

Board of Zoning Appeals

Minutes

December 08, 2020

Members present: John Golzy (Chairperson), Lisa Carson, Joe Krause, Kay Tousley, Aaron Thomas (voting alternate), Robert Delach, John Gutekanst

City officials present: David Riggs (Zoning Administrator), The Government Channel

The meeting was called to order at 7:00 online as an Internet Conference. 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 #20-15V 41 Brown Avenue Zone: R-1 Emerson Property
Management, Cameron Tope, appellant**

Appellant is requesting a variance from ACC 23.04.01 to allow for two (2) units, to include an apartment over the garage, and increase occupancy to three (3) in each unit on a property that is located in a R1 Zone and to allow four (4) parking spaces where a total of six (6) parking spaces are required per ACC 23.10.01 Table B. Requesting a variance from ACC 23.03.10 to allow two (2) primary structures, where one (1) is allowed.

The Chairperson called on Zoning Administrator to testify. The current site, 41 Brown Avenue, is two (2) units with a maximum of two (2) occupants each with a total of four (4), and would require four (4) parking spots which they have. Emerson Property Management has requested an additional unit over the garage with two (2) maximum occupants and they would actually need a total of six (6) parking spaces to meet the code. A Zone R-1 only allows one (1) residential structure on a lot and this property would have two (2) residential structures on the lot.

Chairperson asked Director Riggs to explain where the two (2) units on the property are now.

Director Riggs responded with the current property has one structure that has two units and has a total of four (4) tenants and four (4) parking spaces. The appellant would like to add an additional bedroom over the detached garage that would require two (2) additional parking spaces.

Chairperson requested for any questions for Mr. Riggs.

Mr. Delach asked Mr. Riggs for clarification on the parking.

Mr. Riggs explained according to our codified ordinances, Table B Off-Street Parking Requirements that two (2) parking spaces for each dwelling unit and one (1) for each additional renter. The minimum required is two (2), but you need to have one (1) space for each renter. That applies for owner occupied single family and rental that requires four (4) spaces for four (4) renters and six (6) spaces for six (renters).

The Chairperson called on the Board Members for any questions they may have for the appellant.

Ms. Tousley had a question that pertained to a chat question from Joan Kraynanski. She would like clarification on the Athens Rental Listing, 41 Brown has a listing for one (1) unit and not two (2) and approved for two (2) occupants.

Mr. Tope explained to his understanding, he has a rental permit for one (1) unit with two (2) occupants and not a duplex. The unit is single family with two (2) bedrooms. Mr. Tope explained that he wanted to keep the original unit to two (2) occupants and add one (1) to two (2) occupants to the unit above the garage depending on what the board sees fit. The garage structure is a twenty-five (25) by twenty-five (25) foot building. It could support two.

Chairperson requested that the variance wording be changed from three (3) to two (2) occupants per unit and that the parking issue be disregarded.

Mr. Golzy explained that if the property is already being utilized and according to the code, the Board should not be granting an addition for profit. If the Board would grant this, they would be granting more privileges to Mr. Tope's property than the neighbors. Mr. Golzy explained that the Board of Zoning grants variances for cases with hardship. Such as if the variance was not granted, the property would not be usable anymore. If a special circumstance exist, then the appellant must prove that a special circumstance exist and that it makes it impossible for use of the property.

Mr. Tope said that there is not a hardship and that it would just be the addition of a unit or a bedroom or two and get rid of the eye sore garage and convert it to its best use.

Chairperson called upon the Board Members for any other questions. There were none.

Mr. Golzy asked for anyone online that would like to speak in support of this variance.

Chairperson asked if there was anyone with a general comment or in opposition of this case.

Chairperson called upon Joan Kraynanski.

Ms. Kraynanski stated that she drives down Brown Street often and finds it to be a very packed street. She mentioned that she checked the code listings and there were a few grandfathered exceptions, but most are single family use or single occupancy with no more than three (3) in the R-1 Zone.

Chairperson mentioned for the record that Mr. Gutekanst joined the meeting.

Chairperson called upon Cathy Corcella to speak.

Ms. Corcella mentioned that she logged into the meeting because she was opposed to the parking mentioned in the variance and required more information on the current parking and more information on the garage structure that would be a rental unit.

Mr. Golzy called upon Mr. Tope to answer Ms. Corcella's questions.

Mr. Tope explained that 41 Brown has four (4) spaces available off-street and there would be no change in the parking. Plumbing would be added to the unit for one (1) or two (2) bedrooms, kitchen, and bathroom.

Mr. Golzy called for any other oppositions. The Government Channel stated there was one more.

Chairperson called upon Rose Dikis.

Ms. Dikis mentioned that to her understanding that an R-1 Zone / district property would only have a maximum occupancy of three (3). Her concern was that there was mention of four (4) occupants and wanted more clarification.

Chairperson called upon Mr. Tope to answer Rose's question regarding four (4) occupants.

Mr. Tope explained that with the four (4) off-street parking spaces, fixing up the property would allow additional places for student to live at a reasonable price.

Mr. Golzy called for any other speakers that would like to speak.

Mr. Riggs clarified the variance for ACC 23.03.10 which is to allow two (2) primary structures, where one (1) is required. This variance is for any zone where we would allow more than one (1) primary residential structure on a lot.

Mr. Golzy called upon Mr. Riggs to explain if Mr. Tope were to change the rental application to place four (4) occupants in the primary structure and keep the garage as an accessory structure, would he have to come before the board.

Mr. Riggs explained Mr. Tope would need to reapply for a Rental Permit and the Code Officer would have to check all the restrictions for the R-1 Zone would apply.

Mr. Golzy summarized a 16 page letter regarding concerns on the increase of tenants and automobiles allowed. The letter mentioned a Westside Community Association meeting that discussed density in that neighborhood.

Chairperson called on Mr. Tope for any last comments.

Mr. Tope discussed the issue of a narrow street would be further down past the intersection of Walker and Brown. There was not addition structure or parking. He mentioned that they have been trying to clean up and elevate the community and still provide affordable housing.

Mr. Golzy asked if there were any other comments or questions before the floor is closed.

Ms. Kraynanski wanted to know if the garage was usable for parking.

Mr. Tope answered that the garage is currently used for storage.

Chairperson called for questions or discussions from the Board.

On a motion by Ms. Carson, seconded by Ms. Tousley, the Board moved to grant a variance to the property at 41 Brown from ACC 23.03.10 to allow two (2) primary structures on one (1) lot, where one (1) primary structure per lot is allowed and a total of 4 occupants.

Findings:

- 1.) **Exceptional Circumstances:** No **HARDSHIP AND DIFFICULTY:** No.
- 2.) **PRESERVATION OF EQUAL PROPERTY RIGHTS:** No.
- 3.) **MINIMUM VARIANCE:** No. The property can be used currently and reasonably without this variance being approved. The owner is interested in maximizing profit on rental.
- 4.) **ABSENCE OF DETRIMENT:** No. Neighbors felt variance would cause issues and problems with density in the neighborhood.
- 5.) **NOT OF A GENERAL NATURE:** No.

The Chairperson called for a vote: No - Carson, No – Krause, No - Tousley, No – Thomas, No – Golzy. Motion not approved 5-0; variance denied.

OTHER BUSINESS:

--Disposition of minutes from November 10, 2020 meeting. On a motion from Ms. Tousley, seconded by Ms. Carson, Mr. Krause, Mr. Gutekanst the Board moved to accept the minutes of the November 10, 2020 meeting as presented.

The meeting was adjourned at 8:05.

John Golzy, Chairperson

Date

Kerri Yake, Secretary

Date