

Board of Zoning Appeals

Minutes

May 13, 2014

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

City officials present: John Paszke (Zoning Administrator), Paul Eschenbacher (secretary).

The meeting was called to order at 7:05pm 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 #14-04V	10 South Green Drive	Zone R-3	Homestead U LLC/ Columbus Pacific Properties, Inc., appellants
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Appellant is requesting variances from ACC 23.10, Table A, Schedule of Bulk Controls, to allow construction of a multi-unit apartment building with a building height of four and one-half (4 ½) stories and sixty-four feet (64'), where three and one-half (3 ½) stories and forty-five feet (45') are the maximum allowed, with total lot coverage of eighty-two percent (82%) where sixty percent (60%) is the maximum allowed, with one thousand one hundred eighty-six point four (1186.4) square feet per unit for ninety-five (95) units, where one thousand two hundred fifty (1250) square feet for ninety (90) units is the maximum allowed, and from ACC 23.10, Table B, Off-Street Parking Requirements, to have two hundred twenty-three (223) parking spaces where three hundred twelve (312) parking spaces are required.

The Chairperson called on the Zoning Administrator to testify. The Zoning Administrator said that the proposed site is where the New Life Assembly of God church is located. He also noted that the appellants also own Riverpark Towers.

The Chairperson called on the appellants to testify.

Rick Margolis (co-owner Homestead U. LLC/Columbus Pacific Properties, Inc.) addressed the Board. Mr. Margolis gave a history of his company, noting that they had bought the Riverpark properties two years ago. He stated that his company has spent \$1.5 million on renovation to Riverpark.

Mr. Margolis said that Ohio University is growing, and that there are no other apartment complexes planned by anyone for the City. He said the proposed project will be consistent in size and character of the surrounding buildings.

Mr. Margolis stated that 70% of college students have cars, so the required parking is not needed. He also said he could easily get rid of five apartments in the project, but the mix of apartment sized remaining is not giving the students what they want.

Matt Leisure (MPS architects, Columbus, Ohio) addressed the Board. Mr. Leisure said that this site is a walkable distance to campus. He then described the area, and indicated that South Green Drive is to be extended and a promenade constructed. Mr. Leisure said the current building on site would be demolished. He also compared the height of the proposed building with those in the immediate area.

Gary Bruck (Sullivan Bruck Architects) addressed the Board. Mr. Bruck said that the tallest part of the proposed building would be the stair tower, which is only 1.4% of the area of the building. He also described the podium base on which the building would be erected, saying the building would meet flood height regulations, and parking would be underneath, as it is allowed in the flood plain.

Mr. Leisure discussed the view of the proposed building. He said that most of the parking would be hidden with the design used. Mr. Leisure also described the amenities and landscaping of the site.

Mr. Bruck referred the Board to the approval letter from the Chief of the Athens Fire Department for the project design.

Mr. Leisure said the project would cost \$20 million, with needed tax revenue created for the community.

The Chairperson asked about the parking capacity of Riverpark Towers and Rivers Edge. Mr. Margolis said it was at 83%. The Chairperson asked about guest parking at the proposed site. Mr. Margolis said there would be guest parking. Ms. Tousley noted the parking lot adjacent to this site, and suggested that tenants of the proposed building could rent spaces there.

Mr. Baum said that the appellants have assumed the South Green Drive extension, and asked if they had talked to Ohio University about this. Mr. Leisure said that the University said that they were going to do it.

David Fisher addressed the Board. Mr. Fisher reiterated that he was assured that the road extension is to be done.

The Chairperson called on anyone wanting to speak in favor of the variances.

Phil Foster (5116 David Lane, Albany, Ohio, pastor-New Life Assembly of God) addressed the Board. Mr. Foster said that the church has been approached a number of times about this property. He said that this is a “win-win” situation for the City, and that the project would enhance that part of campus.

The Chairperson called on anyone wanting to make general comment about the variances. No one came forward.

The Chairperson called on anyone wanting to speak in opposition of the variance.

Robert Toy (attorney, 50 ½ South Court St.) addressed the Board. Mr. Toy said that the variances should be denied, and that the project can be scaled back to meet City Code. He noted the 81.5% lot coverage, when only 60% is allowed, and that this is not in keeping with development in Athens. He also said he disputes the appellants’ calculations.

Mr. Toy said the project will be injurious to public welfare in that with less parking available, tenants will find other parking along Morris, Grant, Bolleana and other streets. He said the appellants gave no data to substantiate their parking claims.

Mr. Toy said that refusal of the variances would not deny the appellants reasonable use if Code regulations are followed. He referred the Board to a recent case (#12-15V) where a hotel was denied a height variance, and came back with a different proposal, which was approved. Mr. Toy also said 223 tenants should still prove profitable.

Mr. Toy indicated that there would be increased traffic congestion, including tenants looking for parking spaces. Mr. Toy said “Less is more.”

Mr. Toy stated that granting the variances would give special privilege to the appellants denied to others, and would create a flood of similar requests. Mr. Toy then showed photos of the site, noting the proposed South Green Drive extension to Mill Street. He also said the pool area could be used for more parking.

Pam Wells (manager, Summit at Coates Run, 363 Richland Avenue) addressed the Board. Ms. Wells noted that her apartment complex had to increase parking spaces on site, and that their lot is at capacity. She also noted that the apartment building’s height was limited by the City.

Ms. Soltow asked the appellants if tenants will be told of the parking situation.

Dave Anderson (representative for Homestead U. LLC/Columbus Pacific Properties, Inc.) answered that they would not be told, and reminded the Board that at other company-owned sites, the average percentage of students having cars is 71%. Ms. Kraynanski asked if tenants would be told the parking is in the flood plain, and if they have insurance for this. Mr. Anderson said that they would be told, and that they are insured for this.

Mr. Anderson said the Summit at Coates Run full-parking-lot situation could be attributed to the fact that the Summit is not walkable to campus, and the students there need cars. Mr. Anderson suggested that if the parking lot at Summit is full, that this could be because the apartment complex is renting to too many people, and would therefore be breaking City Code.

Mr. Anderson said there is full parking underneath the pool deck.

Ms. Kraynanski asked the Zoning Administrator if the newer apartment buildings on Milliron and East Union Streets meet total lot coverage requirements. The Zoning Administrator said they do not but were built before the total-lot-coverage section of the City Code had not been enacted yet, and was submitted as a Planned Unit Development.

Mr. Margolis said that there is no other property like this in Athens, and the design of the building is to keep it consistent with the area. He also added that this is an expensive project due to the podium design for the base.

David Fisher (Kephart Fisher LLC) addressed the Board. Mr. Fisher said “Less is less.” He then noted benefits to the community. Mr. Fisher said that he hopes the Board focuses on the quality of the project, and stated that empirical data supports the appellants’ position on this project.

Ms. Carson asked Mr. Toy about nearby storage areas that students use for their cars. Mr. Toy said that it was his personal experience that students will park in neighborhoods and then move cars to avoid tickets. Ms. Carson asked about the 24-hour limit on parking. Mr. Toy said that it is enforced uptown but not in this area.

The Chairperson closed the floor for discussion.

Ms. Carson said that it was annoying to have to take people’s word on parking. She also said that when Summit at Coates Run asked for its variance, the appellant had said that their parking lot was not full (Case #12-19V). Mr. Baum said that he thought the statistics of the appellants were accurate. Ms. Kraynanski said that this project will attract students more likely to have cars.

On a motion by Ms. Hollow, seconded by Ms. Tousley, the Board considered to grant variances to the property at 10 South Green Drive from ACC 23.10, Table A, Schedule of

Bulk Controls, to allow construction of a multi-unit apartment building with a building height of four and one-half (4 ½) stories and sixty-four feet (64’), where three and one-half (3 ½) stories and forty-five feet (45’) are the maximum allowed, with total lot coverage of eighty-two percent (82%) where sixty percent (60%) is the maximum allowed, with one thousand one hundred eighty-six point four (1186.4) square feet per unit for ninety-five (95) units, where one thousand two hundred fifty (1250) square feet for ninety (90) units is the maximum allowed, and from ACC 23.10, Table B, Off-Street Parking Requirements, to have two hundred twenty-three (223) parking spaces where three hundred twelve (312) parking spaces are required.

FINDINGS:

- 1.) **HARDSHIP AND DIFFICULTY:** No hardship if City Code is followed. It can be used with a different design.
- 2.) **EXCEPTIONAL CIRCUMSTANCE:** This is not the only one in the flood zone. Ohio University does not comply with City regulations.
- 3.) **PRESERVATION OF EQUAL PROPERTY RIGHTS:** It would give special privilege on height and number of stories.
- 4.) **MINIMUM VARIANCE:** No.
- 5.) **ABSENCE OF DETRIMENT:** No, it would impair the purpose of the Code.
- 6.) **NOT OF A GENERAL NATURE:** Yes.

The Chairperson called for a vote: Carson – no, Hollow – no, Kraynanski – no, Tousley – yes, Golzy – no. Motion denied 4-1; variance denied.

Case #14-05V	138 North Lancaster Street	Zone R-1	JAM Partnership, Appellant
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Appellant is requesting a variance from ACC 23.10.01., Table A, Schedule of Bulk Controls, to allow an addition to a structure resulting in a side yard setback of two feet (2’), where five feet (5’), or ten percent (10%) of the width of the lot, is the required minimum.

The Chairperson called on the Zoning Administrator to testify.

On a motion by, seconded by , the Board considered to grant

FINDINGS:

- 1.) **HARDSHIP AND DIFFICULTY:**

2.) **EXCEPTIONAL CIRCUMSTANCE:**

3.) **PRESERVATION OF EQUAL PROPERTY RIGHTS:**

4.) **MINIMUM VARIANCE:**

5.) **ABSENCE OF DETRIMENT:**

6.) **NOT OF A GENERAL NATURE:**

The Chairperson called for a vote:

Case #14-06T	960 East State Street	Zone B-3	Bryan Christman, Appellant
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Appellant is requesting a temporary use permit from Section 23.08.05(C) to allow a parking lot without paving it, where the requirement is for it to be paved.

The Chairperson called on the Zoning Administrator to testify.

On a motion by, seconded by , the Board considered to grant

The Chairperson called for a vote:

OTHER BUSINESS:

--Disposition of minutes from April 8, 2014 meeting.

The meeting was adjourned at pm.

John Golzy, Chairperson

Paul Eschenbacher, secretary