

Board of Zoning Appeals

Minutes

August 11, 2020

Members present: John Golzy (Chairperson), Lisa Carson, John Gutekanst, Joe Krause, Aaron Thomas (alternate).

City officials present: David Riggs (Zoning Administrator), Kerri Yake (Secretary)

The meeting was called to order at 7:01 online as an Internet Conference. The Chairperson noted with the absence of one Board Member, that Aaron Thomas would be a full voting member for this meeting. The Chairperson welcomed Mrs. Kerri Yake as new secretary to the Board. The Chairperson thanked Mr. Paul Eschenbacher for over twenty (20) years of service as the secretary to the Board. The Chairperson then read a statement about the policies and procedures of the Board. He then swore in, under oath, those intending to give testimony.

Case #20-09V 3 Sunnyside Drive Zone: R-1 Alan McMillan, appellant

Appellant is requesting a variance from ACC 23.03.10 to allow two (2) primary structures on one (1) lot, where one (1) primary structure per lot is allowed.

The Chairperson called on Zoning Administrator to testify.

The Zoning Administrator answered the Chairperson's question regarding once established or the variance provided with two primary structures on one (1) lot, would the variance pave the way for a rental situation. Zoning Administrator noted that this is a unique situation with two (2) housekeeping units on one (1) lot in a R1 Residential Zone and the Rental would not need to be discussed because it would be automatic.

The Chairperson asked if there were any questions from the Board Members for Mr. Riggs. No one came forward.

The Chairperson called on the appellant to testify.

Alan McMillan (appellant, 209 East State Street) addressed the board. Mr. McMillan presented a PowerPoint including pictures from Google Earth pointing out East State Street, Sunnyside Drive, Lloyd Street, and Maplewood border their property all the way around. Mr. McMillan pointed out all of the structures on the four (4) separate lots that he owns. Mr. McMillan pointed out the unique circumstances for 3 Sunnyside Drive. Mr. McMillan said that for thirteen (13) years, they have paid a separate Water, Sewer, & Trash fee, separate utilities, and USPS recognizes and delivers to #3 Sunnyside. Mr. McMillan mentioned that the property was an illegal rental when they purchased the property, but he has been using the unit as his office for the last thirteen (13) years. Mr. McMillan mentioned the unit had been historically

rented (until they moved there) for close to a hundred (100) years which predated the Code itself. Mr. McMillan said that the property is unique. Mr. McMillan mentioned that he spoke with seven (7) neighbors that could see the property and explained what the McMillan's wanted to do with the unit. PowerPoint indicated support (via emails in packet) from every neighbor to return to rental. Mr. McMillan pointed out that they have 2 off street parking spaces. Mr. McMillan asked that the Board respectively consider granting them a variance.

The Chairperson asked Mr. McMillan if the property was used as a rental since the McMillan's have lived there. Mr. McMillan replied that they allowed the graduate student to live there until their time was up.

Mr. Krause asked Mr. McMillan how big is the structure, how many bedrooms, how many occupants the unit would have. Mr. McMillan replied that it is a one (1) bedroom apartment with one (1) bathroom, kitchen, dining room, and living room. Chairperson asked Mr. McMillan if students or a small family would be renting. Mr. McMillan responded that he is not sure yet, but maybe a graduate student. Chairperson was wondering because the parking rule may change and they do not want Mr. McMillan to come back for a parking variance later on. Mr. Krause mentioned the 2 off street parking spaces that would cover Mr. McMillan's needs.

Chairperson asked if the Board had any questions for Mr. McMillan.

Mr. Gutekanst asked Mr. McMillan if he had any interest in short term rentals or if it would just be long term rentals. Mr. McMillan mentioned they had considered short term before COVID came along, but want long term rental.

Chairperson said if there were no more questions from the Board Members and asked if there was anyone that would like to speak in favor of this request. Chairperson mentioned that Mr. McMillan sent to the Board, emails from six (6) neighbors all in support of the variance. Chairperson read emails from John Rinaldi (203 East State Street), Mr. Jason Harmon (7 Sunnyside Drive), John McVicker (5 Sunnyside Drive), Mr. Peter Jung (6 Sunnyside Drive), Mr. Sam Crowl (4 Sunnyside Drive), and Hollis Korn (12 Maplewood Drive). They are all in support of the variance request. Parking was mentioned, but will not be an issue.

Chairperson asked if anyone would like to speak in general comment or in opposition. No one came forward. Chairperson asked Mr. McMillan if he had any last words. Mr. McMillan did not and wanted to mention that he appreciates the Boards time.

The Chairperson closed the floor for discussion.

On a motion by Mr. Gutekanst, seconded by Mr. Thomas, the Board moved to grant a variance to the property at 3 Sunnyside Avenue from ACC 23.03.10 to allow two (2) primary structures on one (1) lot, where one (1) primary structure per lot is allowed.

Findings:

- 1.) Exceptional Circumstances:** The property in question or to the intended use of the property that generally, does not apply to other properties, class, or uses in the same zone. Basically this is a block with three streets going around, lot is larger than usual. Takes up three lots or more. Two principal occupations would be reasonable. Ms. Lisa

Carson pointed out that both buildings were there when the McMillan's bought the property.

2.) **HARDSHIP AND DIFFICULTY:** No.

3.) **PRESERVATION OF EQUAL PROPERTY RIGHTS:** Unique situation and not giving any more privilege than other comparable properties which is not in the same vicinity or same zone.

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

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

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

The Chairperson called for a vote: Yes - Carson, Yes - Gutekanst, Yes – Thomas, Yes – Krause, Yes – Golzy. Motion approved 5-0; variance granted.

OTHER BUSINESS:

--Disposition of minutes from July 14, 2020 meeting. On a motion from Mr. Thomas, seconded by Mr. Krause, the Board moved to accept the minutes of the June 9, 2020 meeting as presented.

The meeting was adjourned at 7:26.

John Golzy, Chairperson

Date

Kerri Yake, Secretary

Date