

Board of Zoning Appeals

Minutes

May 12, 2015

Members present: John Golzy (Chairperson), Lisa Carson, Betty Hollow, Joan Kraynanski, Kay Tousley, Edward Baum (alternate), Ellen Soltow (alternate).

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

The meeting was called to order at 7:01pm in Council Chambers, third floor of City Hall. The Chairperson 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.

The Zoning Administrator discussed the three projects to be presented to the Board. He showed on a drawing of the street front how the four remaining building fronts would be divided into three buildings. The Zoning Administrator noted that even though the cases are separate, they are all tied together. He said that the structure at 10 West Union Street would have to come down in order to provide access to the other lots for construction.

The Zoning Administrator asked the Board to recognize that the financial aspects of the cases need to be heard as extenuating circumstances.

The Chairperson asked, if there was no request for increased occupancy in these projects, would they have still had to seek variances. The Zoning Administrator said that they would.

**Case #15-07V 12 – 14 West Union Street Zone B-2D Carrie Larch Trust,
appellant**

Appellant is requesting a variance from ACC 23.10.01, Table B, Off-Street Parking Requirements, to allow construction of a commercial/residential use building with three (3) five (5)-bedroom apartments and one (1) one (1)-bedroom apartment with zero (0) parking spaces where seventeen (17) parking spaces are required.

The Chairperson called on the appellant to testify.

Garry Hunter (Trustee for Carrie Larch Trust) addressed the Board. Mr. Hunter presented a video on the history and current situation for 12 and 14 West Union Street. He said this is an unusual and unique situation, and that the three property owners are using their best efforts to restore this area. Mr. Hunter then presented an artist's rendition of the proposed project.

Mr. Hunter explained how the Trust works, and that it does not keep large sums of money as most money raised goes to funding. He also noted that the structure was renovated last year. Mr. Hunter said that the property was valued by the Athens County Auditor at \$300,000, while the proposed structure could cost \$2,200,000.

Mr. Hunter said these apartments would be for students to rent, and Ohio University

students would not need cars here as it is within walking distance to the campus. He also stated that uptown on-site parking requirements are not good planning.

Mr. Hunter said that he feels that 12 bedrooms in the project are grandfathered, from the previous building. He said that, in reference to an e-mail from Lisa Eliason (City Law Director) concerning Ohio Revised Code rules on reconstructing nonconforming structures, that her reference to challenges to Cleveland, Ohio zoning code is missing the fact that Cleveland is a charter city and not controlled by Ohio Revised Code, and Athens is not a charter city, and is controlled by Ohio Revised Code.

Mr. Hunter said the increase in number of bedrooms fits either a variance or a substitution. He stated that parking is a use under City Code, and that on-site parking is impossible on this site due to its size.

Mr. Hunter said that having uptown student rentals keeps the uptown area alive. He also stated that this section of West Union Street is a gateway to the City. Mr. Hunter also referenced that Athens is promoted as bicycle-friendly with public transportation. He noted that the uptown alleys are all privately owned, and therefore it would be difficult to provide parking off those alleys.

John Valentour (RVC Architects, 131 West State Street) addressed the Board. Mr. Valentour said that the main point of the new buildings' design is to keep it safe. He described improved fire walls and egress, and reiterated that parking on-site is virtually impossible.

Russ Norris (Mathews Insurance agent, 240 Columbus Road) addressed the Board. Mr. Norris said that he was the insurance agent for the appellant. He stated that the insurance coverage for the structure is \$930,000 and that there is a limit to the coverage. Mr. Norris said that insurance will not pay for the project additions. Ms. Carson asked if the appellant could have purchased more insurance for the site. Mr. Norris responded that the appellant could not have purchased more.

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

Guy Philips (PM Management, 8 North Court Street, Suite 101) addressed the Board. Mr. Philips said that he appreciates saving the buildings' façade. He said that he would not be able to go on with his own project without approval of Mr. Hunter's case request.

Steven Pierson (7520 Lemaster Road, The Plains, Ohio) addressed the Board. Mr. Pierson noted that he is former Zoning Administrator for the City of Athens, and is currently Athens Township Trustee. He said that he would advise the Board that the variance requests tonight are for parking only, and therefore there is a limited criteria to discuss about these cases.

The Chairperson referenced letters of support received from the Athens City Historical Preservation Commission and the Athens City Planning Commission for the variances in all three cases.

The Chairperson asked for anyone wanting to make general comment about, or speak against, the variance. Ms. Hollow referenced receiving an e-mail from John Wharton about the cases, but the Chairperson said that he did not receive any such e-mail.

Ms. Carson asked about the Trust's annual payments. Mr. Hunter said that it varies from year to year (\$10,000 to \$20,000) but there was no funding last year. Ms. Kraynanski asked about rent increases. Mr. Hunter said the rent would probably be higher, but there was no debt before. Ms. Kraynanski said that the apartments could be rented to students with greater cash flow and more likely to have cars. Mr. Hunter reiterated that no parking would be provided.

Ms. Carson asked if Mr. Hunter held the position that the number of bedrooms uptown could be increased indefinitely without any impact on the parking situation. Mr. Hunter said that any such plans are limited by City Code bulk controls and parking regulations. Ms. Carson asked if the Trust is to own the property forever. Mr. Hunter said that is correct.

The Chairperson closed the floor for discussion.

On a motion by Ms. Hollow, seconded by Ms. Carson, the Board considered to grant a variance to the property at 12 and 14 West Union Street from ACC 23.10.01, Table B, Off-Street Parking Requirements, to allow construction of a commercial/residential use building with three (3) five (5)-bedroom apartments and one (1) one (1)-bedroom apartment with zero (0) parking spaces where seventeen (17) parking spaces are required.

FINDINGS:

- 1.) **EXCEPTIONAL CIRCUMSTANCES:** The building burned down. Tiny lots, tiny egress, lots of exceptional circumstance.
- 2.) **HARDSHIP AND DIFFICULTY:** Without the variance, there is very little else that can be used for the property. Others cases that were turned down came back with decreased numbers in capacity and made it work.
- 3.) **PRESERVATION OF EQUAL PROPERTY RIGHTS:** Other area properties have grandfathered privileges for renting without parking. It is an uptown situation and the Code needs to be changed instead of the Board constantly granting variances. If the Board goes with the variance as presented, increasing the number of units in this building gives special privilege to this applicant. The four extra bedrooms may be a difference financially for the appellant, but every appellant requesting a parking variance downtown has had some financial incentive to do so. It would be a special privilege for an existing building.
- 4.) **MINIMUM VARIANCE:** It is minimal considering the extraordinary extra expenses. A minimal variance would be to replace what was there. The purpose of the Board is to look beyond the four-bedroom request to see if it will be a nice building or a parking lot.
- 5.) **ABSENCE OF DETRIMENT:** It is detrimental to City Code purposes to increase the occupancy.
- 6.) **NOT OF A GENERAL NATURE:** Yes.

The Chairperson called for a vote: Golzy, Carson, Tousley – yes; Hollow, Kraynanski – no. Motion approved 3-2; variance granted.

Appellant is requesting a variance from ACC 23.10.01, Table B, Off-Street Parking Requirements, to allow construction of a commercial/residential use building with four (4) four (4)-bedroom apartments with zero (0) parking spaces where sixteen (16) parking spaces are required.

The Chairperson called on the appellant to testify.

John Valentour (RVC Architects, 131 West State Street) addressed the Board. Mr. Valentour said that he hopes the buildings in this area will be developed together. He noted that 14 ½ and 16 West Union Street will be combined into one building, even though the building front walls will make it look like two buildings. Mr. Valentour presented a floorplan of the project to the Board. He then described various aspects of the project.

Guy Philips (PM Management) addressed the Board. Mr. Philips read aloud from his submitted letter to the Board. He noted that certain sections of the old building were undeveloped and had empty space. Mr. Philips said that he owns other rental buildings without parking, and that parking never comes up. He said that creating parking on this lot is not possible.

The Chairperson called on anyone wanting to speak in favor of, make general comment about, or speak against the variance. No one came forward. The Chairperson referenced letters of support received from the Athens City Historical Preservation Commission and the Athens City Planning Commission for the variances in all three cases.

The Chairperson closed the floor for discussion.

On a motion by Ms. Tousley, seconded by Ms. Carson, the Board considered to grant, in Case #15-08V, Zone B-2D, 14 ½ and 16 West Union Street, PM Management, appellant, a variance from ACC 23.10.01, Table B, Off-Street Parking Requirements, to allow construction of a commercial/residential use building with four (4) four (4)-bedroom apartments with zero (0) parking spaces where sixteen (16) parking spaces are required.

- 1.) **EXCEPTIONAL CIRCUMSTANCES:** The building burned down. Tiny lots, tiny egress, lots of exceptional circumstance.
- 2.) **HARDSHIP AND DIFFICULTY:** Without the variance, there is very little else that can be used for the property. Others cases that were turned down came back with decreased numbers in capacity and made it work.

- 3.) **PRESERVATION OF EQUAL PROPERTY RIGHTS:** Other area properties have grandfathered privileges for renting without parking. It is an uptown situation and the Code needs to be changed instead of the Board constantly granting variances. If the Board goes with the variance as presented, increasing the number of units in this building gives special privilege to this applicant. The extra bedrooms may be a difference financially for the appellant, but every appellant requesting a parking variance downtown has had some financial incentive to do so. It would be a special privilege for an existing building. The old building had undeveloped areas.
- 4.) **MINIMUM VARIANCE:** It is minimal considering the extraordinary extra expenses. A minimal variance would be to replace what was there. The purpose of the Board is to look beyond the added-bedroom request to see if it will be a nice building or a parking lot.
- 5.) **ABSENCE OF DETRIMENT:** It is detrimental to City Code purposes to increase the occupancy.
- 6.) **NOT OF A GENERAL NATURE:** Yes.

The Chairperson called for a vote: Golzy, Carson, Tousley – yes; Hollow, Kraynanski – no. Motion approved 3-2; variance granted.

Case #15-09V 10 West Union Street Zone B-2D Scott Nisley, appellant

Appellant is requesting a variance from ACC 23.10.01, Table B, Off-Street Parking Requirements, to allow construction of a commercial/residential use building with two (2) three (3)-bedroom apartments with zero (0) parking spaces where six (6) parking spaces are required.

The Chairperson called on the appellant to testify.

John Valentour (RVC Architects, 131 West State Street) addressed the Board. Mr. Valentour presented floorplans of the project to the Board. He said that it is unusual circumstances that the current structure would have to be torn down in order to facilitate construction on the other lots affected by the fire. Mr. Valentour then described plans for the proposed building. He said there would be no on-site parking due to the proximity to the intersection of North Court Street and Union Street, and said that he thought the City would not grant a curb cut there.

Scott Nisley was sworn in by the Chairperson, and addressed the Board. Mr. Nisley said that he represents a group of uptown building owners that own five buildings in the area, including behind 10 West Union Street. He said that it was their intent to develop this building but never got around to it. He described the improvements planned for the building. Ms. Carson asked if the current tenant will return to this building. Mr. Nisley said that the tenant has indicated that they want to do so.

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

Guy Philips (PM Management, 8 North Court Street, Suite 101) addressed the Board. Mr. Philips said that the three property owners have worked together on these projects, and hopes the Board will grant the variance.

The Chairperson closed the floor for discussion.

On a motion by Ms. Kraynanski, seconded by Ms. Tousley, the Board considered to grant, in Case #15-09V, for the property at 10 West Union Street, Scott Nisley, appellant, a variance from ACC 23.10.01, Table B, Off-Street Parking Requirements, to allow construction of a commercial/residential use building with two (2) three (3)-bedroom apartments with zero (0) parking spaces where six (6) parking spaces are required.

- 1.) **EXCEPTIONAL CIRCUMSTANCES:** The building burned down. Tiny lots, tiny egress, lots of exceptional circumstance.
- 2.) **HARDSHIP AND DIFFICULTY:** Without the variance, there is very little else that can be used for the property. Others cases that were turned down came back with decreased numbers in capacity and made it work.
- 3.) **PRESERVATION OF EQUAL PROPERTY RIGHTS:** Other area properties have grandfathered privileges for renting without parking. It is an uptown situation and the Code needs to be changed instead of the Board constantly granting variances. If the Board goes with the variance as presented, increasing the number of units in this building gives special privilege to this applicant. The extra bedrooms may be a difference financially for the appellant, but every appellant requesting a parking variance downtown has had some financial incentive to do so. It would be a special privilege for an existing building.
- 4.) **MINIMUM VARIANCE:** It is minimal considering the extraordinary extra expenses. A minimal variance would be to replace what was there. The purpose of the Board is to look beyond the extra-bedroom request to see if it will be a nice building or a parking lot.
- 5.) **ABSENCE OF DETRIMENT:** It is detrimental to City Code purposes to increase the occupancy.
- 6.) **NOT OF A GENERAL NATURE:** Yes.

The Chairperson called for a vote: Golzy, Carson, Tousley – yes; Hollow, Kraynanski – no. Motion approved 3-2; variance granted.

OTHER BUSINESS:

--*Disposition of minutes from April 14, 2015 meeting.* On a motion by Ms. Kraynanski, seconded by Ms. Carson, the Board approved the minutes as presented 6-0.

--*Zoning seminar.* The Board discussed attending, and attached expenses. The Zoning Administrator said that he found this seminar very helpful, and to send him an e-mail if any Board members want to attend.

The meeting was adjourned at 9:22pm.

John Golzy, Chairperson

Paul Eschenbacher, secretary