

Board of Zoning Appeals

Minutes

December 11, 2018

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

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

The meeting was called to order at 7:00pm in City Council Chambers, third floor of City Hall. The Chairperson introduced a video about the policies and procedures of the Board. The Chairperson then swore in, under oath, those intending to give testimony.

Case #18-25V	17 ½ South Lancaster Street	Zone R-2	University Rentals, appellant
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Appellant is requesting a variance from ACC 23.10, Table A, Schedule Of Bulk Controls, to allow construction of a duplex with lot size of four thousand eight hundred fifty (4850) square feet where seven thousand (7000) square feet is the minimum requirement.

The Chairperson asked, if the appellant was proposing a single unit instead of a duplex, would the appellant need a variance. The secretary said that he would not. The Chairperson asked if there are any other duplexes in the area. The secretary listed several properties that are duplexes.

The Chairperson called on the appellant to testify.

Dan DeLuca (University Rentals owner) addressed the Board. Mr. DeLuca reminded the Board that he had been before them one year ago with a similar request for a duplex on this lot (Case #16-12V). He noted that this current variance request is for four tenants, whereas the previous request was for six tenants. Mr. DeLuca said that proposed building could be a single unit and be bigger than the duplex. He added that the proposed building would meet all setbacks, and only needs a variance for lot size.

The Chairperson asked why the appellant wanted a duplex. Mr. DeLuca said that he would like to maximize the use of the lot.

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

Allen Ervin (representative for Judith Jones, owner of 79 West State Street) addressed the Board. Mr. Ervin said that he and Ms. Jones do not oppose the variance but that they are concerned with the number of stacked parking spaces, causing tenants to have to shuffle cars. He added that parking that is not practical will cause tenants to park on the street, where there is difficulty finding spaces.

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.

Mr. Baum noted that the City has many lots that are less than 7000 square feet and consideration should be made for this. The Chairperson said that this property can have a single unit.

On a motion by Ms. Tousley, seconded by Mr. Gutekanst, the Board moved to grant a variance to the property at 17 ½ South Lancaster Street from ACC 23.10, Table A, Schedule Of Bulk Controls, to allow construction of a duplex with lot size of four thousand eight hundred fifty (4850) square feet where seven thousand (7000) square feet is the minimum requirement.

FINDINGS:

- 1.) **EXCEPTIONAL CIRCUMSTANCES:** It is not that there is no alternative; it could be a single unit.
- 2.) **HARDSHIP AND DIFFICULTY:** No practical difficulty.
- 3.) **PRESERVATION OF EQUAL PROPERTY RIGHTS:** There are other duplexes in the neighborhood.
- 4.) **MINIMUM VARIANCE:** No.
- 5.) **ABSENCE OF DETRIMENT:** There is a possibility of more vehicles on the property.
- 6.) **NOT OF A GENERAL NATURE:** Yes.

The Chairperson called for a vote: Yes – no one. No – Baum, Carson, Golzy, Gutekanst, Tousley. Motion denied; variance denied.

Case #18-27V	7 North Congress Street/ 34 West Washington Street	Zone R-3	Athens Mental Health Inc./ The Gathering Place, appellants
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Appellant is requesting a variance from ACC 23.10.01, Table A, Schedule of Bulk Controls for 7 North Congress Street to allow a building addition with a left side setback of zero feet (0') where eight feet (8') is the minimum requirement, and variances from ACC 23.10.01, Table A, Schedule of Bulk Controls for 34 West Washington Street to allow a building addition with a rear setback of zero feet (0') where thirty feet (30') is the minimum requirement, structure lot coverage of fifty-seven percent (57%) where thirty percent (30%) is the maximum allowance, and total lot coverage of sixty-one percent (61%) where sixty percent (60%) is the maximum allowance.

The Chairperson called on the Zoning Administrator to testify.

The Zoning Administrator noted that the appellants had previously been before the Board to ask to expand the kitchen at 7 North Congress Street (Case #18-19V). He said the appellants decided to connect the buildings at North Congress and 34 West Washington Street with a walkway, and did not realize that they needed a permit to do so. Ms. Tousley asked if the variances are just for the walkway. The Zoning Administrator said that is what the variance is for.

The Chairperson called on the appellant to testify.

Ginger Schmalenberg (Residence and Development Director, The Gathering Place) addressed the Board. Ms. Schmalenberg apologized for building the walkway without a permit. She said 34 West Washington Street is now a recovery house, and it made sense to connect the two buildings. Ms. Schmalenberg stated that the walkway is not impeding on other properties, and is just in the two back yards. The Chairperson asked if the walkway was already finished. Ms. Schmalenberg said that it was finished. Ms. Tousley asked if the walkway was American Disabilities Act (ADA)-accessible. Ms. Schmalenberg said that only part of the walkway was ADA-accessible.

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. The Chairperson asked the appellant if she understood the addendum to the variance. Ms. Schmalenberg said that she understood.

On a motion by Mr. Baum, seconded by Ms. Tousley, the Board moved to grant a variance from ACC 23.10.01, Table A, Schedule of Bulk Controls for 7 North Congress Street to allow a building addition with a left side setback of zero feet (0') where eight feet (8') is the minimum requirement, and variances from ACC 23.10.01, Table A, Schedule of Bulk Controls for 34 West Washington Street to allow a building addition with a rear setback of zero feet (0') where thirty feet (30') is the minimum requirement, structure lot coverage of fifty-seven percent (57%) where thirty percent (30%) is the maximum allowance, and total lot coverage of sixty-one percent (61%) where sixty percent (60%) is the maximum allowance provided that these variances be revoked if the properties ceased to be used for mental health purposes.

The Chairperson suggested that the Board waive the findings and proceed to the vote.

There were no objections.

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

OTHER BUSINESS:

--*Disposition of minutes from November 13, 2018 meeting.* On a motion by Ms. Carson, seconded by Mr. Baum, the Board voted to approve the minutes as presented 6-0,

The meeting was adjourned at 7:33pm.

John Golzy, Chairperson

Paul Eschenbacher, secretary