

Board of Zoning Appeals

Minutes

August 11, 2015

Members present: John Golzy (Chairperson), Lisa Carson, 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 noted that, with the absence of a full Board member, Ms. Soltow would be a full member of the Board for this meeting. 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.

Case #15-12V 165 Columbus Road Zone B-3 RVC Architects, appellant

Appellant is requesting a variance from ACC 23.10.01, Table A, Schedule of Bulk Controls, to allow alteration of a building with a rear setback of zero feet (0') where ten feet (10') is the required minimum.

The Chairperson called on the Zoning Administrator to testify.

The Zoning Administrator presented to the Board plans from 1999 (Permit #99-071) showing the expansion of the building in question. He said that, at that time, the applicant thought that the rear setback was 36 feet, but after being surveyed, it was found that the setback was zero feet. Ms. Soltow asked if the construction on the side of the building does not count. The Zoning Administrator said that was correct.

Ms. Kraynanski asked if the wall at the back was not on their property. The Zoning Administrator said that this is apparently not on the lot.

The Chairperson called on the appellant to testify. John Valentour (RVC Architects, 131 West State Street). Mr. Valentour presented plans and photographs of the property to the Board. Ms. Kraynanski commented that it would be helpful to have these plans before the meeting, when Board members would visit the site.

Mr. Valentour noted that the property immediately behind this lot is zoned OS, or Open Space. He also noted that the expansion of the building 16 years ago was not designed by his firm. Mr. Valentour said that it was his fault that no narrative statement was supplied to the Board. He said that the error in the rear setback measurement was found when constructing the building's porch. Mr. Valentour stated that a lot split of the property provided for an adequate side setback for the building. He also noted that the encroachment of the building in the back goes into wooded space. Mr. Valentour said that he feels that it is not detrimental to the public

interest.

The Zoning Administrator said that it is difficult to determine property lines along Columbus Road due to the uneven right-of-way of the street. Mr. Valentour said this variance request would help to rectify the rear setback situation.

The Chairperson asked if the OS-zoned property behind this lot is privately owned. The Zoning Administrator said that it is privately owned, and cannot be developed.

Tom Parfitt (business partner) was sworn in, and addressed the Board. Mr. Parfitt said that when the addition was constructed in 1996, they were not aware that they were in error on setbacks until this project.

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 closed the floor for discussion. Then the Chairperson encouraged an attendee to speak.

Khudr Shaar (2 Ball Drive) was sworn in, and addressed the Board. Mr. Shaar said that he owns the property to the north of this lot. He stated that he was not aware of the setback problem with this lot. He said that he is not opposing the variance, but that he wants to protect his property from any problems.

Ms. Kraynanski asked about equipment stored in the back being on others' property. Mr. Valentour said that they will check, now that they have a surveyor.

On a motion by Ms. Soltow, seconded by Ms. Kraynanski, the Board considered to grant, in Case #15-12V, 165 Columbus Road, a variance from ACC 23.10.01, Table A, Schedule of Bulk Controls, to allow alteration of a building with a rear setback of zero feet (0') where ten feet (10') is the required minimum.

- 1.) **EXCEPTIONAL CIRCUMSTANCES:** There are issues with defining property lines here. The history of the property.
- 2.) **HARDSHIP AND DIFFICULTY:** There are issues with defining property lines here. The history of the property.
- 3.) **PRESERVATION OF EQUAL PROPERTY RIGHTS:** There is not anything else like this on Columbus Road.
- 4.) **MINIMUM VARIANCE:** Yes.
- 5.) **ABSENCE OF DETRIMENT:** Yes.
- 6.) **NOT OF A GENERAL NATURE:** Yes.

The Chairperson called for a vote: Carson, Golzy, Kraynanski, Soltow, Tousley – yes. No one - no. Motion approved 5-0; variance granted.

Appellant is requesting a variance from ACC 23.10.01, Table A, Schedule of Bulk Controls, to allow construction of a deck to a house with a right side setback of two and one-half feet (2.5') where four feet (4') is the minimum requirement, and building lot coverage of fifty percent (50%) where thirty percent (30%) is the maximum allowed.

The Chairperson called on the Zoning Administrator to testify.

The Zoning Administrator said that the case was self-explanatory. He added that the house was over the maximum lot coverage allowed already.

The Chairperson called on the appellant to testify.

Dave Erwin (5 Pratt Street) addressed the Board. Mr. Erwin said that they originally had planned for the deck to be 12 feet by 16 feet, but that the current size is suitable. Ms. Kraynanski asked about the lot size. Mr. Erwin said that it was 22 feet by 100 feet. Ms. Soltow asked how much of the back yard would be covered by the deck. Mr. Erwin said that it would be about one-third of the yard.

The Chairperson asked if anyone wanted to speak in favor of, make general comments about, or speak against the variance. No one came forward. The Chairperson referenced two letters of support from neighbors.

The Chairperson closed the floor for discussion.

On a motion by Ms. Kraynanski, seconded by Ms. Tousley, the Board considered to grant, in Case #15-14V, 5 Pratt Street, a variance from ACC 23.10.01, Table A, Schedule of Bulk Controls, to allow construction of a deck to a house with a right side setback of two and one-half feet (2.5') where four feet (4') is the minimum requirement, and building lot coverage of fifty percent (50%) where thirty percent (30%) is the maximum allowed.

- 1.) **EXCEPTIONAL CIRCUMSTANCES:** The lot is small and strangely shaped. There is no back stairway.
- 2.) **HARDSHIP AND DIFFICULTY:** The lot is small and strangely shaped. There is no back stairway.
- 3.) **PRESERVATION OF EQUAL PROPERTY RIGHTS:** Some area properties have decks.
- 4.) **MINIMUM VARIANCE:** Yes. It already exceeds lot coverage maximum.
- 5.) **ABSENCE OF DETRIMENT:** Yes. Neighbors think it will enhance the property.
- 6.) **NOT OF A GENERAL NATURE:** Yes.

The Chairperson called for a vote: Carson, Golzy, Kraynanski, Soltow, Tousley – yes. No one – no. Motion approved 5-0; variance granted.

OTHER BUSINESS:

--*Disposition of minutes from July 14, 2015 meeting.* On a motion by Ms. Tousley, seconded by Ms. Soltow, the Board voted 4-0 to accept the minutes as presented.

The meeting was adjourned at 7:42pm.

John Golzy, Chairperson

Paul Eschenbacher, secretary