

CITY OF CLEVELAND HEIGHTS
BOARD OF ZONING APPEALS
MINUTES OF THE MEETING
May 18, 2022

MEMBERS PRESENT: Gayle Lewin
Benjamin Hoen Vice Chair
Thomas Zych Chair
Dennis Porcelli
Liza Wolf

STAFF PRESENT: Karen Knittel Assistant Planning Director
Lee Crumrine Assistant Law Director
Christy Lee Recording Secretary

OTHERS PRESENT:

CALL TO ORDER

Mr. Zych called the regular meeting to order at 7:01 p.m. at which time all members were present.

APPROVAL OF THE MINUTES

Mr. Hoen motioned to approve the April 27, 2022 Minutes, the motion was Dennis Porcelli seconded the motion, 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 others.

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.

PUBLIC HEARING

May 18, 2022

Cal. No. 3546 J. & S. Nestor, 1815 North Park Blvd., "A" Single-Family, proposes renovation to front of house requests variance to Sect. 1121.08(a)(4) to permit the front yard to be less than the established front yard depth.

Ms. Knittel was sworn in by Mr. Crumrine.

Ms. Lewin stated that she needed to recuse herself from this case as she had worked on this project.

Mr. Zych asked that the staff report dated May 13, 2022, be entered into the record, hearing no objection it was entered.

Karen Knittel's PowerPoint Presentation of the staff report was as follows:

Context

This is a single-family house zoned 'A' Single-Family. The adjacent house to the west is also zoned 'A' Single-Family. The adjacent house to the east is zoned 'AA' single family. The adjacent house to the rear is zoned 'A' Single-Family. South, across North Park Boulevard, is parkland.

The Future Land Use Map shows this area as continuing to be used for detached single-family houses.

Project

The applicant is proposing renovations to their home that include an addition for a front entryway that would result in the house being closer to the public right-of-way than the established front yard setback.

Facts

- This is a code-conforming parcel in terms of lot width and square footage. It is 100 feet wide and is 21,000 square feet in area. Section. 1121.06 states that in an "A" Single-family district the minimum lot width at the building line is 50 feet and the minimum square footage is 7,500 square feet.
- There are two "A" single-family parcels along North Park Boulevard, the balance of the parcels along North Park Boulevard are zoned "AA" Single-Family.
- Schedule 1121.08 states that the minimum front yard depth is 25' except as regulated in

subsection (a).

- Subsection (a) Front Yards on Partially Built-up Blocks states that where 40% or more of a block face was occupied by two or more dwellings, then the required front yard is established by the existing conditions:
 - Item (1) considers all of the setbacks on the block face. If the furthest dwelling from the public right of way and the closest dwelling from the public right of way have no more than a 10' difference then an average of the existing front yards is used. This is a long block face and it was found that the difference in this measurement was just over 10 feet and so item 1 does not apply.
 - Item (2) states that if there are adjacent houses 100' or less from the proposed house, a line connecting the adjacent houses is drawn, establishing the front yard.
 - Item (3) states that where neither subsections (a) (1) or (2) hereof are the case, and the lot is within 100 feet of an existing dwelling on one side only, then the front yard is the same as that of the existing adjacent dwelling.
 - Item (4) states that an addition to the front of an existing dwelling shall comply with the required front yard set forth in Schedule 1121.08 which is 25 feet unless the adjacent dwellings have a front yard greater than this requirement in which case the addition shall comply with the front yard regulations established in subsections (a)(1), (2) or (3).
- This parcel's situation causes us to follow subsection (a)(2) to establish the required minimum front yard, resulting in the required front yard depth being the existing 100'4".
- The proposed addition extends approximately 6 feet into the required front yard and is approximately 22 feet wide.
- There is landscaping and trees in the front yard.
- The Architectural Board of Review has completed a preliminary review of this plan and stated that the design is in character with the architecture of the house.
- The existing entry is through the garage.

If approved, conditions should include:

1. Variance 3546 is granted to permit the front yard to be less than the established front yard as shown on the site plan submitted with this BZA application
2. Approval of the Architectural Board of Review;
3. Receipt of a Building Permit;
4. Complete construction within 24 months of the effective date of this variance.

She stated that the applicant and his representatives were present and prepared to briefly review their project and Statement of Practical Difficulty

Ms. Wolf asked for confirmation about the front entrance to the applicant's house is through the garage. Ms. Knittel responded that she understood this to be true and that this should be asked of the applicant.

The applicant, John Nestor, and his representatives Jim Karlovec and Christopher Maurer were sworn in by Mr. Crumrine.

They each provided their names and addresses for the record: Jim Karlovec, 17619 Winslow Rd., Shaker Heights, Ohio; John Nestor, 1815 North Park Blvd., Cleveland Heights, Ohio; Christopher Maurer, 1572 Rydalmount Rd. Cleveland Heights, Ohio.

Mr. Zych asked if to the best of their knowledge, the content of the application dated April 28, 2022, was true and correct. Mr. Maurer responded that it was.

Mr. Karlovec stated that there is no entry to the house from the driveway and that currently, entry is through the garage. Mr. Karlovec reviewed the project and the statement of practical difficulty submitted with the BZA application.

Mr. Maurer stated that the proposed setback lines up with the setback of the unenclosed porch of the house to the east.

Mr. Nestor added that they had looked at this a number of different ways and tried to consider different options for where the front entry would best sit. He stated that after reviewing a number of different options including a garage that would have required a variance, they came to this alternative that helps to keep the character of the home and will allow for a formal entry to the home rather than entering through the garage.

Ms. Wolf asked if there was a way to create the entryway without the additional six feet.

Mr. Mauer responded that they looked at a number of different options and that this option was the one that works.

There were no members of the public wishing to comment on this case.

Ms. Wolf stated that regarding Calendar No. 3546 J. & S. Nestor, 1815 North Park Blvd. she moved to grant the application for a variance with conditions to Section 1121.08(a)(4) to permit the front yard to be less than the established front yard depth. After reviewing the application and other submissions, hearing the evidence under oath, the Board finds and concludes that special conditions/circumstances exist which are peculiar to the land/structure involved which are not generally applicable to other lands/structures in the same Zoning District, in particular that this home was built without a true entryway; The property in question will not yield a reasonable return without the variance as access to the home is difficult because there is not an entryway; The variance is insubstantial and is the minimum necessary to make possible the reasonable use of the property as there were few option to create this entryway; the essential character of the neighborhood would not be substantially altered as a result of the variance the front of the house is covered with a substantial amount landscaping and cannot be viewed clearly from the street and the neighboring homes' setback is within the same range; the variance would not adversely affect the delivery of government services; the applicant's predicament feasibly cannot be resolved through a method other than a variance, as the plans for the proposed entryway require the additional six feet to create that entry; If granted, the variance shall have the following conditions:

1. Variance 3546 is granted to permit the front yard to be less than the established front yard as shown on the site plan submitted with this BZA application
2. Approval of the Architectural Board of Review;
3. Receipt of a Building Permit;
4. Complete construction within 24 months of the effective date of this variance.

Mr. Porcelli seconded the motion, the motion carried 4-0.

Cal. No. 3547 M. Larkin, 3166 Sycamore Rd., “A” Single-Family, proposes new garage requests variance to Sect. 1121.12(e)(2) to permit garage floor to be greater than max. floor area permitted.

Mr. Zych asked that the staff report dated May 13, 2022, be entered into the record, hearing no objection it was entered.

Karen Knittel's PowerPoint Presentation of the staff report was as follows:

Context

This is a single-family home zoned ‘A’ Single-Family. The houses surrounding this property are all zoned ‘A’ Single-Family.

The Future Land Use Map shows this area as continuing to be used for detached single-family houses.

Project

The applicant proposes to construct a new 3-car garage to replace a 2½-car garage that was destroyed in a Storm in 2021.

Facts

- This property is a nonconforming parcel as it is 50' wide and is 7,250 square feet in area. Section. 1121.06 states that in an “A” Single-family district the minimum lot width at the building line is 50 feet and the minimum square footage is 7,500 square feet.
- Code Section 1121.12(e)(2) states that the maximum floor area of a garage is 600 square feet plus one additional square foot of garage floor area for every 15 feet of lot area greater than 6,000 square feet.
- This parcel is 7,250 square feet, resulting in the maximum permitted floor area of 683 square feet.
- The rear yard is 4100 square feet.
- This 32' by 24' garage is 768 square feet.
- Section 1121.12(d)(1) permits a maximum rear yard coverage of an accessory building to be 20%.
- The proposed accessory building would cover 18.7% of the rear yard.
- The total rear yard coverage with the proposed garage is code conforming at 60%.
- The garage location is code conforming; it is set back 4' from the rear property line and 3' from the east property line. Section 1121.12(a)(1) requires a minimum setback of 3' from property lines.
- The Architectural Board of Review approved this project at their January 4, 2022 meeting.

If approved, conditions should include:

1. Variance 3547 is granted to permit the garage floor to be 768 square feet, greater than the maximum floor area permitted as shown on the site plan submitted with this BZA application
2. Receipt of a Building Permit;
3. Complete construction within 24 months of the effective date of this variance.

She stated that the applicant was present and prepared to briefly review their project and Statement of Practical Difficulty.

Mr. Mark Larkin, 3166 Sycamore Road, was sworn in by Mr. Crumrine.

Mr. Zych asked if Mr. Larkin if to the best of his knowledge, the content of the application dated April 12, 2022, was true and correct. Mr. Larkin responded that it was.

Mr. Larkin reviewed the project and the statement of practical difficulty submitted with the BZA application.

Mr. Zych asked if the range of automobiles that he is proposing to store in the garage is typical of the vehicles other people have.

Mr. Larkin answered that he did believe this to be true and that there were a few other properties with three-car garages on his street.

Ms. Lewin asked what would be the maximum garage floor area if this were a code-conforming parcel of 7,500 square feet.

Ms. Knittel responded that this would be 700 square feet.

Mr. Zych asked what was the square footage of the proposed garage.

Ms. Knittel responded that the proposed garage is 768 square feet.

There were no members of the public wishing to comment on this case.

Mr. Hoen stated that regarding Calendar No. 3547 M. Larkin, 3166 Sycamore Rd. he moved to grant the application for a variance with conditions to Section 1121.12(e)(2) to permit the garage floor to be greater than the maximum floor area permitted. After reviewing the application and other submissions, hearing the evidence under oath, the Board finds and concludes that special circumstances exist at this property as it is a nonconforming property in terms of area and the proposed garage is 68 square feet larger than what otherwise be a conforming garage had this parcel been a code-conforming parcel; also the garage on this parcel was designed in an era when families may have had only one or two cars maximum which in today's day and age a three-car garage is almost standard with most new construction houses and is desirable when redesigning older properties to bring them up to a more modern use; the property in question will not yield a reasonable return without the variance; the variance is insubstantial; the essential character of the neighborhood would not be substantially altered as a result of the variance as other properties in the neighborhood also contain three-car garages; the variance would not adversely affect the delivery of government services; the special condition of this parcel, that it is a nonconforming parcel, is not a result of actions of the applicant; If granted, the variance shall have the following conditions:

1. Variance 3547 is granted to permit the garage floor to be 768 square feet, greater than the maximum floor area permitted as shown on the site plan submitted with this BZA application
2. Receipt of a Building Permit;
3. Complete construction within 24 months of the effective date of this variance.

Ms. Wolf seconded the motion, the motion carried 5-0.

Cal. No. 3548 B. & J. Miller, 1618 Rydalmount Rd., A Single-Family, requests a variance to
A. Sect.1121.12(a)(2) to permit new garage/workshop to be setback less than 5' min. required side yard
setback;
B. Sect. 1121.12(d)(1) to permit garage/workshop rear yard coverage to be greater than max. 20%; & to
C. Sect. 1121.12(e)(2) to permit garage floor area to be greater than max. area permitted.

Mr. Zych asked that the staff report dated May 12, 2022, be entered into the record, hearing no objection it was entered.

Karen Knittel's PowerPoint Presentation of the staff report was as follows:

Context:

This is a single-family house located in an 'A' Single-family district.

The property is surrounded by single-family houses in 'A' Single-family district

The Master Plan Future Land Use Map shows this area as continuing to be used for single-family housing.

History:

The applicant began discussing this project with staff and the BZA in 2021 (Cal. No. 3535). In December 2021, Cal. No. 3535 requested a side yard variance to permit no setback. The applicant did not have a survey of the property and could not identify the property line. The design of the garage also did not take into consideration the fact that as proposed with no side yard setback, the gutter extended over the side yard property line. The applicant agreed to have a survey completed to establish the side property line and the Board of Zoning Appeals continued the case until January 2022. In January the applicant requested another variance as the survey had not been completed. In February 2022 Cal. No. 3535 was withdrawn as it was unknown when a survey could be completed.

Project:

The applicant proposes to construct a detached 36' by 27'2" garage and workshop with a 1.5' setback on the side (north property) line and a setback of 5' from the rear property line. The total square footage of the structure will be 977.8 square feet and resulting in the rear yard coverage of the accessory building being 23.8%,

Facts

- The parcel is conforming in terms of 50' wide at the building line and is 8,000 square feet in area lot width and area. Code Section 1121.06 states that in an 'A' Single-family district the minimum lot width is 50 feet at the building line and has a minimum of 7,500 square feet in area.
- Code section 1121.12 (a) requires garages to be set back a minimum of 3' from the rear and side property lines.
- Code section 1121.12 (b) requires pool houses, storage sheds, and other similar structures to be a minimum of 5' from the side and rear property lines.
- This structure is more than a garage as it will include a workshop area and therefore must comply with 1121.12(b) requiring a 5' setback. The applicant is requesting a 1.5' setback.
- The applicant's driveway and the driveway at 1614 Rydalmount abut each other and are nonconforming as the pavement goes to the property line resulting in the appearance of

- a shared driveway.
- Code Section 1121.12(e)(2) states that the maximum floor area of a garage is 600 square feet plus one additional square foot of garage floor area for every 15 feet of lot area greater than 6,000 square feet.
- This parcel is 8,000 square feet, resulting in the maximum permitted floor area of 718 square feet.
- The proposed accessory building will be 977.8 square feet, however, the 307.2 square feet of this is proposed to be used for a workshop and storage with the remaining 690 feet being used to garage vehicles. The structure will not have internal walls and therefore the entire footprint is included when applying Code Section 1121.12(e)(2).
- The interior space of this structure is open, with no wall or permanent separation between the workshop area and the garage area; therefore, the entire floor area must be considered as a garage.
- Section 1121.12(d)(1) permits a maximum rear yard coverage of 20%.
- The proposed accessory building rear yard coverage is 23.8%.
- The total rear yard coverage is code conforming at 53.2%; Section 1121.12(d)(5) states that the maximum rear yard coverage is 60%.

If approved, conditions may include:

1. A. Cal. No. 3548 A variance to Section 1121.12(a)(2) is granted to permit the new garage/workshop to have a 1.5' side yard setback as shown on the site plan submitted with the BZA application;
- B. Cal. No 3548B variance to Section 1121.12(d)(1) is granted to permit garage/workshop rear yard coverage to be 23.8% as shown on the site plan submitted to BZA;
- C. Cal. No. 3548 C variance to Section 1121.12(e)(2) is granted to permit the garage floor area to be 977.8 square feet as shown on the site plan submitted to BZA.
2. Approval by the Architectural Board of Review;
3. Receipt of a Building Permit; and
4. Complete construction within 24 months of the effective date of this variance.

She stated that the applicants and their representatives were present and prepared to briefly review their project and Statement of Practical Difficulty.

Mr. Hoen stated that if he understood the presentation, if there were a wall built between the workshop and the garage area, this would be a code-conforming garage, in terms of garage floor area.

Ms. Knittel responded that this was correct.

Mr. Brian and Mrs. Jean Miller, 1618 Rydalmount Road, and their architect, Mr. Mark Fremont, 2910 Hampshire Road, were sworn in by Mr. Crumrine.

Mr. Zych asked Mr. Miller if to the best of his knowledge, the content of the application dated May 2, 2022, was true and correct. Mr. Miller responded that it was.

Mr. Miller reviewed the project and the statement of practical difficulty submitted with the BZA application. Mr. Miller stated that the neighbor at 1614 Rydalmount who is most impacted by the project sent a letter stating his support.

Mr. Zych stated that there was a copy of the email sent by Mr. Jay Horowitz, 1614 Rydalmount supporting this project included in the Board's packets and that this would be entered into the record.

Mrs. Miller added that they have a large garden beside the current garage and that moving the proposed garage further from the side property line would eliminate a portion of the garden and that moving the garage further into the property would make it difficult to get a car into and out of the south bay of the garage.

Mr. Miller added that he knew of at least two sets of properties on his street where neighboring garages share a common wall between them.

Mr. Fremont added that the current garage on the site was built for a different type of condition from what we see today.

Mr. Porcelli stated that he did not think this could be built without trespassing onto the neighbor's property. He stated that while there is goodwill between neighbors now, we do not know what type of relationship will exist in the future and that having the garage so close to the property line may be a source of future conflict.

Mr. Fremont responded that the proposed garage does not go to the property line and that there are about 2 feet if you consider the gutters between the buildings which Mr. Miller and his neighbor believe is adequate space to allow them to service their respective garages.

Mrs. Miller stated that their neighbor is fully aware that they are going to construct a garage and that they are fine with that. She added that they have the shared driveway.

Mr. Porcelli asked if there was a fire code concern about the two garages being only 4 feet apart.

Mr. Fremont responded that the side wall would be fire-rated.

There were no members of the public wishing to comment on this case.

Mr. Hoen stated that regarding Calendar No. 3535, Brian & Jean Miller, 1618 Rydalmount Road, he moved to grant with conditions the application for the variance to

- A. Sect.1121.12(a)(2) to permit new garage/workshop to be setback less than 5' min. required side yard setback;
- B. Sect. 1121.12(d)(1) to permit garage/workshop rear yard coverage to be greater than a maximum of 20%; &
- C. Sect. 1121.12(e)(2) to permit garage floor area to be greater than the maximum area permitted.

After reviewing the application and other submissions, and hearing the evidence under oath, the Board finds and concludes: that special circumstances exist which are peculiar to the property involved which are not generally applicable to other lands/structures in the same Zoning District, in particular when considering the variance C to permit the garage floor area 977.8 square where 718 feet is the permitted square footage for a garage, a garage is a desirable amenity in today's world and most of these properties

were designed with garage spaces that were sufficient when the properties were originally built but they are insufficient in today's world where people have multiple cars and they have other utilities that require housing in the garage and therefore a larger garage is not a luxury but rather a necessity in today's world. Therefore, the variance should be passed the plan itself includes a workshop and if there were to be a wall built between the garage and the workshop, the garage floor area would be code conforming. The absence of this wall makes the structure more utilitarian resulting in the need for this variance. In considering variance B to permit the total rear yard coverage to be greater than 20%, 23.8% would be the coverage making the difference 3.8% which is an insignificant variance, the rear yard has a deck in it that is being minimized to accommodate this new garage. Variance A to permit the setback to be less than the 5-foot minimum required and the request is to permit 1.5-feet and while this typically is insufficient space in this circumstance, there are gardens that abut the other side of the garage that would have to be uprooted to move the garage and in addition, there are turning radius issues that require the garage to be closer to the property line and therefore there would be an insufficient amount of radius space to turn a car if the garage was moved further into the property and therefore this constitutes a practical difficulty necessitating the setback variance.

If granted, the variance should have the following conditions:

1. A. Cal. No. 3548 variance A to Section 1121.12(a)(2) is granted to permit the new garage/workshop to have a 1.5' side yard setback as shown on the site plan submitted with the BZA application;
- B. Cal. No 3548 variance B to Section 1121.12(d)(1) is granted to permit garage/workshop rear yard coverage to be 23.8% as shown on the site plan submitted to BZA;
- C. Cal. No. 3548 variance C to Section 1121.12(e)(2) is granted to permit the garage floor area to be 977.8 square feet as shown on the site plan submitted to BZA.
2. Approval by the Architectural Board of Review;
3. Receipt of a Building Permit; and
4. Complete construction within 24 months of the effective date of this variance.

Ms. Wolf seconded the motion, the motion carried 4-1.

OLD BUSINESS

There was no old business to report.

NEW BUSINESS

There was no new business to report

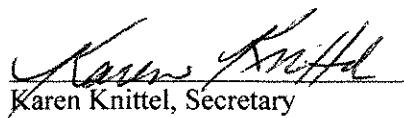
ADJOURNMENT

There being no further business to come before the Board, the regular meeting was adjourned at 8:21 p.m.

Respectfully Submitted,



Thomas J. Lynch, Chair



Karen Knittel, Secretary