

**MINUTES  
CITY OF COLUMBUS BOARD OF ZONING APPEALS  
TUESDAY, DECEMBER 19, 2023 AT 6:30 P.M.  
COUNCIL CHAMBERS, CITY HALL  
123 WASHINGTON STREET  
COLUMBUS, INDIANA  
AND WEBEX**

**Members in Person:** Zack Ellison, Charles “Chuck” Doup, Charlie Hammon, and Barry Kastner alternate for Michael Kinder

**Members via WebEx:** None

**Members Absent:** Michael Kinder and Grant Hale

**Staff in Person:** Melissa Begley, Andres Nieto, and Deputy City Attorney Alex Whitted

**Staff via WebEx:** Janie Meek

Mr. Ellison opened the meeting with a brief explanation of the board and its responsibilities. Proof of adequate public notice for all cases on the agenda was confirmed.

Alex Whitted, Deputy City Attorney, administered an oath to all in attendance who would be speaking.

**OLD BUSINESS REQUIRING BOARD ACTION**

None

**NEW BUSINESS REQUIRING BOARD ACTION**

**CCU-2023-017: HMGO Real Estate** – A request by HMGO Real Estate for conditional use approval per Zoning Ordinance Section 3.12(B) to allow a duplex in the RE (Residential: Established) zoning district. The property is located at 1010 California Street, in the City of Columbus.

**CDS-2023-060: HMGO Real Estate** – A request by HMGO Real Estate for development standards variances from Zoning Ordinance Section 7.1 (Table 7.1) to allow a duplex to have 2 parking spaces, 2 less than the required 4 parking spaces and Zoning Ordinance Section 3.12(C) to allow a primary structure to have a 3 foot side setback, 2 feet less than the required 5 foot side setback. The property is located at 1010 California Street, in the City of Columbus.

Mr. Nieto presented for the Planning Department.

Mr. Hammon asked if garages count as a parking spaces.

Mr. Nieto indicated that a parking space does not count if it is a double stacked space. In this instance the parking space outside the garage would block the parking inside the garage. Therefore only 1 space per unit can be counted.

Mr. Ellison asked if the 18.9 feet was enough space to be considered a parking spot.

Mr. Nieto replied that the 18.9 feet did meet the zoning requirements for a parking space.

Clayton Miller and Michael Hooker represented the applicant. Mr. Miller stated that the single family dwelling that was on this site had burnt. Mr. Miller demolished of the burnt home and prepared the lot for a rebuild of the proposed two-family dwelling. When he purchased the property he was under the

impression that the lot was entirely 34 feet wide, which fit his proposed building perfectly. Once a survey was completed it was determined that the lot was actually 30.5 feet wide in the front and 31.00 feet wide in the back. He said he considered shrinking the units, but in his experience renters are looking for 3 bedroom units and a smaller footprint would not accommodate 2 livable 3 bedroom units. Mr. Miller stated that with guidance from Fire and Technical Code Enforcement, to build in this smaller set back, requires the use of a 1 hour fire wall, which he intends to provide. Mr. Miller described building a unit with market interest using the requested variances and fire protection requirements or going back to the drawing board and building something less desirable are his only two options at this time.

Mr. Doup stated in the staff report the Fire inspector indicated he could not support a 3 feet setback in this location.

Mr. Miller stated that the fire inspector's (Troy) comments were before the 1 hour fire wall option was implemented. He added that with the 1 hour fire wall he meets all fire and code requirements for a 3 foot setback from a property line. The fire inspector has been on vacation and unable to respond to the updated building design changes.

Mr. Ellison asked how the unit in the front will access their garage in the rear if each unit has their own garage.

Mr. Miller replied that there will be a sidewalk on the south side of the property for them to use and each unit will have their own 1 car garage. He added that unit 2 will have the north garage with internal access from the garage to their unit.

Mr. Ellison asked if the porch eave of unit 2's entrance was counted in the setback.

Mr. Nieto stated that according to Code Enforcement the measurement is from the foundation to the property line. The eave would not be included in the measurement unless it was greater than 1 foot.

Ms. Begley noted the drawing indicated there are posts shown in the drawings to a porch and are those posts 3 feet from the property line.

Mr. Miller stated that, per Code Enforcement, the porch must to be eliminated.

Mr. Nieto interjected that while on the topic of sidewalks, for reference the standard sidewalk requirement is 5 feet in width 2 feet wider than what Mr. Miller is proposing for the property. Mr. Nieto stated that the conversation he had with the fire inspector was a two-fold concern, 1. that the fire exposure would most likely cause damage to the surrounding properties and 2. Emergency access to unit 2 would be an issue (3 feet is not enough area to safely maneuver a gurney).

Mr. Doup stated that the fire wall does not address the access issues.

Mr. Hammon asked if the current privacy fence was on the north side of the property, and if it is not, would it even be an access issue for practical purposes.

Mr. Nieto stated that the current privacy fence is to the south, however the property owner to the north would be allowed to install a privacy fence along that property line if they choose. Ms. Begley confirmed.

Mr. Ellison stated that although it is unfortunate the property is not the width the applicant thought it was, ultimately, it is a purchasers responsibility to ensure the property is what the seller is claiming it to be.

Mr. Ellison opened the meeting to public comment.

Angel Espinal, 1002 California Street, participating in-person, stated she was concerned with the proximity of the proposed building to her home being a fire hazard. She was concerned that a two-family structure would cause more of a parking burden than a single family residence.

Marcia Prior, 1022 California Street, participating in-person, stated she is concerned that she would lose her parking in front of her home if a multi-family unit is built at this location. She was also concerned that the home that burned was the appropriate 5 feet from the home to the north and still caused significant damage to that home so how much more would the 3 feet cause. She was also concerned that renters would not take care of the property. She also stated that in her opinion the site would be better utilized as

a two story (one unit on top of the other) rather than stretched out across the property. She added that her biggest concerns is parking and renters that don't take care of the property. She went on to say a block building would ruin the look of the neighborhood.

Dennis Prior, 1022 California Street, trustee of the Prior Family Trust, participating in-person, stated that California Street allows parking only on 1 side of the street which limits available spaces. He went on to say that there are already quite a few multi-family houses on California Street that increased the need for on-street parking. He mentioned that he was familiar with the Chestnut Street unit, Mr. Miller built. That lot was larger than this one and still caused parking issues due to parking only being available on one side of the street.

Angel Espinal, 1002 California Street, participating in-person, stated she was also concerned with her property values decreasing.

Ms. Meek indicated that no additional members of the public attending via WebEx wished to speak.

Mr. Ellison read the letter from Patti Jo Bowman, 1021 Chestnut Street, who stated she was concerned that 6 more bedrooms would mean 6 more cars in the neighborhood as families are no longer interested in living in this area. She and her neighbor have had to experience people parking their cars in front of their homes and sleeping there as well as others trying to make camps in their back yard and in the alley. She said in her letter that she would not want the parking or smaller side setbacks approved.

Mr. Ellison closed the meeting to public comment.

Mr. Miller responded that in regards to the fire wall, it is not concrete block, it is called concrete hardy siding. It is not vinyl siding but a cement product that provided greater firewall protection. In regards to the parking, they are providing 2 - 1 car garages with the additional parking space behind each garage. Mr. Miller went on to say that he owns several rental units in town and he prefers renting to families. He added that of all of his properties there is only 1 that is a combination of only adults. The families are typically 1 to 2 car families and that is the demographic he prefers for renters. He went on to say that he lives locally and keeps an eye out on all of his rentals. In regards to property values, Mr. Miller stated that he has to obtain loans to build these units so he has to maintain good property appraisal values and if anything his units increase the value of the homes around them because his units have a higher appraisal value than any of the surrounding homes. In regards to the 3 foot setback he consulted Technical Code Enforcement and the purpose of the 1 hour firewalls it to allow closer proximity building for just such scenarios as this site. In order to receive a building permit, Mr. Miller stated he would have to be in compliance with all of the requirements set forth by Code Enforcement.

Mr. Kastner asked if the applicant considered a 2 story building.

Mr. Miller indicated that going up would not increase parking spaces as it does not change the width of the lot. He added that adding stairs actually takes away from the living space, stairs consume from 200 to 220 square feet of living space.

**Motion:** Mr. Doup made a motion to deny the request for a two-family unit agreeing with staff findings that criteria #1, 2 and #3 have not been met. He added that such a small side setback did not properly allow space for emergency assistance even with a firewall it would be too great a risk for the surrounding homes. Mr. Kastner seconded the motion. The motion passed with a voice vote of 4 in favor and 0 opposed.

Mr. Miller wanted to clarify, given the denial explanation, that the board was denying the request because of the side setbacks and not because it was a two family home. He stated that if it was just the setbacks he would reduce the unit sizes to meet those requirements.

Mr. Doup and Mr. Ellison confirmed that due to the crowded conditions of this lot it is not a good site for a two-family residence and the motion to deny the conditional use stands.

Mr. Miller asked to withdraw the 3 additional variance requests.

**Motion:** Mr. Doup made a motion to approve the applicants request to withdraw the additional 3 variance requests. Mr. Hammon seconded the motion. The motion passed with a voice vote of 4 in favor and 0 opposed.

## **FINDINGS OF FACT**

CUV-2023-008: Opposum Court

**Motion:** Mr. Doup made a motion to accept the findings. Mr. Ellison seconded the motion. The motion passed with a voice vote of 4 in favor and 0 opposed.

CDS-2023-021: Narsinghani Commercial

**Motion:** Mr. Hammon made a motion to accept the findings. Mr. Doup seconded the motion. The motion passed with a voice vote of 4 in favor and 0 opposed.

CDS-2023-027: AAA Striping

**Motion:** Mr. Ellison made a motion to accept the findings for both developmental standard variances. Mr. Doup seconded the motion. The motion passed with a voice vote of 4 in favor and 0 opposed.

CDS-2023-029: Daro Chris & Socheata Kem

**Motion:** Mr. Doup made a motion to accept the findings. Mr. Ellison seconded the motion. The motion passed with a voice vote of 4 in favor and 0 opposed.

CCU-2023-016: Ritasha Dance Studio

**Motion:** Mr. Ellison made a motion to accept the findings. Mr. Doup seconded the motion. The motion passed with a voice vote of 4 in favor and 0 opposed.

CDS-2023-031: Kimberly Shewmaker

**Motion:** Mr. Doup made a motion to accept the findings. Mr. Ellison seconded the motion. The motion passed with a voice vote of 4 in favor and 0 opposed.

## **APPROVAL OF MINUTES**

Minutes of the November 28, 2023 meeting.

**Motion:** Mr. Doup made a motion to accept the minutes. Mr. Hammon seconded the motion. The motion passed with a voice vote of 4 in favor and 0 opposed.

## **DISCUSSION**

Ms. Begley announced Austin Whitted will be the Deputy City Attorney for 2024 and Alex Whitted would be stepping up as City Attorney for 2024.

Ms. Begley inquired as to how the board would like to proceed with the January Board of Zoning Appeals meeting that would include a commercial solar facility request.

There was much discussion about a separate meeting from the other requests or a time change to accommodate an extended meeting.

Mr. Ellison recommended having the 1 meeting with an earlier start time and the other members agreed that starting the meeting at 5:00 p.m. instead of 6:30 p.m. would be acceptable. They added that they would prefer a standing microphone for the public speakers instead of them sitting at the applicant table as well as a 3 minute speaking limit.

#### **HEARING OFFICER REPORT**

None

**ADJOURNMENT:** 7:56 p.m.

**Motion:** Mr. Doup made a motion to adjourn. Mr. Ellison seconded the motion. The motion passed with a voice vote of 4 in favor and 0 opposed.

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Zack Ellison, Chairperson

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Charles Doup, Secretary