

Board of Zoning Appeals

Minutes

September 12, 2017

Members present: John Golzy (Chairperson), Edward Baum, Kay Tousley, John Gutekanst (alternate), Aaron Thomas (alternate).

City officials present: Rick Sirois (Zoning Administrator), Paul Eschenbacher (secretary).

Before the beginning of the meeting, Mayor Steve Patterson swore in John Gutekanst as a new member of the Board of Zoning Appeals. Mayor Patterson also informed Mr. Baum that he would now be a full member of the Board. The meeting was called to order at 7:03pm in City Council Chambers, third floor of City Hall. The Chairperson thanked former Board member Joan Kraynanski for her service. He 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 #17-19V 205, 209 East State Street Zone R-1 Alan & Kateri McMillan,
Appellants**

Appellant is requesting a variance from ACC 23.10.01, Table A, Schedule of Bulk Controls, to allow for 205 East State Street a left side setback of zero feet (0') where eight feet (8') is the minimum requirement, and to allow for 209 East State Street a right side setback of zero feet (0') where eight feet (8') is the minimum requirement, to have an enclosed walkway between the two (2) structures.

The Chairperson asked the Zoning Administrator if the walkway between the two houses now makes it one structure. The Zoning Administrator said that it would do so. Mr. Baum asked if the appellants could combine the two lots into one lot, thus not needing a variance. The Zoning Administrator said that it would be so.

The Chairperson called on the appellant to testify.

Alan McMillan addressed the Board. Mr. McMillan said that they do not intend to combine the two lots. He reminded the Board that he had the house at 205 East State Street moved. Mr. McMillan said the walkway was just an afterthought. He noted that the walkway does not touch the ground, and would be used by his family as renovations to 209 East State Street were in progress.

Mr. McMillan said that he views this as two separate houses and two separate properties. He added that this situation is unique, and it is not harming the neighbors. Mr. Baum asked what will happen to the property after they move. Mr. McMillan said the properties are to be maintained, and that he would like to keep it as a possible future place for community events. Mr. Baum asked him if he thought about combining the lots. Mr. McMillan said that he does not

want to do that.

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

John Rinaldi (14 Cook Drive) addressed the Board. Mr. Rinaldi said that he owns the neighboring property at 197 East State Street. Mr. Rinaldi stated that he supports the variance. He said the appellants have done a lot for these properties and for East State Street. Mr. Rinaldi added that the walkway is for the appellants' family.

The Chairperson called on anyone wanting to make general comment about, or speak against the variance.

The Zoning Administrator played a recording of a telephone message the Code Office received from a neighbor. Karen Petersohn Jung said that the variance should not be permitted, as the appellants have added more buildings and cement to their property, and that there should be less of that.

The Chairperson called on the appellant for rebuttal.

Mr. McMillan said this issue with the neighbor extends far beyond this case.

The Chairperson closed the floor for discussion.

On a motion by Mr. Baum, seconded by Ms. Tousley, the Board moved to grant a variance to the properties at 205 East State Street and 209 East State Street from ACC 23.10.01, Table A, Schedule of Bulk Controls, to allow for 205 East State Street a left side setback of zero feet (0') where eight feet (8') is the minimum requirement, and to allow for 209 East State Street a right side setback of zero feet (0') where eight feet (8') is the minimum requirement, to have an enclosed walkway between the two (2) structures.

FINDINGS:

- 1.) **EXCEPTIONAL CIRCUMSTANCES:** The two structures are owned by the same owner. It is unique.
- 2.) **HARDSHIP AND DIFFICULTY:** Not being able to go between is a hardship.
- 3.) **PRESERVATION OF EQUAL PROPERTY RIGHTS:** No comparable properties there.
- 4.) **MINIMUM VARIANCE:** Yes.
- 5.) **ABSENCE OF DETRIMENT:** Yes.
- 6.) **NOT OF A GENERAL NATURE:** Yes.

The Chairperson called for a vote: Baum, Golzy, Gutekanst, Thomas, 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 renovation of a building with a front setback of ten feet (10'), where twenty-five feet (25') is the minimum requirement.

The Chairperson called on the appellant to testify.

Ric Wasserman addressed the Board. Mr. Wasserman said that he was renting the property, and intends to put in a full restaurant. He noted that this building housed restaurants in the past. Mr. Wasserman also noted that there are a number of nice restaurants and bars in this area. He added that, if this building was built today, it would not meet current bulk controls.

Mr. Wasserman said that there is a 28-foot width of sidewalk in front of this building, and that the proposed canopy would extend 12 feet from the building. He said the canopy was needed because of the southern exposure and winds on that side. Mr. Wasserman said that he hopes people will like the ambiance there, and indicated that the front area would be cordoned off with fencing and planters. He also noted that this building sits back further from the street than the buildings on either side.

Mr. Baum asked if the posts of the canopy will be in the City right-of-way. Mr. Wasserman said that it may take permission of City Council to have the posts there, but that the canopy could be redesigned. Mr. Thomas asked about the location of the patio, and the distance from patio to curb. Mr. Wasserman said the patio will go to the edge of the canopy, and that the patio will be 18 feet from the curb. Mr. Wasserman noted that there are other businesses in the City with outdoor tables and service.

The Chairperson called on anyone wanting to speak in favor of the variance. The secretary read aloud four letters submitted to the Code Office, each supporting the variance.

The Chairperson called on anyone wanting to make general comment about, or speak against, the variance. No one came forward.

The Chairperson closed the floor for discussion.

On a motion by Ms. Tousley, seconded by Mr. Baum, the Board moved to grant a variance to the property at 120 West Union Street from ACC 23.10.01, Table A, Schedule of Bulk Controls, to allow renovation of a building with a front setback of ten feet (10'), where twenty-five feet (25') is the minimum requirement.

FINDINGS:

- 1.) **EXCEPTIONAL CIRCUMSTANCES:** Wide sidewalk area.
- 2.) **HARDSHIP AND DIFFICULTY:** It is an empty space now. The appellant would not be able to use the wide space.
- 3.) **PRESERVATION OF EQUAL PROPERTY RIGHTS:** Others have had it.
- 4.) **MINIMUM VARIANCE:** Yes.

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

6.) **NOT OF A GENERAL NATURE:** Yes.

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

Case #17-21V

9 Westfield Place

Zone R-3

Briju Thankachan,
Appellant

Appellant is requesting a variance from ACC 23.10.01, Table A, Schedule of Bulk Controls, to allow the addition of a deck to a structure with a left side setback of zero feet (0'), where eight feet (8') is the minimum requirement.

The Chairperson called on the appellant to testify. Mr. Thankachan said his home is a townhouse with a shared wall, and that there is no way to create an eight-foot setback. He stated that other properties in this development have decks. Mr. Thankachan indicated that his plan was approved by the Westfield neighborhood association.

Mr. Gutekanst asked about a telephone line marked in the back yard. Mr. Thankachan said the building of the deck will be no problem to the line location.

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

Betsy Briju (9 Westfield Place) addressed the Board. Ms. Briju said that they would like to enjoy the deck as a family, and said that other neighborhood townhouses had decks when they were built.

The Chairperson read aloud an e-mail message from the Westfield Place Home Owners Association indicating their approval of the deck.

The Chairperson called on anyone wanting to make general comment about, or speak against, the variance. No one came forward.

The Chairperson closed the floor for discussion.

On a motion by Mr. Thomas, seconded by Mr. Gutekanst, the Board moved to grant a variance to the property at 9 Westfield Place from ACC 23.10.01, Table A, Schedule of Bulk Controls, to allow the addition of a deck to a structure with a left side setback of zero feet (0'), where eight feet (8') is the minimum requirement.

FINDINGS:

1.) **EXCEPTIONAL CIRCUMSTANCES:** The units are connected.

2.) **HARDSHIP AND DIFFICULTY:** They are entitled to have deck.

3.) **PRESERVATION OF EQUAL PROPERTY RIGHTS:** Yes.

4.) **MINIMUM VARIANCE:** Yes.

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

6.) **NOT OF A GENERAL NATURE:** Yes.

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

Cased #17-22V

50 East State Street

Zone R-3

BDT Architects/Jim
Thomas, appellants

Appellant is requesting a variance from ACC 23.10.01, Table A, Schedule of Bulk Controls, to allow the remodeling of a structure with a front setback of seven feet (7') where twenty-five feet (25') is the minimum requirement, a right side setback of zero feet (0') where eight feet (8') is the minimum requirement, both side setbacks together add up to nine feet (9') where twenty feet (20') together is the minimum requirement, and from ACC 23.10.01, Table B, Off-Street Parking Requirements to have five (5) accessible parking spaces where 22 accessible parking spaces are the minimum requirement.

The Chairperson called on the secretary to testify. The secretary said that he was the one who refused the appellants' permit application due to the size of the renovation project, and the cost being more than the listed value of the house itself. He said that, under the City Administrative interpretation of ACC 23.05.02, this house, and its parking, must comply with current City Code regulations. He also indicated that as for the parking area, the Code Office can only count those spaces that are accessible, as per R-3 zone parking requirements, but other cars will not be forbidden from parking there. The secretary noted that the house will have the same footprint, and the parking area will be the same. The Chairperson noted that the appellants are claiming to reduce the occupancy of the house from 22 to 17, so 17 parking spaces are required instead of 22 spaces.

The Chairperson called on the appellants to testify.

Jim Thomas addressed the Board. Mr. Thomas said that there is to be extensive restoration to the building, and that they would be adding fire safety systems. He said that the top two floors will be remodeled to have fewer bedrooms and more communal space.

The Chairperson asked if any more parking could be created. Mr. Thomas said that because of the elevation changes on the lot that it would be difficult. The secretary noted that the appellants may have problems with total lot coverage limits if more of the lot was paved.

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

Chris Pettit (President of Phi Kappa Tau House Company, 66 Wall Creek Drive West, Gahanna, Ohio 43230) was sworn in, and addressed the Board. Mr. Pettit gave a brief history of the house, noting it was built in the 19th century. The Chairperson asked to confirm that the occupancy of the house will be 17. Mr. Pettit agreed.

The Chairperson called on anyone wanting to make general comment about, or speak against, the variance. No one came forward.

The Chairperson closed the floor for discussion.

On a motion by Mr. Gutekanst, seconded by Mr. Baum , the Board moved to grant a variance to the property at 50 East State Street from ACC 23.10.01, Table A, Schedule of Bulk Controls, to allow the remodeling of a structure with a front setback of seven feet (7') where twenty-five feet (25') is the minimum requirement, a right side setback of zero feet (0') where eight feet (8') is the minimum requirement, both side setbacks together add up to nine feet (9') where twenty feet (20') together is the minimum requirement, and from ACC 23.10.01, Table B, Off-Street Parking Requirements to have five (5) accessible parking spaces where 17 accessible parking spaces are the minimum requirement.

FINDINGS:

- 1.) **EXCEPTIONAL CIRCUMSTANCES:** There is no change in footprint. It is an historical building. The idea of coming into conformity is to aid the commonality of the area, but since this is a unique historical structure, there is no commonality.
- 2.) **HARDSHIP AND DIFFICULTY:** If they stick to Code they cannot use the property.
- 3.) **PRESERVATION OF EQUAL PROPERTY RIGHTS:** It is its own property rights as it is unique.
- 4.) **MINIMUM VARIANCE:** Yes.
- 5.) **ABSENCE OF DETRIMENT:** Yes.
- 6.) **NOT OF A GENERAL NATURE:** Yes.

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

OTHER BUSINESS:

--Disposition of minutes from June 13, 2017 meeting. On a motion by Mr. Thomas, the Board moved to accept the minutes as presented. Motion approved 3-0.

--Disposition of minutes from July 11, 2017 meeting. On a motion by Mr. Baum, the Board moved to accept the minutes as presented. Motion approved 3-0.

The meeting was adjourned at 8:24pm.

John Golzy, Chairperson

Paul Eschenbacher, secretary