

Board of Zoning Appeals

Minutes

December 9, 2014

Members present: John Golzy (Chairperson), Betty Hollow, Joan Kraynanski, Ed Baum (alternate), Ellen Soltow (alternate).

City officials present: John Paszke (Zoning Administrator), Paul Eschenbacher (secretary)

The meeting was called to order at 7:00pm in Council Chambers, third floor of City Hall. The Chairperson noted that, with the absence of one full-time member, Ms. Soltow will be a full member for this meeting. The Chairperson then 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 #14-16V 50 North Court Street Zone B-3 John Valentour, appellant

Appellant is requesting variances from ACC 23.10, Table A, Schedule of Bulk Controls, to the allow the construction of a mixed use commercial/multi-family structure with a side yard setback total of five feet (5') where fifteen feet (15') is the minimum requirement, and from ACC 23.10 Table B, Off-Street Parking Requirements, to allow fifty-nine (59) on-site parking spaces where eighty-six (86) on-site parking spaces are required, and from ACC 23.08.01(D) to allow fifty-three (53) off-site parking spaces four hundred sixty-five feet (465') away where two hundred fifty feet (250') is the maximum distance allowed.

The Chairperson called on the Zoning Administrator to testify.

The Zoning Administrator said that he wanted to clarify that the numbers presented in the wording of the variance are different from the plans presented. He said that, after looking at the new drawing, 35 commercial parking spaces are required for uses on the first floor. The Zoning Administrator also noted that the design for the second and third floors has been changed, but the total number of beds (46) is the same. He indicated that the total number of parking spaces needed was 86, but now is 81. The Zoning Administrator also stated that the building in the parking lot at Carpenter and Grosvenor Streets will have seven parking spaces assigned to it, thus making a total of 88 parking spaces needed, with ten spaces on-site. He added that this makes 78 parking spaces needed, with 53 spaces in the off-site parking lot.

The Zoning Administrator noted that in the new drawing, all setbacks are met, so no side setback variance is needed.

Ms. Kraynanski asked if this project should go to the City Shade Tree Commission. The Zoning Administrator said that the appellant would have to go. Mr. Baum asked about the number of beds in buildings at 4 ½ West Union and 32 South Court Street. The Zoning Administrator and secretary were not sure of the numbers.

The Chairperson called on the appellant to testify.

John Valentour said that the off-site parking lot would be for residential parking spaces. He said that he is asking for 25 commercial parking spaces to be waived. Mr. Valentour also stated that space is available at that lot for trees along the sidewalk and in open areas of the lot. He also said that the rear of the proposed building is to have delivery space for three to four businesses.

Ms. Kraynanski asked if the proposed building would have balconies. Mr. Valentour said that it would not. He added that the owners have met with the Historical Preservation Committee about the project, and presented the Board with the minutes from that meeting.

Mr. Valentour said that he was at that intersection at 1:00am on a Friday night and was amazed at the number of people congregating on that corner. He indicated that he wants to keep that corner open. He also said that most curb cuts to the lot will be gone, making the lot more pedestrian-oriented. Mr. Valentour reiterated that the proposed project meets density, height and setback requirements.

Mr. Valentour said that the old garage on the off-site parking lot will be demolished, and the other building there will be saved. He said the parking lot will be more organized than it currently is.

Mr. Valentour then read from his submitted letter to the Board about the six findings.

Mr. Baum asked about moving in and out of the apartments. Mr. Valentour said that it would have to be coordinated, perhaps with the commercial uses subsiding during those days. He said that there should be room with traffic control management.

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

Kristen Goldsberry (property owner) addressed the Board. Ms. Goldsberry noted that other area businesses have the luxury of not having parking. She said that the proposed building would complement the downtown area, as the gas station is not a conducive use for downtown. Ms. Goldsberry added that they agreed with the Historical Preservation Committee's suggestions for the project.

Kevin Goldsberry (property owner) addressed the Board. Mr. Goldsberry said that they could coordinate on-site employee parking to aid in moving days. He also noted that all residential parking spaces are rarely used, estimating 60% are filled.

Mr. Valentour said that there is commercial parking for the site one block away in the City Garage. He also said that fewer curb cuts would create more street parking spaces. Mr. Valentour reminded the Board that the type of business in the building may allow for less required parking.

Mr. Baum asked about the spaces rented out on the current site, and where those people would go. Mr. Valentour said that he did not know.

Ms. Hollow said that old buildings are as they are in the B2-D zone, and one cannot make changes to those, but that new buildings can meet requirements. She also said the proposed site is different and looks great.

Ms. Goldsberry added that they intend to keep the convenience store there, and that it has four employees typically, and some of them walk to work.

The Chairperson noted the five letters of support for the project presented to the Board.

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

Kenneth Ryan (16 West State Street) addressed the Board. Mr. Ryan said that he represents several business owners in the uptown area. He said that he is not in opposition to the project, and acknowledged that there is a parking issue in that area. Mr. Ryan said that the issue of parking distance is not unique. He also said that it is understandable if the variances were denied, and that approval makes common sense. Mr. Ryan asked that the Board articulate its findings conclusions as a help to others in a similar situation.

The Chairperson called on anyone wanting to speak against the variance request. No one came forward.

The Chairperson called on the appellant for rebuttal. Mr. Valentour said that this would be an exciting project that would impact the community.

The Chairperson closed the floor for discussion. Ms. Kraynanski said that the project could be revised to be smaller. Mr. Baum said that the result may be fewer apartments, but the commercial space will not lessen. Ms. Kraynanski responded that it would still be a smaller request overall.

On a motion by Ms. Hollow, seconded by Ms. Tousley, the Board considered to grant variances to the property at 50 North Court Street from ACC 23.10, Table B, Off-Street Parking Requirements to allow the construction of a mixed commercial/multi-family structure with ten (10) on-site parking spaces where eighty-one (81) on-site parking spaces are required, and from ACC 23.08.01(D) to allow forty-six (46) off-site parking spaces, deed-restricted, four hundred sixty-five feet (465') away where two hundred fifty feet (250') is the maximum distance allowed, and to allow a total of fifty-six (56) parking spaces where eighty-one (81) are required.

FINDINGS:

- 1.) **EXCEPTIONAL CIRCUMSTANCES:** Several other properties have complied. Parking is required but there is not space for all.
- 2.) **HARDSHIP AND DIFFICULTY:** Without the parking overflow this would be an easier decision. In some ways this would be a desirable change, but the City has a parking problem. It is not the only property contiguous to the B2-D zone.
- 3.) **PRESERVATION OF EQUAL PROPERTY RIGHTS:** In the vicinity, those in the B2-D zone are not required commercial parking.
- 4.) **MINIMUM VARIANCE:** No. There are other alternatives.
- 5.) **ABSENCE OF DETRIMENT:** More congested street parking in area.
- 6.) **NOT OF A GENERAL NATURE:** Yes, but the Board has suggested changes be made.

The Chairperson called for a vote: Yes—no one; No – Golzy, Hollow, Kraynanski, Soltow, Tousley. Motion denied 5-0; variances denied.

OTHER BUSINESS:

--*Disposition of minutes from November 12, 2014 meeting.* On a motion by Ms. Soltow, seconded by Ms. Tousley, the Board moved to accept the minutes as presented. Motion approved 5-0.

The meeting was adjourned at 8:26pm.

John Golzy, Chairperson

Paul Eschenbacher, secretary

