

**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  
July 12, 2022**

Members present: Lisa Carson (Chairperson), Kay Tousley, Robert Delach, Ben Lachman (alternate).

City Officials present: David Riggs (Zoning Administrator).

The meeting was called to order on July 12, 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 #22-09V            2 Dalton Avenue            Zone R-1            Amanda Calvert / appellant**

**Appellant is requesting a variance from ACC 23.04.01 (A)(2) to allow a private nursery/daycare with a twenty-one and a half foot (21 1/2') setback where a forty foot (40') setback is required and only academic schools and colleges are permitted. A private nursery/daycare is not considered an academic school or college.**

The Chairperson called on the Zoning Administrator to testify.

Mr. Riggs explained that the property in question was submitted for a use permit on June 1, permit request was reviewed and found there were some setback and use restrictions due to property being located in an R1 zone. Permit was refused. Appellant asked for a variance. After variance was requested, additional information was discovered that implies the information provided in the packets is inaccurate. Appellant was asked to provide additional information.

Attorney David Mott of Mollica Gall Sloan & Sillery, Representative of Appellant-Appellant's representative explains that this is not a typical variance request as there are a number of nuances involved. Appellant's representative states they have not had time to review the information and advise the appellant, and requests the case be tabled until next month.

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The Chairperson asked Mr. Riggs whether a vote is needed to postpone the case. Mr. Riggs stated the board can discuss and decide whether to table the case or to continue it, but that no vote is needed.

Keith Chapman, 40 Euclid Dr-Keith would like to know if there will be another mailing, another packet if there is any substantial additional information or changes provided. Keith also wonders if that is appropriate to do on a case that has already been docketed or should it have to stay with the information submitted and be voted on based on that.

The Chairperson states that appellant has found representation, and that changes the situation and their representation will be involved in evaluating materials submitted and perhaps making significant changes

Keith asks if that's not considered a new application for a variance in the Chairperson's opinion?

The Chairperson calls on Mr. Riggs to answer this question. Mr. Riggs states that additional information/revised information should be submitted under the current case. This will be reviewed and it will be decided whether the additional information changes the decision that has been made for the BZA to review.

Richard Zielinski, 24 Avon Place-Richard asks if neighboring property owners will be able to read additional information submitted. The Chairperson answers yes.

Lori McKnight, 37 Euclid- Lori asks what the limitations for notifications are. Lori states her property is not adjoining, but is within 200 feet of 2 Dalton.

The Chairperson calls on Mr. Riggs to answer this question. Mr. Riggs states that it is codified that adjacent property owners get notified.

Lori asks if this is written somewhere. Mr. Riggs states yes, this is in the Codified Ordinances.

Robert Delach states they need to make a decision on whether or not they are tabling the case. Ben Lachman states he is in favor of tabling, as does Kay Tousley. Chairperson states as all are in agreement, case will be tabled.

**OTHER BUSINESS:**

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The Chairperson called on Director Riggs to speak about a recent court decision regarding a previous BZA case.

Director Riggs states on June 1, Judge McCarthy ruled on 750 E State St (BZA Case #21-021) that the BZA decision was inaccurate, and that a drive thru is permitted as this is not a food and drink establishment. Code enforcement does not have any reason to oppose this decision, and if citizens would like to appeal this case there is still time to do so. This business has requested a Use Permit again and this will be approved.

Chairperson asks what recourse citizens have if they do not agree with this judgement. Mr. Riggs states the case was filed June 24, opposition would need to appeal prior to July 23.

Ben Lachman wonders if the establishment is not selling food and drinks, what is being sold? Mr. Riggs states the establishment was previously selling snacks and drinks and believes they have stopped doing that. The judge defined an eating and drinking establishment as one that prepares food and drink for immediate consumption. ACC 23.04 7A does not regulate drive throughs, it regulates eating and drinking establishments. Judge McCarthy determined this does not qualify.

Keith Chapman asks if the city is legally obligated to not appeal. Mr. Riggs replies that they could, but a reason would be needed to do this. The only reason the Code Office would have to appeal would be based on the zoning code, and at this point this is not an option.

Linda Milligan, 23 Graham-Linda expresses appreciation for the BZA members, but feels comments made by the Chairperson were inappropriate.

Chairperson assures that the remark was made very much in persona of themselves and not of the chair.

Richard Zielinski, 24 Avon-Richard states Law Director Lisa Eliason emailed to let him know how the judge had decided on the case of 750 E State and that the city would likely appeal.

Chairperson asks Mr. Riggs if Lisa Eliason had any intention to appeal. Mr. Riggs states that per conversation with Lisa, it was asked if there were grounds to appeal due to zoning and Mr. Riggs replied there were not.

Jan Hodson, 45 Graham-Jan voices displeasure of the Chairperson's comments and behavior.

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Laura Chapman, 40 Euclid-Laura questions Chairperson why they are surprised at the intensity of the response to the case of 2 Dalton.

Chairperson states they have answered the question. They are surprised by the amount of emails they have received regarding this case. The Chairperson recommends and applauds commenters' participation.

Richard Zielinski, 24 Avon - Richard voices displeasure at the Chairperson's comments.

Heather Lockwood, 34 Eastwood-Heather states commenters are all upset over remarks and wonders if someone else can chair this case. Suggests an alternate take the Chairperson's place.

Unidentified background commenter suggests Chairperson recuse themselves.

Chairperson states they could do this if they wanted, but they are done discussing this at the moment. Suggests residents seek options from the Mayor's office.

**OTHER BUSINESS:**

Approval of minutes from:

**June 14, 2022:** Approved by Lisa Carson, Kay Tousley, Robert Delach.

Chairperson Carson adjourned the meeting at 7:30 pm

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Lisa Carson, Chairperson

Date

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David Riggs, Zoning Administrator

Date