

Board Of Zoning Appeals

Minutes

February 11, 2014

Members present: Betty Hollow (Chairperson), Lisa Carson, Joan Kraynanski, Edward Baum (alternate), Kay Tousley (alternate).

City officials present: Paul Eschenbacher (secretary)

The meeting was called to order at 7:02pm in the Mayor's Conference Room, first floor of City Hall. The Chairperson read a prepared statement about the policies and procedures of the Board of Zoning Appeals. The Chairperson noted that, with the absence of Mr. Lavelle and Mr. Golzy, Ms. Tousley and Mr. Baum would be full members of the Board for this meeting. The Chairperson then swore in, under oath, those intending to give testimony.

Case #14-01V 12-12 ½ Columbia Avenue Zone R-1 Raymond Babcock, appellant

Appellant is requesting variances from ACC 23.04.01(A)(1) and ACC 23.04.01(B)(5) to allow a change of use from an owner-occupied duplex to a regular duplex with four (4) total tenants, where a single unit with no more than three (3) unrelated tenants is allowed, and from ACC 23.10.01, Table B, Off-Street Parking Requirements, to allow a duplex with four (4) tenants to have one (1) parking space, where five (5) total parking spaces are required.

The Chairperson called on the secretary to testify.

The secretary said that the proposed change from owner-occupied duplex to regular duplex would necessitate meeting parking requirements even though it would be the same number of units and tenants. He noted that 12 ½ Columbia Avenue has been the address of the owner. The secretary then passed out changes in calculations by the appellant as to the number of rentals and duplexes in this zone. Ms. Kraynanski asked how long the owner had lived in the smaller apartment. The secretary stated that a rental permit from 1990 indicates the owner in that unit.

The Chairperson called on the appellant to testify.

Mr. Babcock said that his son had lived in 12 ½ Columbia Avenue until he graduated. He noted that this house is already authorized by the City as a duplex. Mr. Babcock reiterated that his proposal would have the same number of people, cars and apartments. He said that, without the variance, 12 ½ Columbia Avenue would remain vacant.

Mr. Babcock noted that there are other nearby rentals and duplexes. He also said that, even though the Code Office has indicated one parking space on the lot, he believes there are two usable spaces there. Mr. Babcock said that this area does not have more people looking for

parking as there is a cemetery across the street, and that he and his wife have never had problems finding parking space on the street.

Mr. Babcock said he is concerned with leaving the bottom apartment (12 ½ Columbia Avenue) empty. He also said that future sales of the property would be more difficult as only an owner-occupied duplex. Mr. Babcock then referenced two letters of support from Columbia Avenue neighbors.

Ms. Carson asked how long the bottom apartment has been empty. Mr. Babcock responded that it has been empty since April, 2013. Ms. Kraynanski asked if the appellant had tried to sell the property. Mr. Babcock said that he had not, and although he had thought about it, he had trouble anticipating how to advertise it. Ms. Kraynanski asked about working on the house. Mr. Babcock said that his son had done work when he lived there, and that they have a list of local handymen for any future work.

The Chairperson referenced the submitted letters for anyone wanting to speak in favor of the variance, and noted that there was no one else there to speak against the variance.

The Chairperson closed the floor for discussion.

On a motion by Ms. Kraynanski, seconded by Mr. Baum , the Board considered to grant variances in Case #14-01V, 12-12 ½ Columbia Avenue, the appellant being Raymond Babcock, from ACC 23.04.01(A)(1) and ACC 23.04.01(B)(5) to allow a change of use from an owner-occupied duplex to a regular duplex with four (4) total tenants, where a single unit with no more than three (3) unrelated tenants is allowed, and from ACC 23.10.01, Table B, Off-Street Parking Requirements, to allow a duplex with four (4) tenants to have one (1) parking space, where five (5) total parking spaces are required.

FINDINGS:

- 1.) **HARDSHIP AND DIFFICULTY:** There is no extraordinary use of the property, nor any extraordinary circumstances.
- 2.) **EXCEPTIONAL CIRCUMSTANCES:** The intent of the code is to phase out duplexes in R-1 zones. This was previously one unit that was divided. One unit is most beneficial. Some area owners say parking is a big problem. Is it exceptional, based on how many owner-occupied rentals there are in the area?
- 3.) **PRESERVATION OF EQUAL PROPERTY RIGHTS:** Yes. There are others instances of others doing what is being asked here.
- 4.) **MINIMUM VARIANCE:** No. It could be used as single unit, or sold as owner-occupied. The parking variance is not minimal.
- 5.) **ABSENCE OF DETRIMENT:** Absentee landlords can have trouble with upkeep of property.
- 6.) **NOT OF A GENERAL NATURE:** Yes.

At this point, Ms. Kraynanski said that other requests for this type of variance have included attempts to find rental parking elsewhere. The Chairperson said that she did not think the variance would be detrimental.

The Chairperson called for a vote: Tousley – yes, Carson – yes, Baum – yes, Kraynanski – no, Hollow – no. Motion approved 3-2, variance granted.

OTHER BUSINESS:

--*Disposition of minutes of December 10, 2013 meeting.* On a motion by Ms. Tousley, seconded by Ms. Kraynanski, the Board voted 3-0 to accept the minutes as presented.

--*Greg Lavelle leaving Board.* The Chairperson said that Mr. Lavelle chose not to renew his Board membership. The Chairperson said Mr. Lavelle was a wonderful member, with a principled approach to hearing cases, and that she will miss him.

--*Annual organizational meeting.* The Board agreed to postpone this until the next scheduled meeting.

The meeting was adjourned at 8:02pm

Betty Hollow, Chairperson

Paul Eschenbacher, secretary