGS:

- 1.) **EXCEPTIONAL CIRCUMSTANCES:** Yes. The situation with the house.
- 2.) **HARDSHIP AND DIFFICULTY:** Yes. The situation with the house.
- 3.) **PRESERVATION OF EQUAL PROPERTY RIGHTS:** Yes. The parking lot there may be a privilege, but one that few in any others would pursue.
- 4.) **MINIMUM VARIANCE:** Yes.
- 5.) **ABSENCE OF DETRIMENT:** Some people would consider having a parking lot there a detriment. The parking lot will be designed to Code.
- 6.) **NOT OF A GENERAL NATURE:** Yes.

The Chairperson called for a vote: Yes – Carson, Golzy, Gutekanst, Krause. No – Delach. Motion approved 4-1; variance granted.

Appellant is requesting a variance from ACC 23,04.01(A) to allow a horse equipment store as part of a commercial/residential building use in an R-1 zone where such commercial use is not allowed.

The Chairperson called on the Zoning Administrator to testify.

The Zoning Administrator noted that the building in question once was a business use. The Chairperson asked to confirm that the property is on the edge of the City. The Zoning Administrator said that was true. He added that the building next door was also a business, though both buildings are currently vacant.

The Chairperson called on the appellant to testify.

Victoria Goss addressed the Board. Ms. Goss said that the Last Chance Corral is a facility for caring for abused horses. She also noted that the building in question was a blight, but that she has repaired it. Ms. Goss said the store is to help her non-profit organization more sustainable.

Ms. Goss said the building has always been in residential/commercial use, and in the past was a filling station, a coin shop, and a framing shop. She added that the residence in the building would be used to house interns working at Last Chance Corral. Ms. Goss said this use and parking would be minimal, as much of her business is done online.

Mr. Gutekanst asked if the appellant planned to rent out rooms in the building. Ms. Goss said that she would not do so.

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

Wayne Pae (owner of 165 Pomeroy Road) addressed the Board. Mr. Pae said that his property is next to the property in question. He noted that his building has been a business use since being built in 1945, and is now used for woodworking. Mr. Pae confirmed the building was in disrepair and that the appellant repaired it. He added that he is for the store being there.

Jackie Shipley (17911 Sand Rock Road, Amesville, Ohio) addressed the Board. Ms. Shipley said that she has known the appellant for 35 years and that Ms. Goss is fully committed to this project. She complimented the work done at the Last Chance Corral, and added that the store would be an asset for the neighborhood and community.

The Chairperson called on anyone wanting to make general comment about the variance.

Mark Moser (1 Ridgeview Road) addressed the Board. Mr. Moser questioned why a variance was needed in this case if the building has housed businesses in the past. The Chairperson explained that the businesses may have been there years ago, but that it is zoned R-1 which does not allow such use.

The Zoning Administrator presented and read aloud a letter to the Board from William and Joan Jones expressing concern for traffic view lines being blocked by store customer vehicles. The Zoning Administrator noted that the City right-of-way is wide at this point, and the front parking area of both buildings is in this right-of-way. He added that a Title 49 permit will be needed by the appellant to have parking on that front part of the lot.

Rebecca Chamberlain (135 Pomeroy Road) addressed the Board. Ms. Chamberlain said trucks park on the lot for breaks for the drivers, and they block the traffic view, so there would be no difference.

Mr. Moser spoke again, saying he too is concerned with store customers' vehicles blocking traffic sightlines.

The Chairperson called on the appellant for rebuttal. Ms. Goss said that the store would be highly specialized, and some customers would be making appointments to be there, and most business would be conducted online.

The Chairperson closed the floor for discussion.

On a motion by Mr. Gutekanst, seconded by Mr. Delach, the Board considered to grant a variance to the property at 145 Pomeroy Road from ACC 23,04.01(A) to allow a horse equipment store as part of a commercial/residential building use in an R-1 zone where such commercial use is not allowed.

FINDINGS:

- 1.) **EXCEPTIONAL CIRCUMSTANCES:** The location of the property. It has been used as commercial in the past.
- 2.) **HARDSHIP AND DIFFICULTY:** The appellant would use this to support her organization; not approving the variance would be a hardship to the appellant.
- 3.) **PRESERVATION OF EQUAL PROPERTY RIGHTS:** It is a unique situation; there is not more or less privilege given with the variance.
- 4.) **MINIMUM VARIANCE:** Yes.
- 5.) **ABSENCE OF DETRIMENT:** There are some concerns about traffic sightlines.
- 6.) **NOT OF A GENERAL NATURE:** Yes.

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

OTHER BUSINESS:

--Disposition of minutes from September 10, 2019 meeting. On a motion by Ms. Carson, seconded by Mr. Krause, the Board moved to accept the minutes of the 9/10/19 meeting 4-0.

The meeting was adjourned at 8:15pm.

John Golzy, Chairperson

Paul Eschenbacher, secretary