

Board of Zoning Appeals

Minutes

April 13, 2021

Members present: John Golzy (Chairperson), Lisa Carson, Joe Krause, Kay Tousley, and Robert Delach (alternate).

City officials present: David Riggs (Zoning Administrator), Kerri Yake (BZA Secretary), and The Government Channel

The meeting was called to order at 7:01 online as an Internet Conference. The Chairperson then read a statement about the policies and procedures of the Board. He then swore in, under oath, those intending to give testimony.

Case #21-03V 52 Depot Street Zone: R-3 Richard Shultz

Appellant is requesting a variance from ACC 23.10.01 (Table A Bulk-Controls) to allow a minimum lot width of forty (40) feet, where sixty (60) feet is required; to allow a rear set back of nineteen (19) feet, where forty (40) feet is required; to allow lot coverage of seventy one (71) percent, where sixty (60) percent is the maximum allowed for new construction of four (4), two (2) bedroom apartments with eight (8) parking spaces.

The Chairperson called on Zoning Administrator to testify.

Mr. Riggs explained the owner has two (2) parcels on the property mentioned. The property is very odd shaped and the lots were platted long before the existing code for minimum lot width was established. The property owner would like to utilize the space in the back of the property.

Chairperson mentioned previously if eight (8) parking spaces were proposed, they would be calculated at eight (8) times one hundred eighty (180) square feet for a total of one thousand four hundred forty (1,440) square feet. Chairperson questioned the three thousand two hundred (3,200) square feet that the appellant had shown.

Mr. Riggs explained the square footage mentioned would include both the building and parking. He explained the parking square footage due to angle parking would cause the spaces to be larger than ninety (90) degree parking.

Chairperson called upon the appellant, Richard Shultz.

Mr. Shultz explained the thirty two hundred (3,200) or thirty eight hundred (3,800) mentioned square footage would include parking spaces, the drive to access parking, sidewalk, and dumpster pad.

Mr. Golzy stated the building is thirty-two (32) percent of lot coverage.

Chairperson called upon the Board Members regarding questions for the Code Office. There were none.

Chairperson called upon the appellant to state his case.

Mr. Shultz mentioned he had submitted a previous plan to the Code Office, which

had shown more building lot coverage and less of a setback. Those plans were revised and the footprint of the building shrunk to allow a rear setback of nineteen (19) feet and (20) feet. The lot coverage was brought down under the forty (40) percent that is required. The appellant mentioned they began with ten (10) parking spaces and changed it to eight (8) angled parking spaces, which would provide better maneuverability. Mr. Shultz stated this is the best use of the site for the intended apartment building with good living areas, bedrooms and balconies. The appellant mentioned this is a non-conforming lot which is hard to place a building and meet city code.

The Chairman asked the appellant why they did not submit the original plan for the larger unit and subsequently resubmitted a plan with reductions.

Mr. Shultz mentioned the original building was ninety-eight (98) feet long. Two (2) feet was taken from each proposed apartment reducing the overall length by eight (8) feet; which allowed the setback to increase from eleven (11) feet to nineteen (19) feet at the smallest dimension.

Chairman asked if there were any questions for the appellant from the Board Members.

Mr. Delach asked for the square footage for each of the apartments.

Mr. Shultz replied that each apartment is just under sixteen hundred (1,600) square feet.

Chairman mentioned in the appellant's narrative, item number four (4) – if the minimal variance requested and required to make reasonable use of the property, then why four (4) units would be reasonable and not three (3) units.

The appellant stated the site would require at least three hundred (300) feet of retaining wall to create the parking and building foundation. The plan would be to use the parking and the foundation for the apartments. Mr. Shultz explained to reduce to three (3) units would not reduce the development cost of the site.

Chairman questioned an easement or right-of-way for the neighbors for egress and ingress which was mentioned in the deed and how the project would affect that.

Mr. Shultz stated that it will be a common driveway.

Chairman then called for anyone that wanted to speak in favor of the request, in general comment, or in opposition.

There were none.

Chairman asked the appellant for any final words.

The appellant had none.

On a motion by Kay Tousley, seconded by Robert Delach, the Board moved to grant the property at 52 Depot Street a variance from ACC 23.10.01 (Table A Bulk-Controls) to allow a minimum lot width of forty (40) feet, where sixty (60) feet is required; to allow a rear set back of nineteen (19) feet, where forty (40) feet is required; to allow lot coverage of seventy one (71) percent, where sixty (60) percent is the maximum allowed for new construction of four (4), two (2) bedroom apartments with eight (8) parking spaces.

Findings:

- 1.) **Exceptional Circumstances:** Any placement of the building with the shape of the lot, would cause setback issues.
- 2.) **HARDSHIP AND DIFFICULTY:** Yes, the lot shape does cause an issue.
- 3.) **PRESERVATION OF EQUAL PROPERTY RIGHTS:** Yes.
- 4.) **MINIMUM VARIANCE:** Yes.
- 5.) **ABSENCE OF DETRIMENT:** Yes.
- 6.) **NOT OF A GENERAL NATURE:** No.


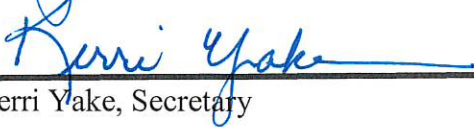
The Chairperson called for a vote: Yes - Tousley, Yes – Carson, Yes - Delach, Yes – Krause, and Yes – Golzy. Motion approved 5-0; variance granted.

OTHER BUSINESS:

--Disposition of minutes from February 9, 2021 meeting. On a motion from Mr. Krause, seconded by Ms. Carson, the Board moved to accept the minutes of the February 9, 2021 meeting as presented, 5-0.

--Discussion – If City Council approval needed for a fence in right-of-way, would BZA approval be needed? Mr. Riggs explained if the fence was larger than six (6) feet in height, it would be considered a structure and setbacks would apply. If the fence is less than six (6) feet in height, it could be allowed in the right-of-way without receiving a variance from the Zoning Board.

The meeting was adjourned at 7:24.

 _____ John Golzy, Chairperson	 _____ Kerri Yake, Secretary
	5/12/2021 Date
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