

**Office of Code Enforcement and
Community Development**

28 Curran Drive
Athens, OH 45701
(740)592-3306
(740)594-6304 Fax
<http://www.ci.athens.oh.us>



City of Athens
ATHENS, OHIO

**Board of Zoning Appeals
Minutes
April 8, 2025**

Members present: Ben Lachman, Alicia Sweeney, Rob Delach (Elected Chairperson), Aaron Thomas, and Shay Myers (Alternate)

City Officials present: David Riggs (Zoning Administrator)

The meeting was called to order on April 8th, 2025, 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.

The Chairperson announced the cases on the agenda and requested to change the order of the agenda.

The Annual Organization Meeting was voted on to occur at the beginning of the meeting. The Chairperson called for a vote: 5 votes for (Lachman, Sweeney, Delach, Thomas, Myers) – 0 votes against.

The meeting decided a Chairperson for the next year through February of 2026. Board members nominated Rob Delach. The floor was closed from nominations. Rob Delach accepted the nomination. The Chairperson called for a vote: 4 votes for (Lachman, Sweeney, Thomas, Myers) – 0 votes against. Delach abstained from voting.

The Chairperson swore in all who wished to testify in the hearings.

A video was played stating the policies and procedures of the board.

Hearings:

1. Case #25-01V 16 Tulane Road Zone R-1 John Brennan / Appellant

Appellant is requesting a variance from ACC 23.03.14 to allow a fence in the front set back and from ACC 23.10.01 Table (A) Bulk Control to allow 0 ft setback where 10 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 stated fences under 6ft do not have any setback restrictions, except “no fence/wall regardless of height shall stand beyond the building’s front setback line in accordance with these zoning standards and regulations”. The interpretation from the code enforcement and zoning office is that the variance is requesting the fence on the front setback line.

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Shay Myers asked about fences in relation to the front building line as opposed to the front setback.

Mr. Riggs explained it is up for interpretation.

Ben Lachman asked how the city ends up with these types of parcel shapes.

Mr. Riggs stated that this is an old subdivision. There were often parcels that were originally not meant to be used, but they were built on anyways.

Alicia Sweeney asked if flag lots are currently permitted.

Mr. Riggs confirmed they are permitted.

The Chairperson invited the appellant and any representatives to speak.

John Brennan (16 Tulane Road) explained it is a strange lot, and he would like to put the fence up to provide privacy, as well as garden protection from deer. He said the setback is not necessary due to the large ditch between his property and the road.

The Chairperson clarified that both neighboring properties are owned by the same owner.

Ben Lachman asked about the temporary fence that stands in his property currently.

John Brennan explained the new fence would be extended out and taller.

The Chairperson asked what type of fence it would be.

John Brennan stated it would be a vinyl fence.

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

The Chairperson invited those in general comment to speak.

Debrick Douglas (14 Tulane) described that the fence does not affect him, but that he has a 6ft vinyl fence himself, and he knows John Brennan would take good care of it.

The Chairperson invited those in opposition to speak.

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Alan Goldsberry (20 N May Avenue) explained that he also owns 20 Tulane Road. He said he was not aware that Brennan was considering building a fence. He is suspicious of why Brennan would want to build the fence. He also described how neither of his properties have a view of Brennan's yard, so he feels the fence for privacy is not needed. He drives his lawn mower through the corner of John's yard when mowing both of his properties. He would settle for a 6ft setback if the 10ft could not be granted.

Caroline Gosnell (20 Tulane Road (as a renter from Alan Goldsberry)) explained that the fence would be a detriment to her. From inside her house, she cannot see any windows or doors of Brennan's house. She said when she's outside, she is on the east side of the property or the north side facing away from John's yard. She stated the fence would not fit into the aesthetic of the neighborhood since the vinyl fence would be in the front of Brennan's yard. She gave The Board photos of her yard, house, and Brennan's property from her home.

The Chairperson invited the appellant to speak again.

John Brennan said the 6ft fence would follow where the temporary fence is now. He does not have a backyard, so the front section where the fence is wanted is his only yard space. He stated he should be able to use his yard however he chooses and wants protection and privacy from deer and street traffic. His fence should not be affected by someone who drives on his property for convenience.

The Chairperson closed the testimony from the floor.

Alicia Sweeney stated that the vinyl fence is typical for the neighborhood and his yard is essentially a side yard based on the landscape.

Shay Myers explained the fence would not affect either of the neighboring properties because 20 Tulane Road and 20 N May Avenue could put a fence along that property line on either side without a variance.

The Chairperson moved the discussion to the Findings of Fact.

During discussion, John Brennan was invited to speak once more regarding the debate between a full grant/denial of the variance or a compromised adjustment.

John Brennan stated The Board does not have standing to decide this type of settlement. If he wants to accommodate his neighbors, that would be his choice. There is no purpose of the setback requirement since there is 10+ feet of grass and a ditch before the street.

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Findings:

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

On a motion by Aaron Thomas, seconded by Shay Myers, the Board moved to grant a variance from ACC 23.03.14 to allow a fence in the front set back and from ACC 23.10.01 Table (A) Bulk Control to allow 0 ft setback where 10 ft is required.

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

- 2. Case #25-02V 40 ½ Morris Avenue Zone R-1 George Anaya / Appellant**

Appellant is requesting a variance from ACC 23.04.01 B6 to allow a non-owner-occupied short-term rental in an R-1 zone, and a variance from ACC 23.08.01 D to allow a short-term rental with 0 on-site parking where 2 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 stated there two variances being requested – one for parking and one for a short-term rental. It is not a conditional use request.

The Chairperson explained that these are two different parcels that are abutting. He asked Mr. Riggs why they are separate.

Mr. Riggs said there cannot be more than one primary structure on one lot. Here, there is a primary structure on one lot and another primary structure on another adjacent lot that is owned by the same owner. They are not continuous or contiguous. It could be sold on its own and new residents could live there.

Ben Lachman asked about the utilities of 40 ½ being provided by 40 and the previous alley access.

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Mr. Riggs explained it is not normal but also not unusual. It used to be a carriage house. The alley was vacated in the 1980s, but it was still used until the most recent renovation to the elementary school.

Shay Myers and Ben Lachman asked about parking and the current rental and living ability.

Mr. Riggs said there is no on-site parking for 40 ½ since the parking is on another parcel. The house cannot currently be used for long-term rentals due to the lack of on-site parking. Otherwise, it would be permitted. It could only be lived in if it were to be owner-occupied.

The Chairperson invited the appellant and any representatives to speak.

Maura Anaya (40 Morris Avenue) clarified there was a difference in copies of the letters. The neighbors were not happy about the variance, despite the letter stating that. She bought the property when there were remains of a driveway access point, assuming they would restore that access (which has now been taken away). There is enough room for 4 cars in the parking area, but only 3 would fit comfortably.

Mr. Riggs explained the city has not assessed the parking to measure how many would fit, but the off-site parking would have to be deed restricted or have a variance.

Alicia Sweeney asked how many bedrooms the carriage house had and questioned whether more than one car would ever be present at the potential rental.

Maura Anaya stated the carriage house has one bedroom.

Maura Anaya explained that the short-term rental would be ideal for monitoring guests since their house looks directly at the carriage house and they ensure guests are respecting the space. They completed renovated it, but utilities are expensive to upkeep with no renters. People call and ask if they can rent the carriage house frequently, indicating the demand from the city for the short-term rental.

The Chairperson invited those in favor to speak.

George Anaya (40 Morris Avenue) spoke about the risk of selling the property because new owners/renters could live there. It would be treated like an owner-occupied property, and they would watch everything that occurs in the carriage house from their house. This variance would also promote future owners to keep the two together.

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

An email was read into the record by Christine Fahl and Glen Matlack expressing the insignificance of the parking issue (there should only be maximum parking requirements, not minimums) and short-term rental.

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The Chairperson invited those in opposition to speak.

Tom Montgomery (42 Morris Avenue) stated he and his wife's opposition to the variance because they would lose all privacy in their backyard due to the revolving door of short-term rentals. Their parking pad is only a few feet away from the carriage house, and he said their property values would decrease.

Ben Lachman asked for clarification on a phrase Tom Montgomery said ("If they were staying").

Tom Montgomery explained that Maura and George Anaya told him they were selling the house.

Jill Massie (42 Morris Avenue) confirmed Maura Anaya told them they were selling the house immediately. When Jill Massie and Tom Montgomery bought their house, they were told this could never happen.

The Chairperson invited the appellant and any representatives to speak again.

George Anaya explained it would increase their property values, and it would not lower the property values of 42 Morris Avenue, but most likely raise them. It would be beneficial for all surrounding owners because it would stop the property from turning into a fully used owner-occupied household.

Ben Lachman asked if they were planning to sell the house.

George Anaya confirmed.

Alicia Sweeney stated that the property is functionally obsolete because it would still require a parking variance for a long-term rental, updates and a variance for an owner-occupied, and this variance for a short-term rental. If it were sold before obtaining a variance, it might better suit what the future owners desire since they would be deciding what happens to the property.

The Chairperson closed the testimony from the floor.

The Chairperson moved the discussion to the Findings of Fact.

The Chairperson asked if a long-term rental would be permitted after getting the variance for parking and a short-term rental.

Mr. Riggs explained they might need an easement to access the property, but a long-term rental would be permitted after the parking variance was obtained from the short-term rental variance.

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During the discussion, the Chairperson added that the carriage house is missing a kitchen, so it cannot be considered an accessory structure.

Mr. Riggs stated that since it does not have a full kitchen, it is considered an efficiency (not residential use). An efficiency still requires a rental permit and, in most cases, is considered a long-term rental.

Findings:

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

On a motion by Ben Lachman, seconded by Alicia Sweeney, the Board moved to grant a variance from ACC 23.08.01 D to allow a residential use with 0 on-site parking where 2 is required.

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

On a motion by Aaron Thomas, seconded by Alicia Sweeney, the Board moved to grant a variance from ACC 23.04.01 B6 to allow a non-owner-occupied short-term rental in an R-1 zone.

The Chairperson called for a vote: 3 votes for (Sweeney, Delach, Thomas) – 2 votes against (Lachman, Myers) Motion granted.

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OTHER BUSINESS:

Approval of minutes from:

January 14th, 2025: Ben Lachman moved to approve the minutes; Alicia Sweeney seconded the motion. Approved by Ben Lachman, Alicia Sweeney, Rob Delach, and Shay Myers.

The Chairperson adjourned the meeting at 9:20 pm.

Robert Delach, Chairperson

Date

David Riggs, Zoning Administrator

Date