

**Office of Code Enforcement and  
Community Development**

28 Curran Drive  
Athens, OH 45701  
(740)592-3306  
(740)594-6304 Fax  
<http://www.ci.athens.oh.us>



**City of  
Athens**  
ATHENS, OHIO

**Board of Zoning Appeals  
Minutes  
June 14, 2022**

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

City Officials present: David Riggs (Zoning Administrator).

The meeting was called to order on June 14, 2022 at 7:00 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.

**Hearing(s):**

- 1.) Case #22-07V 13 Grand Park Boulevard Zone R1 Aaron Burk /  
appellant**

**Appellant is requesting a variance from ACC 23.03.11 (A)(1) to allow a two foot and five inch (2'5") side setback for an accessory structure where 5 feet is required.**

The Chairperson called on the Zoning Administrator to testify.

Mr. Riggs explained that the property in question is located in an R-1 zone and part of the Townsend annexation. Noted that the lots in this area are smaller than modern lots. Mr. Riggs affirmed that the zoning application was refused because of the setback.

Aaron Burk, 47 Charles Street – Appellant explained that the lot currently has a ten foot wide driveway that aligns with the curb cut and that it is desirable for the proposed accessory structure to align with the driveway and curb cut. Noted that most homes in the neighborhood have a garage aligned with the driveway and curb cut, and that neighbors to the rear of the property have garages that are two and a half feet to thirty-six inches away from the property line. Mentioned support from neighbors for the proposed garage. Appellant also expressed desire to improve the property while remaining consistent with the aesthetics of the neighborhood.

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The Chairperson asked whether the Board had any questions. Robert Delach asked about the property in question, as the appellant lives in a different house nearby, and inquired as to whether the Appellant would be occupying it or renting it out. Appellant clarified that it was occupied by the Appellant's parents.

Kelly Sauber mentioned the small size of the garage. Appellant explained that the garage was only needed for a small car and some other tools. Kelly Sauber asked if appellant was attaching the garage to the primary structure. The Appellant said that was not the case, and added that the fact that the two structures were not attached was part of the reason for needing to be closer to the property line. Aaron Thomas mentioned that he resided in the same neighborhood as the property in question, and that this size of garage was typical for the area. Also noted the small lot sizes of the neighborhood.

The Chairperson read a letter of support from Mr. Gao, the Torres family, and Lloyd Richard - neighbors of the property.

The Chairperson asked for anyone with a general comment, or opposition to the variance to speak.

No one came forward.

There were no further questions.

Chairperson Carson – closed testimony and called for a motion.

**On a motion by Kay Tousley, seconded by Robert Delach, the Board moved to grant a variance on 13 Grand Park Boulevard to allow a two foot and five inch (2'5") side setback for an accessory structure where 5 feet is required.**

**FINDINGS:**

- 1.) EXCEPTIONAL CIRCUMSTANCES: This is a wide house on a narrow lot. Aligning with driveway is important.**
- 2.) HARDSHIP AND DIFFICULTY: This is a wide house on a narrow lot. Aligning with driveway is important.**
- 3.) PRESERVATION OF EQUAL PROPERTY RIGHTS: Other people have similar garages.**
- 4.) MINIMUM VARIANCE: Yes.**
- 5.) ABSENCE OF DETRIMENT: Yes. Neighbors are in favor.**
- 6.) NOT OF A GENERAL NATURE: Not of a general nature.**

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

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**2.) Case #22-08V 4 West Stimson Avenue Zone B3 David Kostival / appellant**

**Appellant is requesting a variance from ACC 23.04.07 (A)(3) to allow an eating and drinking establishment 25 feet from an R-1 zone where a distance of 200 feet from an R-1 zone is required.**

The Chairperson called on the Zoning Administrator to testify.

Mr. Riggs explained that this variance is for a proposed butcher shop and restaurant. Noted that this type of establishment needs to be 200 feet away from any residential zone.

Kay Tousley asked whether the business qualified as an eating and drinking establishment. Mr. Riggs explained that if the Appellant was simply a butcher, they would not need a variance, but due to the Appellant's wishes to also have a bistro, it is considered an eating and drinking establishment.

Kay Tousley also questioned the wording of the variance request and mentioned that the Appellant is saying that the establishment is 50 feet from the R-1 zone. Mr. Riggs explained that this distance is measured from the building in question to the nearest residential zone. Aaron Thomas asked whether the house next door was zoned B-3. Mr. Riggs confirmed this. Kelly Sauber mentioned that the nearest property is 69 Morris Avenue. Mr. Riggs added that the 25 foot measurement comes from the Athens County Auditor's website. The Chairperson inquired as to what Stimson Avenue looked like when the Athens City Code was written. The Chairperson then called upon the Appellant to testify.

David Kostival, 7755 Williams Road – Appellant explained that there has been a three year search for a property to house the business. Expressed that the property in question is a good fit for the business. Appellant took a moment to thank Mr. Riggs and the Office of Code Enforcement for their help. Appellant then explained the objective of the business to aggregate local producers. Noted that it would have been easier for the establishment to simply be retail, but the Appellant wished to produce food for consumption both on and off site. Appellant mentioned that the only information found about a case similar to this was Devil's Kettle Brewing. Explained some of the process for acquiring meats for the store.

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The Chairperson asked whether the Appellant eventually wishes to have a sit-down restaurant. Appellant explained that the property will have tables, and expressed a desire to allow customers to try cuts of meat that they may not have tried before.

Aaron Thomas asked whether there would be outdoor seating. The Appellant said that outdoor seating is something that would be considered in the future, and noted that the property had space for it.

Kelly Sauber asked whether the Appellant would be acquiring a liquor license. The Appellant said that they hoped to. Mentioned a desire to sell local beverages, and that the business would be open until 9:00 pm at the latest.

Kelly Sauber also asked whether the Appellant would be using all of the parking spots that the previous business at that location used. Appellant explained that they would be using those and potentially leasing parking spots across the street if necessary. Joe Krause asked how many parking spots were on the property.

Peter Kotses, 1 Bryan Road – Current owner of the property in question. Explained that there were six parking spaces for the business, and the other spaces in the lot were required for the bedrooms of the home nearby. Mr. Riggs added that the Code has changed for parking, which could result in the Appellant having more parking than what is required under City Code.

The Appellant returned to the stand and mentioned that they spoke to neighbors of the property and many of them were excited about the business.

The Chairperson read a document expressing support for the variance signed by neighbors: Jenny Klein, 71 Morris Avenue; Patricia Stokes, 67 Morris Avenue; Jeff Marks, 63 Morris Avenue; Robert Stewart, 66 Morris Avenue; John Lowse, 9 Meadow Lane; Bryan Myers, 80 Morris Avenue; Mark Burhans, 95 Morris Avenue.

Mr. Kotses returned to the stand to express support for the variance. Questioned whether the ordinance restricting use near residential zones was good for the community or business, and mentioned that it should be looked at. Mr. Kotses asked when the ordinance was passed. Mr. Riggs explained that research was done for a previous project, and that he believes it was passed in the 1980s. Also mentioned that there is a need to review the Code. Mr. Kotses mentioned that there are few spots in B zones where businesses could be located without going through the Board. Mr. Riggs agreed.

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The Chairperson asked whether anyone had a general comment on the variance.

Paul Gerig, 8 Strouds Run Road – Mr. Gerig said that his wife was present and owned the property across the street from the proposed business. Stated that they were not approached regarding use of their parking and that the proposed business would not be permitted to use it. Mr. Gerig mentioned that the City has removed parking along Stimson Avenue, and expressed doubts over a restaurant having adequate parking. Reiterated that the Appellant would not be permitted to use the parking across the street, and expressed that they do not wish to maintain their lot for the Appellant's customers.

Robert Delach asked Mr. Gerig what type of business they operate across the street. Mr. Gerig explained that half of the building was used as a law office and the other half was used by two masseuses.

The Chairperson asked whether anyone else had a general comment, or if anyone wished to speak against the variance.

No one came forward.

The Appellant returned to the stand and explained that the Good lot could be a consideration for parking. Stated that the nature of the business will mainly be in and out, with the primary focus being a retail butchery.

Kelly Sauber asked whether the Appellant would be serving wines. The Appellant explained that there was a desire to serve local beer and wine, but that acquiring a liquor license was not a primary concern at the moment. Kelly Sauber asked how many seats the business would have upon opening. The Appellant stated that the upper level of the building was about 300 square feet, and that this area would be used for the bistro section. The lower area would be used primarily for retail and butchery. Kelly Sauber asked whether there would be seating in the main area. The Appellant stated that initially, the street level would have no customer seating and reiterated the primary concern being the butchery.

Brief discussion over a previous case before the Board regarding Dr. May. Robert Delach asked for clarification on the decision made in that case. Aaron Thomas mentioned that there was no seating. Mr. Riggs agreed.

There were no further questions.

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Chairperson Carson – closed testimony and called for a motion.

**On a motion by Joe Krause, seconded by Kelly Sauber, the Board moved to grant a variance on 4 West Stimson Avenue to allow an eating and drinking establishment 25 feet from an R-1 zone where a distance of 200 feet from an R-1 zone is required.**

**FINDINGS:**

**1.) EXCEPTIONAL CIRCUMSTANCES: Kelly Sauber asked about the distance of KFC from the R-1 zone. Robert Delach mentioned that it is either 50 or 60 feet, and that Sonic is 80 feet from the residential zone.**

**2.) HARDSHIP AND DIFFICULTY: B-3 zone. Hard to have a business because of distance requirements and shapes of lots. Stimson Avenue is intended to be a new entrance into the City.**

**3.) PRESERVATION OF EQUAL PROPERTY RIGHTS: Other nearby restaurants are within 200 feet of the residential zone.**

Mr. Riggs speculated that the Code may have been changed due to opposition to the nearby KFC being established.

**4.) ABSENCE OF DETRIMENT: Yes.**

**5.) NOT OF A GENERAL NATURE: Not of a general nature.**

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

**OTHER BUSINESS:**

Approval of minutes from:

**May 10<sup>th</sup>, 2022:** Approved by Lisa Carson, Kelly Sauber, Kay Tousley, Joe Krause, & Aaron Thomas

Chairperson Carson adjourned the meeting at 7:45pm

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Lisa Carson, Chairperson

Date

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David Riggs, Zoning Administrator

Date