

**Office of Code Enforcement and
Community Development**

28 Curran Drive
Athens, OH 45701
(740)592-3306
(740)594-6304 Fax
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City of Athens
ATHENS, OHIO

**Board of Zoning Appeals
Minutes
July 9, 2024**

Members present: Kelly Sauber, Alicia Sweeney (alternate), Robert Delach (elected Chairperson), Aaron Thomas, and Paul Isherwood (alternate)

City Officials present: David Riggs (Zoning Administrator)

The meeting was called to order on July 9th, 2024, at 7:00 pm at City Council Chambers, 8 East Washington Street, Third Floor, Athens, OH, by the active Chair of the Board of Zoning Appeals. A video was played stating the policies and procedures of the board.

The Chairperson announced the cases on the agenda and swore in all who wished to testify in the hearings.

Hearings:

1. Case ##24-06V 32 W Carpenter Zone R-3 ADA – Woodson Adams /Appellant

**Appellant is requesting a variance from ACC 23.10.01 Table A to allow:
0 ft rear setback where 40 ft is required
88% lot coverage where 40% max is required
90% total lot coverage where 60% max is required.**

The Chairperson asked the Zoning Administrator to give a report on the case. Mr. Riggs gave background information about the case.

Mr. Riggs explained the proposed plan to expand the building (church) to make it more accessible. He explained this will be through the addition of an elevator and walkway.

The Chairperson asked what the main reason for the building expansion was.

Mr. Riggs answered it was mainly to make the church more accessible by adding an elevator.

The Chairperson called up the appellant to speak.

Richard Shultz explained the expansion would allow for the elevator, as well as accessible and unisex restrooms on the first floor. He spoke on the historical significance of the building and how this would increase its use.

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A letter of support from an adjoining property owner was read. Brian Wharton of University Off-Campus Housing, 92 N Congress (adjoining from the north side), expressed his support of the construction plans and improvements to the building.

The Chairperson invited those in favor to speak.

Allan Swank, 40 Townsend Place, spoke on the importance of this cultural center. He also explained the City Council had granted an easement request in May 2024 to allow ADA drop-off access.

The Chairperson invited those in general comment to speak. No one came forward.

The Chairperson invited those in opposition to speak. No one came forward.

The Chairperson invited the appellant to speak again. Richard Shultz was happy with his prior statement and did not wish to speak again.

The Chairperson closed the testimony from the floor.

Alicia Sweeney asked if it was required to be up to ADA code.

Richard Shultz responded that a new building would have to meet all ADA requirements. He said a renovated building should make its best attempt and is expected to spend 20% of budget on ADA requirements.

Mr. Riggs said it was a reasonable accommodation.

The Chairperson brought up all three parts of the variance and the importance of the opportunity from the board to get variances like this approved.

Aaron Thomas confirmed the adjoining property owner gave permission.

The Chairperson asked about upcoming proposed changes to the code.

Mr. Riggs explained even with the changes, this would require a variance.

The Chairperson moved the discussion to the Findings of Fact.

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Findings:

- 1.) EXCEPTIONAL CIRCUMSTANCES: Yes.**
- 2.) HARDSHIP AND DIFFICULTY: Yes.**
- 3.) PRESERVATION OF EQUAL PROPERTY RIGHTS: Yes.**
- 4.) MINIMUM VARIANCE: Yes.**
- 5.) ABSENCE OF DETRIMENT: Yes.**
- 6.) NOT OF A GENERAL NATURE: No.**

On a motion by Aaron Thomas, seconded by Alicia Sweeney, the Board moved to grant a variance from ACC 23.10.01 Table A to allow a 0 ft rear setback where 40 ft is required, 88% lot coverage where 40% max is required, and 90% total lot coverage where 60% max is required.

The Chairperson called for a vote: 5 votes for (Sauber, Sweeney, Delach, Thomas, Isherwood) - 0 votes against. Motion passed.

2. Case #24-07V 19 Elmwood Pl Zone R-1 Joshua Bear/Yamini Rao / Appellant

Appellant is requesting a variance from ACC 23.03.11 (A)(1) to allow a 2 ft setback where 5 ft is required.

The Chairperson asked the Zoning Administrator to give a report on the case. Mr. Riggs gave background information about the case.

Mr. Riggs explained the existing garage and the desire to relocate it. They want to move it back on the property.

Aaron Thomas asked for confirmation that they had to demolish the existing garage to relocate the proposed garage.

Mr. Riggs confirmed this because they would sit on top of each other, making it necessary to demolish the existing garage.

The Chairperson invited the appellant to speak.

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Josh Bear explained the unsafe condition of his existing garage and the need to demolish and rebuild it. He wants to move the garage back 15 ft while still maintaining the minimum setbacks and avoiding the large tree root.

The Chairperson spoke on his knowledge of the condition of the garage, as he looked at buying this property seven years ago.

The Chairperson invited those in favor to speak. No one came forward.

Two letters of support (Jonathan Hutchinson, 237 E State St and Nikki & Fitz Read, 17 Elmwood Pl) were read.

The Chairperson invited those in general comment to speak. No one came forward.

The Chairperson invited those in opposition to speak. No one came forward.

The Chairperson closed the testimony from the floor.

The Chairperson moved the discussion to the Findings of Fact.

Findings:

- 1.) EXCEPTIONAL CIRCUMSTANCES: Yes.**
- 2.) HARDSHIP AND DIFFICULTY: Yes.**
- 3.) PRESERVATION OF EQUAL PROPERTY RIGHTS: Yes.**
- 4.) MINIMUM VARIANCE: Yes.**
- 5.) ABSENCE OF DETRIMENT: Yes.**
- 6.) NOT OF A GENERAL NATURE: No.**

On a motion by Kelley Sauber, seconded by Paul Isherwood, the Board moved to grant a variance from ACC 23.03.11 (A)(1) to allow a 2 ft setback where 5 ft is required.

The Chairperson called for a vote: 5 votes for (Sauber, Sweeney, Delach, Thomas, Isherwood) - 0 votes against. Motion passed.

3. Case #24-08V 4 Dalton Ave Zone R-1 Athens Restoration Ltd. / Appellant

Appellant is requesting a variance from ACC 23.08.01 (A) to allow parking in front of a structure where it is not permitted, and ACC 23.03.10 to allow more than one principal structure on a lot where only one is permitted.

Paul Isherwood recused himself from this case because he is an adjoining property owner.

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The Chairperson said the appellant has agreed to let the board hear the case with four members voting. To pass, three out of four members need to approve the variance to pass.

The Chairperson asked the Zoning Administrator to give a report on the case. Mr. Riggs gave background information about the case.

Mr. Riggs explained the two primary structures and two accessory structures on one lot. The variance is to allow two primary structures to be used on the same lot. In the past, one of these structures has remained vacant. He said they also want to allow on-site parking in front of the house.

Chairperson Delach asked about the parcel.

Mr. Riggs described it as one parcel, with two addresses attached to the separate houses. Previous owners have wanted to live in one house and rent out the other, but that has not been permitted in code. The houses were built prior to the zoning code.

The Chairperson asked about the other structures on the property.

Mr. Riggs confirmed they are accessory structures.

Kelley Sauber asked about parking in front of the house.

Mr. Riggs said people can stack park on a driveway but cannot park in front of a house.

The Chairperson invited the appellant to speak.

David Funk spoke about the history of 2 and 4 Dalton. The houses were built as ranger stations for Wayne National Forest. 4 Dalton was left unoccupied and deteriorated. Athens Restoration renovated the house. They obtained a building permit, but now need approval to have someone live in the house. David Funk described the property's historical significance and the desire to restore what once was.

The Chairperson asked about a parcel this large being in an R-1 zone.

Mr. Riggs explained it is in the middle of an old subdivision and was meant to fit its surrounding properties.

Aaron Thomas asked if there were any other properties in Athens that were one parcel with two addresses.

Mr. Riggs said there was another property like this, and it is not completely unique to Athens.

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The Chairperson invited those in favor to speak.

Keith Chapman, 40 Euclid Drive, spoke about living in the neighborhood as a child. He expressed his support of the variance, despite the complicated property.

The Chairperson invited those in general comment to speak.

Allan Swank, 40 Townsend Place, has lived in the neighborhood 41 years. He explained his support of the parking allowance because Dalton is a very narrow street without room for parking. He also asked if a lot split would be a cleaner way to deal with this property.

Mr. Riggs explained a lot split was a route that could have been taken. It would meet all lot split criteria. He said a lot split would be preferred because it would not be violating any code. It would also be better in the future when the property would go up for sale. With the variance, both houses would have to be sold at once, but with a lot split, they could be sold individually.

David Funk spoke on why they chose to get a variance instead of a lot split. He said they were genuine about the historical site. Keeping the property as the original 2.2 acres would keep the historical characteristics.

Laura McKnight, 37 Euclid, spoke about the two other structures on the lot. She explained two years ago he wanted to create a daycare with one of these structures. He also let someone sign a lease on a rental house that needed a permit. She wants to ensure this is exclusively for residential and he cannot do anything other than paint the back two structures.

The Chairperson invited those in opposition to speak. No one came forward.

The Chairperson closed testimony from the floor.

Kelley Sauber asked if there were additional locations where those additional structures could be split and built on that same property.

Mr. Riggs said there were other ways to develop this property, such as splitting the lot.

Aaron Thomas asked what would happen if they approved the variance and someone decided to build another house in the back.

Mr. Riggs expressed the difficulty of anticipating future development and said this route is very messy.

The Chairperson called the appellant up to answer questions about future use.

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David Funk stated they would have to get another variance if they wanted to do anything else with the property in the future, but they did not have that intention.

Aaron Thomas asked what would be stopping them from future development on the other two structures.

The Chairperson said a variance would stop future development. Another variance would be required if they wanted to develop in the future.

Alicia Sweeney stated the variance is for two residential/principal structures on the property, but it does not clarify which two. She said they could develop the back structures and change which two are the designated residential/principal structures.

David Funk said they only want the front two structures in this variance.

Kelley Sauber explained the variance says more than one, meaning they could potentially develop all four as residential.

Allan Swank read the requested variance aloud. He highlighted it says more than one, rather than two structures. This could be three or four residential structures on the property.

Aaron Thomson asked if the back structures are tied to the addresses of 2 and 4 Dalton.

Mr. Riggs stated there are two primary structures and two accessory structures on the lot.

Keith Chapman spoke about the fifth structure on the property. He said unless it had been taken down, there is a garage behind 2 Dalton. He thought if they kept it as one primary structure and the other four auxiliary structures, they could focus the variance on the one house.

The Chairperson closed testimony from the floor again.

The Chairperson moved the discussion to the Findings of Fact.

Findings:

- 1.) EXCEPTIONAL CIRCUMSTANCES: No.**
- 2.) HARDSHIP AND DIFFICULTY: Yes.**
- 3.) PRESERVATION OF EQUAL PROPERTY RIGHTS: Yes (parking), No (two primary structures)**
- 4.) MINIMUM VARIANCE: Yes.**
- 5.) ABSENCE OF DETRIMENT: Yes.**
- 6.) NOT OF A GENERAL NATURE: No.**

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On a motion by Alicia Sweeney, seconded by Aaron Thomas, the Board moved to grant a variance from ACC 23.08.01 (A) to allow parking in front of a structure where it is not permitted, and ACC 23.03.10 to allow no more than two principal structures on a lot where one is permitted, and no accessory structures can be used for commercial or residential purposes.

The Chairperson called for a vote: 3 votes for (Sweeney, Delach, Thomas) - 1 vote against (Sauber). Motion passed.

OTHER BUSINESS:

Approval of minutes from:

June 11th, 2024: Alicia Sweeney moved to approve the minutes, Robert Delach seconded the motion. Approved by Kelley Sauber, Alicia Sweeney, and Robert Delach.

Chairperson adjourned the meeting at 8:33 pm.

Robert Delach, Chairperson

Date

David Riggs, Zoning Administrator

Date