

Board of Zoning Appeals

Minutes

April 8, 2014

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

City officials present: Paul Eschenbacher (secretary).

The meeting was called to order at 7:00pm in Council Chambers, third floor of City Hall. The Chairperson read a prepared statement about the policies and procedures of the Board of Zoning Appeals. The Chairperson then swore in, under oath, those intending to give testimony.

Case #14-03V Inlot 32 partial, West Washington Street Zone R-3 Cranberry Row LLC, appellant

Appellant is requesting variances from ACC 23.10.01, Table A, Schedule of Bulk Controls, to allow a six (6)-unit apartment building with lot coverage of forty-eight percent (48%) where forty percent (40%) is the maximum allowed, total lot coverage of one hundred percent (100%) where sixty percent (60%) is the maximum allowed, a front setback of one foot (1') where twenty-five feet (25') is the minimum required, a right side setback of zero feet (0') where eight feet (8') is the minimum required, a rear setback of zero feet (0') where forty feet (40') is the minimum required, a lot size of three thousand nine hundred (3900) square feet where seven thousand five hundred (7500) square feet for six residential units is the minimum required.

The Chairperson called on the secretary to testify.

The secretary noted that the appellant owns the parking area to the north of the lot in question, and additional parking would be provided there, as well as on the lot. He also indicated that any entrance to the lot would be from one of two alleys on the block.

Ms. Kraynanski asked if the level of the front of the building is considered the first floor. The secretary said that it has been discussed whether the bottom floor of the building could be considered the basement.

The Chairperson called on the appellant to testify.

Alan McMillan (co-owner, Cranberry Row LLC) addressed the Board.

Mr. McMillan stated that Cranberry Row also owns the right-of-way to the east of the lot. He confirmed that there would be enough parking for the project. Mr. McMillan said that the bottom floor, which he considers the basement, would be used for parking.

Mr. McMillan said that this is a blighted building with graffiti, and that they would need to add to the building in order for it to be economically viable. He indicated that there would be

two three-bedroom apartments on each of the three floors, for a total of 18 beds. He also stated that he would like to plant ivy for the brick walls and install flower boxes. Mr. Baum asked to confirm that the appellant would use the existing building's footprint and build up from there. Mr. McMillan confirmed this.

Mr. McMillan stated that they would keep the community trash dumpster at its current site next to the building.

Ms. Kraynanski asked about the distance between the finished building and the apartment building at 20 North Congress Street. Mr. McMillan said that it would be close, but that the proposed building would have no windows on that side. He added that, with dense urban build-up, that would kind of go with the territory at this site.

Ms. Tousley asked about access for emergency vehicles. The secretary said that this would be one of the areas reviewed should this project go to a Title 41 review. Mr. Baum said that the narrowness of the lot could lead to mitigation of the project.

Ms. Kraynanski asked about the on-site parking. Mr. McMillan said there would be six spaces within the building and two spaces outside, and referred to the drawing submitted of the site. Ms. Hollow said that this site means that the building would have nowhere to go but up, that it is adjacent to a commercial zone and that there is a problem with the size of the lot for the number of people to be there. She also said that she is concerned that there is very little downtown left, so it creates a dormitory for the students, and gives very little reason for anyone else to go uptown.

Mr. McMillan said that there is ample space for access through the parking lot north of the lot and the north alley on the block. Ms. Hollow asked about the front right-of-way and its use. Mr. McMillan said that people use it for access. Mr. Baum noted that on one diagram of the proposed project it shows trees planted on the south end, and asked if the appellant intended to plant those. Mr. McMillan confirmed this. Ms. Kraynanski asked about nearby utility poles. Mr. McMillan said those would have to be moved. Ms. Kraynanski asked again about the distance between the proposed building and 20 North Congress Street. Mr. McMillan said that he did not know, but estimated it to be between five and six feet.

Ms. Kraynanski asked about the findings process, and if a Board member finds that one of the findings is not met, does the member have to vote no. The Chairperson said that, at a meeting with the City Law Director several years ago, that was what the Law Director said was the correct way to do it.

On a motion by Ms. Hollow, seconded by Ms. Kraynanski, the Board considered to grant a variance to the property at Inlot 32 partial, West Washington Street from ACC 23.10.01, Table A, Schedule of Bulk Controls, to allow a six (6)-unit apartment building with lot coverage of forty-eight percent (48%) where forty percent (40%) is the maximum allowed, total lot coverage of one hundred percent (100%) where sixty percent (60%) is the maximum allowed, a front setback of one foot (1') where twenty-five feet (25') is the minimum required, a right side setback of zero feet (0') where eight feet (8') is the minimum required, a rear setback of zero feet (0') where forty feet (40') is the minimum required, a lot size of three thousand nine hundred (3900) square feet where seven thousand five hundred (7500) square feet for six residential units is the minimum required

FINDINGS:

- 1.) **HARDSHIP AND DIFFICULTY:** The building already exists, and it is a narrow lot and landlocked.
- 2.) **EXCEPTIONAL CIRCUMSTANCES:** The building already exists, and it is a narrow lot and landlocked.
- 3.) **PRESERVATION OF EQUAL PROPERTY RIGHTS:** There is no privilege to the appellant.
- 4.) **MINIMUM VARIANCE:** There are six variances requested. You cannot count the number of variances requested if that is what is needed. Is this really an appropriate use dictated by the circumstances of this property.
- 5.) **ABSENCE OF DETRIMENT:** The adjacent property and its balconies would be affected, as a wall five feet away is detrimental.
- 6.) **NOT OF A GENERAL NATURE:** Yes.

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

OTHER BUSINESS:

--*Disposition of minutes from March 11, 2014 meeting.* On a motion by Ms. Kraynanski, seconded by Ms. Carson, the Board accepted the minutes as presented 5-0.

The meeting was adjourned at 7:56pm.

John Golzy, Chairperson

Paul Eschenbacher, secretary