

**Office of Code Enforcement and  
Community Development**

28 Curran Drive  
Athens, OH 45701  
(740)592-3306  
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<http://www.ci.athens.oh.us>



**City of  
Athens**  
ATHENS, OHIO

**Board of Zoning Appeals  
Minutes  
February 14, 2023**

Members present: Lisa Carson (Chairperson), Kay Tousley, Kelly Sauber, Robert Delach, Joe Krause, Aaron Thomas (alternate), Ben Lachman (alternate)

City Officials present: David Riggs (Zoning Administrator).

The meeting was called to order on February 14<sup>th</sup>, 2023 at 7:01 pm at City Council Chambers, 8 East Washington Street, Third Floor, Athens, OH. The Chairperson played a video stating the policies and procedures of the Board.

Chairperson Lisa Carson swore in all intending to speak tonight.

**Hearings:**

**1. Case #23-01C 269 East State Street Zone R-1 Aaron Williams / appellant**

**Appellant is requesting a conditional use permit in accordance with ACC 23.04.01(C)(3) to allow a non-owner-occupied Short Term Rental in a R-1 zone.**

The Chairperson called upon the Zoning Administrator to testify.

Mr. Riggs noted that regulation of short-term rentals went into effect in late 2021. Stated that the case before the Board is for a conditional use, which is uncommon. Reminded the Board of the findings required for this case.

The Chairperson asked whether this is why there was no rationale for denial attached to the request. Mr. Riggs affirmed and stated that the permit had not been denied.

Robert Delach asked for clarification as to why this is a conditional use, noting the specific locations stated in the code. Mr. Riggs explained that owner-occupied short term rentals are permitted in these locations, but because appellant wishes for the rental to be non-owner-occupied they require a conditional use permit.

The Chairperson called upon the appellant to testify.

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Aaron Williams, 6192 Grey Friar Way, Dublin, OH – Appellant explained that finding lodging in Athens is frustrating, especially on busy weekends. Spoke about hotel availability and the issue of having some periods that are busy and some that are not. Appellant noted that research had been done into short-term rentals, but they were mostly located in vacation areas. Because that market is over-saturated, appellant decided to look in Athens instead, as appellant's daughter attends Ohio University.

Aaron Thomas asked whether appellant's daughter wished to move into the property in question. Appellant said no. Stated that there have been situations where appellant's daughter has stayed there, but only in the short term.

Appellant explained the accountability and control that Airbnb provided, noting that there is a rating system and preliminary questions. Also noted that there will be cameras on the exterior of the property.

Kay Tousley asked whether upon appellant's daughter's graduation, appellant would move on from this property. Appellant stated that this would not be the case, as appellant's parents reside in Belpre and appellant owns a farm near the city already. Explained that ideally, the property in question would be passed down to appellant's children.

Robert Delach asked about control over the property when appellant is not in town. What would happen if 13 people show up when only three were listed on the booking? Appellant explained that Airbnb has a rating system and allows for financial recourse. Acknowledged that appellant does not have the ability to be on the property in a short amount of time.

Robert Delach asked what would happen if there was a noise problem at the property and the police showed up. Appellant stated that noise monitors can be installed in the home and limits can be set for certain hours of the day.

Ben Lachman asked about the size of the property. Appellant explained that while it contains four bedrooms, appellant is reducing it to three bedrooms and converting one room into a home office. Stated that appellant has friends whose children attend Ohio University and wished to allow them to use the home to visit.

Ben Lachman asked whether occupancy would be around six people. Appellant stated that the property had one and a half bathrooms, so occupancy would be based around this.

Kay Tousley asked Mr. Riggs about occupancy. Mr. Riggs explained that occupancy in this zone is limited to three adult renters plus children. Noted that the code does not specify age of the children.

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Kelly Sauber asked how this would be enforced. Mr. Riggs explained that it was complaint driven.

Kay Tousley asked appellant what occupancy would look like over the course of a year. Appellant explained that due to lack of experience this was not clear. Expressed wish to support local businesses. Stated that even if bookings were low, appellant would not feel compelled to sell the property.

Ben Lachman stated that from interactions with the Airbnb market, busy weekends in Athens would always result in booking of the appellant's property.

Aaron Thomas asked whether appellant could set limits on occupancy on the booking website. Appellant explained that this was true, and that there were several other variables that could be adjusted.

Ben Lachman asked whether any significant changes would be made to the property to prepare it for short term rental usage. Appellant stated that a handrail would be added and paint would be retouched, but nothing structural would change.

Aaron Thomas asked Mr. Riggs whether appellant's plan to change the occupancy would affect this hearing. Mr. Riggs explained that the maximum occupancy in this zone is three, regardless of short or long term rental status.

Kelly Sauber asked whether the code dictating the conditional use was part of the changes made in 2021. Expressed interest in hearing City Council's discussions regarding this code. Mr. Riggs replied affirmatively and read ACC 23.04.01 (C) into the record. Kelly Sauber asked what part of this code was changed in 2021. Mr. Riggs stated that short term rentals were not included before those changes. Aaron Thomas clarified that there were many cases involving Airbnbs presented to the Board previously.

Robert Delach asked for clarification regarding occupancy. Discussion over occupancy. Also mentioned that the city has software that can monitor Airbnb activity. Asked if this could keep track of host limitations. Mr. Riggs responded affirmatively.

Joe Krause asked if the permit could be rescinded. Mr. Riggs explained that the appellant would first receive a Notice of Violation, then an Order to Comply, and then would be cited into court. Kay Tousley asked whether the permit could ever be rescinded. Mr. Riggs confirmed this and mentioned that it could be rescinded if it has not been used as a short term rental for over a year.

The Chairperson asked whether there was anyone present who wished to speak in favor of, or make a general comment about the case in question. No one came forward.

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The Chairperson then read letters opposing the conditional use from Judy Smucker at 71 Elmwood Place and Barry and Jean Thomas at 14 Charles Street.

The Chairperson asked whether there was anyone present who wished to speak in opposition of the case.

Jack Stauffer, 69 Elmwood Place, Athens, OH – Expressed displeasure with this type of use in an R-1 zone. Mentioned widespread disapproval among residents of the area. Expressed concern about Code Office's ability to respond to violations.

Loraine McCosker, 59 Elmwood Place, Athens, OH – Mentioned that rentals are becoming more pervasive in the city. Enjoys the fact that most homes in the area are owner-occupied. Stated that the property in question borders 59 Elmwood. Joe Krause asked whether there have been any issues with noise at 271 East State Street. Loraine McCosker replied that there have not been. Questioned city's response to rentals. Expressed concern over effects on the city.

Christine Hughes, 461 Seigle Lane, Athens, OH – Owner of Village Bakery at 268 East State Street. Stated primary concern was shortage of affordable housing. Expressed desire for conversations to be held regarding influx of visitors during university events.

The Chairperson called the appellant back to the stand.

Appellant stated that there was no desire to turn this property into a party house. Expressed wishes not to disrupt the community. Opined that Airbnb renters take better care of properties than long term renters. Stated a goal to prioritize renting to appellant's friends and family.

The Chairperson closed discussion from the floor.

Ben Lachman asked for clarification regarding the Board's next steps.

Mr. Riggs explained that the six findings normally included in a variance hearing were not required for a conditional use hearing. Stated that the opinions of the Board regarding the desirability of the proposed use in regards to adjoining premises and the general intent of the zoning code were required.

The Chairperson mentioned that the zoning code essentially requires owner-occupation for this type of rental. Stated that approval in this case could amount to the Board writing code. Expressed discomfort with this idea.

Kelly Sauber expressed discomfort with making decision in place of City Council.

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Aaron Thomas mentioned the Airbnb next door and expressed a feeling that City Council should address this.

The Chairperson elaborated on the Airbnb next door (BZA22-000006).

Robert Delach asked Mr. Riggs whether the similarities between the two cases were relevant. Mr. Riggs explained that it was a different situation.

Discussion over relevance.

Ben Lachman clarified that the conditional use ran indefinitely with the property. Mr. Riggs added that it would only be lost if use was halted for over a year, and mentioned that appellant would need to seek a rental permit after approval of the conditional use.

Discussion regarding previous cases and Airbnbs.

Robert Delach asked whether the short term rental could be turned into a long-term rental. Mr. Riggs explained that non-owner-occupied long term rentals are permitted in this zone. Robert Delach pointed out that appellant could apply for a long term rental permit without needing to come before the Board.

Aaron Thomas asked how many short term rentals have been applied for in the State Street area. Mr. Riggs explained that throughout the whole city, there have only been about 16 such applications.

Loraine McCosker returned to the stand and expressed concern over the share of real estate dedicated to rentals.

Appellant then returned to the stand and stated that a long term rental would not be consistent with appellant's wishes for the property. Joe Krause mentioned that a long term rental would not be profitable.

**On a motion by Kay Tousley, seconded by Robert Delach, the Board moved to grant a conditional use permit pursuant to ACC 23.04.01(C)(3) to allow a non-owner-occupied Short Term Rental in a R-1 zone.**

The Chairperson called for a vote: 0 votes for - 5 votes against (Sauber, Carson, Tousley, Krause, Delach). Motion denied.

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**OTHER BUSINESS:**

Approval of minutes from:

**December 13<sup>th</sup>, 2022:** Approved by Lisa Carson, Kay Tousley, Kelly Sauber, Aaron Thomas, Ben Lachman.

Annual Organizational Meeting:

**Robert Delach, seconded by Ben Lachman, moved to re-elect Lisa Carson as Chairperson of the Board. 6 votes for (Delach, Sauber, Tousley, Krause, Thomas, Lachman) – 0 votes against. Motion approved.**

**Chairperson Carson adjourned the meeting at 8:25 pm.**

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Lisa Carson, Chairperson

Date

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David Riggs, Zoning Administrator

Date