

**CITY OF CLEVELAND HEIGHTS
BOARD OF ZONING APPEALS
MINUTES OF THE MEETING
April 27, 2022**

MEMBERS PRESENT:	Gayle Lewin Benjamin Hoen Thomas Zych Dennis Porcelli Gayle Lewin Lisa Wolf	Vice Chair Chair
STAFF PRESENT:	Karen Knittel Lee Crumrine Christy Lee	Assistant Planning Director Assistant Law Director Recording Secretary

CALL TO ORDER

Mr. Zych called the regular meeting to order at 7:00 p.m. at which time all members were present.

APPROVAL OF THE MINUTES

Mr. Hoen motioned to approve the March 23, 2022, Minutes, the motion was seconded and the Minutes were approved.

**THE POWERS OF THE BOARD AND PROCEDURES OF THE BOARD OF ZONING
APPEALS PUBLIC HEARINGS FOR REGULAR VARIANCES**

Mr. Zych stated that the purpose and procedures for tonight's meeting are stated for all in attendance. The hearings are quasi-judicial in nature and certain formalities must be followed as if this were a court of law. Anyone who wishes to speak about a case will first be placed under oath. For each case, City staff will make a presentation and then each applicant will present his or her case stating the practical difficulty for which we are being asked to grant a variance. The Board will then open a public hearing to obtain testimony from any other persons interested in the case. The applicant will have an opportunity to respond to any testimony from the public and will address those comments to the Board. The Board may then ask questions of the applicant. Based on all the evidence in the record, the Board will make findings of fact and render its decision by motion. The formal nature of these proceedings is necessary because each applicant is asking for an extraordinary remedy called a variance. A variance is formal permission by the City for an individual not to comply with a portion of the municipal Zoning Ordinances which is binding to all other.

In making its decision of whether to grant a standard variance, the Board will weigh factors set forth in the Zoning Code in Section 1115.07(e)(1). The burden is upon the applicant to demonstrate by a preponderance of the evidence that the literal enforcement of the Zoning Code

would result in a practical difficulty. Preponderance of evidence means the applicant proved his or her position is more likely than not true. The applicant must demonstrate circumstances unique to the physical character of his or her property. Personal difficulties, personal hardships or inconvenience are not relevant to the Board's determination.

The Board is the final administrative decision-maker for all regular variances.

Lee Crumrine swore Karen Knittel in.

Mr. Zych stated that there was a report dated April 20, 2022, and after hearing and seeing no objection the report was entered into the record.

Ms. Knittel reviewed the staff report using a PowerPoint presentation:

Cal. No. 3543B Beaumont School, 3301 North Park Blvd., AA Single-Fam., proposes renovation to the athletic field and requests a variance to Sect. 1121.12(b) to permit soccer goal comprised of 3-14' posts separated by a total of 60' with netting suspended between them in the North Park Blvd. front yard (not permitted in front yd.).

Context: The school is located on the former Painter Estate between North Park and Fairmount Boulevards and Lee and Shelburne Roads. It is in an "AA" Single-Family District, with the Ruffing Montessori School and single-family homes in the "AA" Single-Family district to the east, the former Carmelite Monastery site to the west, and homes in an "A" Single-Family district along Fairmount Boulevard to the north, and Shaker Lakes Park to the south.

Project: The Beaumont School proposes to replace the existing track and soccer field with an Ohio High School Athletic Association (OHSAA) regulation-sized soccer and lacrosse field. The soccer/lacrosse field is mostly in the same footprint as the current field and will include the area taken up by the track to meet the size regulation. The project includes chain-link fencing around the field. The applicant has added soccer goals comprised of three 14' tall posts separated by a total of 60' with netting suspending between them, one of these soccer goals will be located in the North Park Blvd. front yard.

Zoning History: A variance was granted to permit a 4-foot tall chain-link fence in the North Park Blvd. front yard at the March 2022 BZA meeting.

Facts:

- Beaumont School is a conditionally permitted use in this zoning district, therefore, the Planning Commission reviewed and approved this field renovation project at their March 9, 2022 meeting with the condition that the required variances be granted.
- The entire Beaumont campus is a designated Cleveland Heights Landmark. Structures that still exist from the original estate include the Painter mansion, outbuildings along Fairmount Boulevard, a carriage house (17412 Shelburne, part of the Ruffing Montessori School campus), and a stone wall that surrounds much of the block described in the context paragraph.

- The Landmark Commission reviewed and approved the project at their March 15, 2022 meeting.
- The Architectural Board of Review reviewed and approved the project at their March 15, 2022 meeting.
- Section 1121.12(b) regulates permitted structures in a front yard and corner side yard, specifying these to be unenclosed porches, decks, patios, steps, and ramps.
- The zoning Code fence regulations for the residential district do not take into consideration conditionally permitted uses such as schools and athletic fields.
- Trees along North Park Boulevard are being maintained and will buffer the view of the soccer goal.
- Across North Park Boulevard is the Shaker Lakes parkland.

The applicant has submitted a Statement of Practical Difficulty with their application and it is attached to this staff report.

If approved, conditions should include:

1. Variance 3543B to Sect. 1121.12(b) to permit a soccer goal comprised of 3-14' posts separated by a total of 60' with netting suspended between them in the North Park Blvd. front yard as shown in the drawings submitted with the BZA application;
2. Receipt of applicable building permits; and
3. Complete construction within 24 months of the effective date of this variance.

Mr. Zych asked if there were any questions for Ms. Knittel.

Ms. Wolf asked if it makes a difference for the variance how far back from the street the poles are located.

Ms. Knittel replied that the variance is required because they are located in front of the building in the front yard.

Mr. Porcelli asked that since schools are conditionally permitted uses, would this exempt them from this kind of requirement.

Ms. Knittel responded no, that conditionally permitted uses still have to request variances from the Board of Zoning Appeal. The applicant did go to the Planning Commission to update their conditional use permit. Planning Commission has reviewed this and has given their approval. Of course, it's contingent on the necessary variances being granted.

Mr. Zych asked if there were any additional questions

Lee Crumrine swore in the applicant representatives

Susan Frankel 25300 Cedar Road Beechwood, Oh 44012 and Bruce Horton 1127 Euclid Avenue Apt 424, Cleveland, Ohio 44115.

Mr. Zych stated that there was an application submitted on March 4, 2022 and asked the representatives to confirm that the application was submitted on behalf of the applicant and that its contents are true and correct to the best of your knowledge and information.

Ms. Frankel responded that this was correct.

Mr. Zych stated that without any objection, the application would be entered into the record.

Mr. Horton explained that three of the fence posts for the chain link fencing would be extended an additional ten feet in height and there would be a cable system to enable raising the netting. He stated that this is technically not the soccer goal that will be freestanding on the field, that this is in effect a backstop behind the soccer goal or the lacrosse goal with the netting small enough to prevent the lacrosse balls and soccer balls from getting out onto North Park Boulevard at least for the width of the penalty box on the soccer field. This is three meters behind the end line of the soccer field and will be black netting similar to the chain-link fence, to help prevent balls that are too high or wide from going out onto the street.

Ms. Wolf asked commented that the netting would prevent balls from entering North Park Boulevard which is a busy street and asked if this would prevent children from running after these balls to retrieve them adding to the safety feature.

Both Ms. Frankel and Mr. Horton responded that this was correct.

Mr. Zych asked if there was a motion.

Ms. Wolf moved to approve **Cal. No. 3543B Beaumont School, 3301 North Park Blvd., AA Single-Fam.**, proposes renovation to the athletic field and requests a variance to Sect. 1121.12(b) to permit soccer goal comprised of 3-14' posts separated by a total of 60' with netting suspended between them in the North Park Blvd. front yard (not permitted in front yd.). Hearing the evidence under oath the Board finds and concludes that special conditions and circumstances do exist as this property is being used conditionally as a school property, this will be a soccer field and the post netting would be added to prevent a nuisance of soccer balls entering the street also to prevent children from going after those soccer balls. The property in question will not yield a reasonable return without the variance as that is what this field is being used for a soccer field, goals, netting et cetera are necessary. The essential character of the neighborhood would not be substantially altered as landscaping existing landscaping will cover most of the poles and the netting. This will not affect the delivery of government services the following conditions and circumstances that exist are not a result of the actions of the applicant of granted the variance shall have the following conditions:

1. Variance 3543B to Sect. 1121.12(b) to permit a soccer goal comprised of 3-14' posts separated by a total of 60' with netting suspended between them in the North Park Blvd. front yard as shown in the drawings submitted with the BZA application;
2. Receipt of applicable building permits; and
3. Complete construction within 24 months of the effective date of this variance.

Ms. Lewin interjected to disclose to the group that Bialosky Architecture is a client of the company that she works for. However, she stated her company is not involved with this project and that they have no financial interest in anything regarding this project or financial interest in anything to do with this project or with Bialosky Architecture.

The motion was second by Dennis Porcelli; the motion was approved 5-0.

Old Business

Mr. Zych stated that the BZA had received a written request from the Cal. No. 3509. 3764 Glenwood Road applicant requesting an extension of the time to complete the project. The variance was granted on November 18, 2020, for the construction of a workshop and accessory building. The grounds for requesting this extension of time included the impact of the pandemic and the delays and increased costs of materials which prevented the applicant to execute the project. Mr. Zych stated the applicant is requesting an extension of 18 months.

Mr. Hoen made a motion to grant an 18-month extension to Cal. No. 3509 given the reasons set forth in the request, there is evidence that there have been circumstances that have impacted construction and therefore an extension would be warranted.

Ms. Lewin seconded the motion. The motion passed 5-0.

Ms. Wolf asked if a Board member was not present at the BZA meeting when this variance was granted could vote on the request to extend the time of the variance

Mr. Zych responded that this is a new procedural motion and that you could vote on this motion.

There were no other comments or questions and the vote was taken.

The motion was approved 5-0.

New Business

There was no new business to discuss.

The meeting adjourned at 7:23 pm

Respectfully Submitted,

Thomas Zych, Chair

Karen Knittel, Secretary