

**Office of Code Enforcement and
Community Development**

28 Curran Drive
Athens, OH 45701
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City of Athens
ATHENS, OHIO

**Board of Zoning Appeals
Minutes
November 12, 2024**

Members present: Aaron Thomas, Rob Delach (elected Chairperson), Paul Isherwood, Alicia Sweeney (alternate), and Ben Lachman

City Officials present: David Riggs (Zoning Administrator)

The meeting was called to order on November 12th, 2024, at 7:00 pm at the Athens County Municipal Courtroom, 8 East Washington Street, Second Floor, Athens, OH, by the active Chair of the Board of Zoning Appeals.

Mr. Riggs stated 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 #24-11V 46 Columbia Avenue Zone R1 Janna Chimeli /Appellant

Appellant is requesting a variance from ACC 23.11 Table B to allow a rental with 2 parking spaces where 3 are required.

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

The Chairperson invited the appellant and any representatives to speak.

Janna Chimeli (appellant, 46 Columbia Ave) described that she is the only person living at the house and the only one using the parking space. Behind her house is an alley with a space for parking. There is a studio apartment on the bottom floor of her house and back door access to it. There is a driveway parking space, garage parking space, and area off the alley in the back that can be parked in.

Ben Lachman asked if the back alley space could be considered a parking space.

Mr. Riggs stated if it is in the alley, it could not be, but since it is off the alley it can be considered a parking space.

The Chairperson invited those in favor to speak.

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Letters of support were received from Christopher Perisho (44 Columbia Ave) and Tatiana and Mikio Olin (47 Columbia Ave).

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 clarified that short-term rentals are permitted in the zone, and that the focus is on the number of parking spaces. A parking variance in the area was recently granted.

The Board moved to the Findings of the Fact.

Findings:

- 1.) EXCEPTIONAL CIRCUMSTANCES: Yes.**
- 2.) HARDSHIP AND DIFFICULTY: No.**
- 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 Paul Isherwood, the Board moved to grant a variance from ACC 23.11 Table B to allow a rental with 2 parking spaces where 3 are required.

The Chairperson called for a vote: 4 votes for (Thomas, Delach, Isherwood, Sweeney) – 0 votes against. Ben Lachman abstained from voting. Motion granted.

2. Case #24-12V 5 Pomeroy Road Zone B3 Jessica Hickman /Appellant

Appellant is requesting a variance from ACC 23.04.05 (A)(1) / ACC 23.04.07 (A) to allow residential use on the first floor in a B3 Zone where residential use must be on the second floor & above.

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

The property looks like a residential property but has a history of holding businesses. This is not grandfathered. This might be a case that City Council needs to review for rezoning.

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The Chairperson invited the appellant and any representatives to speak.

Jessica Hickman (appellant, 101 Coventry Ln) stated there is not much traffic and several neighbors have given their support. She said it would be for her father to live in.

The Chairperson invited those in favor to speak.

Matt Gaiser (37829 Mace Cemetery Rd) spoke in support of the variance. He owns the property across the street.

A letter of support from Eric Lee was read. He stated the importance of introducing more houses to the area.

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 Board moved to the Findings of the 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 Ben Lachman, seconded by Paul Isherwood, the Board moved to grant a variance from ACC 23.04.05 (A)(1) / ACC 23.04.07 (A) to allow residential use on the first floor in a B3 Zone where residential use must be on the second floor & above. Additionally, the Board recommends the City Council and the Planning Commission to take under advisement the changing of the zoning for the area.

The Chairperson called for a vote: 4 votes for (Thomas, Delach, Isherwood, Lachman) – 0 votes against. Alicia Sweeney abstained from voting. Motion granted.

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**3. Case #24-14S 327 East State Street Zone B3 Panda Girl Properties, LLC
/Appellant**

Appellant is requesting a substitution in accordance with ACC 23.07.02 (B) to change a legal nonconforming single family residential use to a legal nonconforming multi-family residential use.

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

Aaron Thomas asked what is considered a legal nonconforming single family residential home was.

Mr. Riggs stated that is what the property has had for the last year. A family living on the first floor is what makes it a legal nonconforming single-family home. Since this was grandfathered in, if they stop the use for a year or more, it will no longer be able to be used in this way.

The Chairperson invited the appellant and any representatives to speak.

Jared Dean (465 Seigle Ln) explained that he and his wife own Panda Girl Properties, LLC and flip houses. He wants to have all the floors as long-term rentals.

The Chairperson invited those in favor to speak.

John Wharton (105 University Estates Blvd) spoke in support of the substitution and expressed how amazing the property looks now compared to how it looked before Jared Dean worked on it.

Moss Miller (170 E State St) was a carpenter that worked on the property and spoke in support of the substitution.

Matt Gaiser (37892 Mace Cemetery Rd) asked for clarification on the case, then spoke in support of the substitution.

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 Board moved to the discussion and deliberation.

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On a motion by Paul Isherwood, seconded by Paul Isherwood, the Board moved to grant a substitution in accordance with ACC 23.07.02 (B) to change a legal nonconforming single family residential use to a legal nonconforming multi-family residential use.

The Chairperson called for a vote: 5 votes for (Thomas, Delach, Isherwood, Sweeney, Lachman) – 0 votes against. Motion granted.

4. Case #24-15V 170 East State Stret Zone R1 Kristin Chamberlain /Appellant

Appellant is requesting a variance from ACC 23.08.01 (A) to allow a parking area in front of a structure when not permitted between the setback line.

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

The Chairperson invited the appellant and any representatives to speak.

Kristin Chamberlain (appellant, 170 E State St) spoke on the unsafe slope and angle of backing out onto E State St and the uneven levels at the top of the driveway. For her son, it is difficult to climb up the side of the driveway and get out of the car.

Ben Lachman asked if they had thought about runoff and impermeable surfaces.

Kristin Chamberlain said their project planner would dive into this and ensure they are using the best possible option.

The Chairperson invited those in favor to speak.

Moss Miller (170 E State St) spoke on similar difficulties as Kristin Chamberlain and expressed his support of the variance.

Signatures from Anne Roberts (180 E State St), Lisa Heinz (166 E State St), and Levi Raichik (171 E State St) were provided in support.

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.

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The Board discussed the importance of the safety in that area with the school and high driving speeds.

Ben Lachman spoke on the steep grade and risk of increased runoff going into E State St.

The Chairperson agreed and stated there could be things done to mitigate that problem.

The Board moved to the Findings of the Fact.

Findings:

- 1.) EXCEPTIONAL CIRCUMSTANCES: Yes.**
- 2.) HARDSHIP AND DIFFICULTY: No.**
- 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 Paul Isherwood, the Board moved to grant a variance from ACC 23.08.01 (A) to allow a parking area in front of a structure when not permitted between the setback line.

The Chairperson called for a vote: 5 votes for (Thomas, Delach, Isherwood, Sweeney, Lachman) – 0 votes against. Motion granted.

- 5. Case #24-16V 0 University Estates Blvd (Parcel # A027400009704) Zone R1
Helios Ventures LLC /Appellant**

Appellant is requesting a variance from ACC 23.04.05 (A)(1) / ACC 23.04.07 (A) to allow residential use on the first floor in a B3 Zone where residential use must be on the second floor & above.

- 6. Case #24-17V 0 University Estates Blvd (Parcel # A027400009703) Zone R1
Helios Ventures LLC /Appellant**

Appellant is requesting a variance from ACC 23.04.05 (A)(1) / ACC 23.04.07 (A) to allow residential use on the first floor in a B3 Zone where residential use must be on the second floor & above.

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**7. Case #24-18V 0 University Estates Blvd (Parcel # A027400009702) Zone R1
Helios Ventures LLC / Appellant**

Appellant is requesting a variance from ACC 23.04.05 (A)(1) / ACC 23.04.07 (A) to allow residential use on the first floor in a B3 Zone where residential use must be on the second floor & above.

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

Mr. Riggs stated the original intent of the properties was a hotel and conference area which is why it is zoned as B3. The zone should be residential, and it would be beneficial to rezone instead of obtaining variances. The area recently had a lot split which created divisions and multiple parcels.

The Chairperson invited the appellant and any representatives to speak.

Matt Gaiser (appellant / 37892 Mace Cemetery Rd) explained that he was not sure about how he could move forward if the area was rezoned. He wants to keep it B3 to keep some of its permitted uses like a bed and breakfast. He stated the property was unique because there was no other business around it, and it did not conform. He wants to do single family residential on the properties.

The Chairperson invited those in favor to speak.

John Wharton (105 University Estates Blvd) described the property's original intent and why it is zoned the way it is. He said it does not fit the zoning and needs of the space today. People do not want to see a lot more traffic, and owner-occupied houses would minimize traffic.

The Chairperson invited those in general comment to speak.

Jared Dean (465 Seigle Ln) said as a contractor, he wants to see new builds and houses going up in the area.

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

Matt Gaiser stated that he is not going to build on these properties. He wants to sell them to people who do want to build on them.

The Chairperson closed the testimony from the floor.

Mr. Riggs suggested the Board discuss the cases all together but must make recommendations and motions separately for each case.

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The Board moved to the Findings of the Fact.

Findings:

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

The Chairperson re-opened the floor and invited the appellant to speak.

Matt Gaiser (appellant, 37892 Mace Cemetery Rd) stated the only zone to allow bed and breakfasts is B2. Other zones permit a bed and breakfast if it is owner occupied. He said if the condition is to apply for a zoning change, he will withdraw. He explained that it would spot zoning, and he had businesses partners involved that would not be able to remain there if the zone was changed.

The Chairperson explained that they try to make a single step jump of B3 to B2, for example. This would be a much larger jump of 4 or 5 levels.

Ben Lachman stated it is clearly in a neighborhood area. He asked what the rezoning process would look like.

Mr. Riggs explained that it would start with the Planning Commission reviewing the zoning request, making a recommendation for City Council, and City Council would choose to review it. If they chose to look at it, it would entail a committee and three readings. He said it was not a fast process.

The Chairperson asked what he would have to do if the Board attached a condition to the variance.

Mr. Riggs said he would have to fill out a permit.

Aaron Thomas explained that the variance stays with the parcel not the person, so if he sold the property tomorrow, someone could put a hotel in.

The Chairperson clarified that if a contingency was placed on the variance, the process would not have to be completed. He would only be required to start the process and apply for a residential zone.

The Chairperson closed the testimony from the floor.

***Discussion by the Board regarding appropriate conditions.**

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Case #24-16V Parcel #A027400009704

On a motion by Alicia Sweeney, seconded by Ben Lachman, the Board moved to grant a variance from ACC 23.04.05 (A)(1) / ACC 23.04.07 (A) to allow residential use on the first floor in a B3 Zone where residential use must be on the second floor & above with the condition that the applicant applies for a residential rezoning within 30 days.

The Chairperson called for a vote: 5 votes for (Thomas, Delach, Isherwood, Sweeney, Lachman) – 0 votes against. Motion granted.

Case #24-17V Parcel #A027400009703

On a motion by Alicia Sweeney, seconded by Paul Isherwood, the Board moved to grant a variance from ACC 23.04.05 (A)(1) / ACC 23.04.07 (A) to allow residential use on the first floor in a B3 Zone where residential use must be on the second floor & above with the condition that the applicant applies for a residential rezoning within 30 days.

The Chairperson called for a vote: 5 votes for (Thomas, Delach, Isherwood, Sweeney, Lachman) – 0 votes against. Motion granted.

Case #24-18V Parcel #A027400009702

On a motion by Alicia Sweeney, seconded by Ben Lachman, the Board moved to grant a variance from ACC 23.04.05 (A)(1) / ACC 23.04.07 (A) to allow residential use on the first floor in a B3 Zone where residential use must be on the second floor & above with the condition that the applicant applies for a residential rezoning within 30 days.

The Chairperson called for a vote: 5 votes for (Thomas, Delach, Isherwood, Sweeney, Lachman) – 0 votes against. Motion granted.

OTHER BUSINESS:

Approval of minutes from:

October 8th, 2024: Aaron Thomas moved to approve the minutes, Paul Isherwood seconded the motion. Approved by Aaron Thomas, Paul Isherwood, and Ben Lachman.

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Public Statement from the Chairperson:

The Chairperson stated the Board members must be professional and respectful. He explained during the August 13th meeting he made an unnecessary and unprofessional comment about an individual that was not in attendance at the meeting. He wanted to apologize to Joan Kraynanski for making a comment that disparaged the value of her input to the Board.

The Chairperson adjourned the meeting at 10:04 pm.

Robert Delach, Chairperson

Date

David Riggs, Zoning Administrator

Date