

**CITY OF CLEVELAND HEIGHTS
REGULAR PLANNING COMMISSION
October 26, 2022
MINUTES OF THE REGULAR MEETING**

PRESENT MEMBERS:	Jessica Cohen	Chair
	Michael Gaynier	Vice Chair
	Leonard Horowitz	
	Jessica Wobig	
	Judith Miles	
	Adam Howe	

STAFF PRESENT:	Eric Zamft	Planning Director
	Laure Wagner	Assistant Director of Law
	Karen Knittel	Assistant Planning Director
	Christy Lee	Recording Secretary

CALL TO ORDER

Ms. Cohen called the meeting to order at 7:00 p.m. She welcomed the audience to the August 10, 2022, regular meeting of the Cleveland Heights Planning Commission.

APPROVAL OF MINUTES

Ms. Cohen stated that the minutes from August 10, 2022, have been submitted and there were no corrections or changes therefore both sets of minutes were approved.

Laure Wagner swore staff and members of the public in.

Karen Knittel Staff report as follows:

**Proj. No. 22-22 Square 1 Home Solutions, LLC, 3602 Antisdale Ave., "A" Single-Family, Requests
Reduction of Required Enclosed Private Parking Spaces per Code Section 1111, 1115,
1121, & 1161**

CONTEXT

The houses to the east and west along Antisdale Avenue and to the north and south of the applicant are all single-family homes zoned 'A' Single-Family. The Future Land Use Map from the Master Plan shows this area as being used for the same use, single-family housing.

On November 1, 2021, City Council adopted zoning text amendments that would permit applicants to request a reduction in required enclosed private parking spaces from the Planning Commission based upon one (1) of five (5) exceptions (see below).

PROJECT DESCRIPTION

The applicant is proposing to replace the current one-car garage with a new one-car garage.

REQUEST FOR REDUCTION OF REQUIRED ENCLOSED PRIVATE PARKING SPACE

The applicant is requesting a reduction in the required enclosed private parking spaces under 1161.051(a)(iii) replacing a single-car garage with a single-car garage.

STANDARDS

1161.05 MODIFICATION OF NUMBER OF REQUIRED PARKING SPACES.

Whenever the parking requirements based on functions and uses, and application of the standards specified in Schedule 1161.03 can be shown by the applicant to result in an excessive number of parking spaces and that a lesser number of spaces is appropriate and consistent with these regulations, the Planning Commission may approve a reduction in required spaces

1161.051 EXCEPTIONS TO REQUIRED ENCLOSED PRIVATE PARKING SPACES

Any application that will not be providing the requisite enclosed parking spaces as indicated in Schedule 1161.03 shall require review and approval by the Planning Commission based upon the regulations and criteria of this section.

- (a) Exceptions. The required off-street parking spaces for single-family dwellings, two-family dwellings, and townhouses shall be enclosed in a detached or attached private parking garage, as indicated in Schedule 1161.03 unless one (1) or more of the following exceptions can be substantiated:
 - (i) The parcel is a legal, non-conforming lot that does not have the requisite minimum lot area or lot width to accommodate a Code-conforming private parking garage.
 - (ii) Special conditions exist specific to the lot that are not applicable generally to other lots in the same Zoning District that render a Code-conforming private parking garage impractical.
 - (iii) If the previously existing private parking garage on the lot was a single-car garage for single-family dwelling.
 - (iv) If an existing private parking garage structure and associated remnant parking pavement are proposed to be removed and replaced with grass or landscaping, thereby increasing green or open space.
 - (v) If a substantial expansion or addition to the principal structure is proposed.
- (b) Landscape Plan Required. Any application that will not be providing the requisite enclosed private parking spaces shall include a Landscape Plan that addresses stormwater management and minimizes adverse impact on neighboring properties, subject to Chapter 1166 of the Zoning Code.
- (c) All other provisions of City ordinances relating to zoning, demolition construction, use and maintenance of residential buildings shall apply, including, but not limited to, impervious surface coverage, yard setbacks, parking pad dimensions, driveway dimensions, parking requirements, and utilization of driveways for parking.

STAFF RECOMMENDATION

Staff found that this request met the following exception criteria:

- 1161.051(a)(i) The parcel is a legal non-conforming parcel in terms of parcel width and area. This parcel is 40 feet wide and 4,400 square feet. Code Section 1121.06 states that in an "A" Single-Family District a parcel should be a minimum of 50 feet wide at the building line and have a minimum lot area of 7,500 square feet.
- 1161.051(a)(ii) The previous private parking garage on the lot was a single-car 12 feet by 20 feet garage. The applicant proposes replacing this with a single-car garage that is 14 feet by 20 feet.

Due to the impacts of the COVID-19 pandemic, a greater period of time is needed on a temporary basis to complete construction projects. Staff recommends that Planning Commission approvals reflect a longer period of completion.

Staff recommends that the Planning Commission approve the reduction in required enclosed private parking to permit a one-car garage to be built as shown on the submitted site plan with the following conditions:

1. ABR approval of the garage;
2. Receipt of required building permits;
3. Final landscape plan to be approved by the Planning Director; and
4. All required construction and installation of the use shall be completed within 24 months of Planning Commission approval.

Ms. Cohen asked if there were any questions for staff- there were none and if there were any questions from the public there were no, therefore she called for a motion.

Mr. Horowitz motioned approval for **Proj. No. 22-22 Square 1 Home Solutions, LLC, 3602 Antisdale Ave., "A" Single-Family, Requests Reduction of Required Enclosed Private Parking Spaces per Code Section 1111, 1115, 1121, & 1161** along with staff recommendations.

Mr. Howe seconded the motion, motioned carried 6-0.

Laure Wagner swore in the applicant and Karen Knittel.

Ms. Knittel's Power Presentation was as follows.

Proj. No. 22-21 Mac's, 1828 S. Taylor Rd., "C-2" Local Retail, review for possible revocation of conditional use permit per Code Chapters 1111, 1115, 1131, 1151, 1153, 1161 & 1166.

REVIEW OF CONDITIONAL USE PERMIT

This site has been used as a gasoline station and automotive repair station since at least 1977. The conditional use permit was last issued in 1999 (case history below). In October 2016, this business and property were sold to the current owner/operator, Mr. Abed Roufail. As the business and property were both sold, the Conditional Use was updated with the new owner's information. (copy of this conditional use permit and parking plan is attached.) The new owner must continue to follow the conditional use permit conditions,

In 2017 the zoning code was amended and automotive repair service/gasoline stations are no longer conditionally permitted uses in the “C-2” Local Retail zoning district, however, this use has continued in operation and is considered to be a legal, nonconforming use (and, therefore, governed by Title Eleven of the Zoning Code).

In 2020, after receiving a complaint from a neighbor concerning the number of vehicles parked on the parcel, the first zoning code violation notice was issued. With the 2020 violation notice, the current owner was made aware of the conditional use permit, parking plan, and zoning regulations that his business needed to follow. The business came into compliance, but after some time again had too many vehicles parked on the parcel. Zoning violations were issued in 2021 and 2022. The issues identified in all of the zoning violation notices were that too many vehicles were parked on the property, the vehicles were not being parked in designated parking areas and included a recreational vehicle (boat), vehicles were being parked between the pumps and the setback lines and unlicensed vehicles were parked on the premises for more than the permitted 48 hours. Zoning violation notices typically allow time for the violations to be corrected. The 2020 and 2021 violation notices resulted in the violations being corrected, however over time the same zoning violations on the parcel reoccurred. Therefore, with the last violation notice issued in August 2022, the owner was told that should the zoning violations not be corrected and the property remains in compliance, the conditional use permit would be reviewed by the Planning Commission. The reinspection of the property done in September 2022 found the violations had not been corrected, therefore the property owner was told that the conditional use permit would be reviewed by the Planning Commission.

CONTEXT

The building is located on the northwest corner of the South Taylor Road and Berkeley Road intersection, it is zoned “C-2” Local Retail. Properties to the north along South Taylor Road are zoned “C-2” Local Retail, and east across South Taylor Road are commercial properties zoned “C-2” Local Retail. South across Berkeley Road is the Hebrew Academy, zoned “C-2” Local Retail, and to the west immediately behind the property are residential properties zoned “A” Single-Family.

The Future Land Use Map shows this area along South Taylor Road as being used for Mixed-Use: Commercial and Retail.

HISTORY

The property has been an automotive repair/gasoline station since at least 1977.

Project No. 97-20 issued a conditional use permit to Mac’s with the following conditions:
July 1997

1. The applicant shall submit a detailed landscape plan for approval by Planning Director.
2. All work shall be completed within six (6) months of the effective date of the permit.
3. No merchandise except oil may be stored or displayed outdoors.
4. Business hours shall be between 7:00 a.m. and 7:00 p.m.
5. Absolutely no junk, inoperative or unlicensed vehicle shall park outside for more than 48 hours.

6. All activities, including diagnostic and repair services, shall take place inside the building.

7. Planning Commission approval is contingent upon the granting of a Board of Zoning Appeals variance for distance of gas pumps to property line (25' req'd) and distance of canopy to property line (15' req'd).

Calendar No. 2676 Variance granted to permit new replacement fuel pumps to be 24' from July 1997 the public right-of-way (25' req'd) and a canopy with a setback of 10' from the public right-of-way (15' req'd).

Project No. 99-7 Conditional Use Permit was issued to permit one-story 17' by 19' storage room addition at the rear (northeast corner) of existing service station and site improvements as shown on sheets 1 and 2 by Irving Rotherberg dated 2/2/99 with the following conditions:

1. That the addition be approved by the Board of Zoning Appeals for a rear yard setback variance.
2. That the area around the addition be completely fenced off from the neighboring residential property (requiring partial reconstruction of the existent stockade fence or equivalent).
3. That the 3' wide alley between the guardrail and the proposed addition not be fenced off from the street or parking area, but should be well-lit to create a safe, highly discernable space without light glare onto the adjacent property.
4. Applicant shall comply with all conditions listed in the letter to Scott Bergman (Mac's Citgo) from Thomas K. Stone (3447 Berkeley) which include:
 - a. The owners' (of 3447 Berkeley) fence (between 3447 Berkeley and 1828 S. Taylor Road) will be extended to the rear of the existing fence that borders the rear of the 3447 Berkeley property.
 - b. The owners' (of 3447 Berkeley) fence (between 3447 Berkeley and 1828 S. Taylor Road) will be extended to the front of the existing fence the length of one section of the existing guardrail.
 - c. All new fencing will be of the same type as the existing fence.
 - d. To gain consistency of appearance, the new fencing will be painted the same color as the existing fence on both sides.
 - e. Lighting will be stationed on the new addition (to 1828 S. Taylor Road) building in a way and manner sufficient to adequately illuminate the alley that will be created between the new addition and the owners' (of 3447 Berkeley Road) fence.
 - f. A flowerbed consistent with those on (Mac's Citgo's) property will be constructed, flower planted, and maintained at the southwest corner of (Mac's Citgo's) parking lot.
 - g. The two front sections of the guardrail at the southwest corner of (Mac's Citgo's) parking lot will be removed.

h. All items are to be completed to the satisfaction of the owners (of 3447 Berkeley, Thomas and Yolanda Stone). Any disputes are to be arbitrated by the Planning Commission of the City of Cleveland Heights whose decision will be binding and final to both sides.

i. All of the items are to be completed no later than the date that the new addition to your building is completed.

At the time of the above zoning cases, auto repair/gasoline stations were conditionally permitted uses in the C-2 Local Retail zoning district. In 2017, the zoning code was amended and this auto repair/gasoline station use is no longer conditionally permitted in the C-2 Local Retail zoning district.

ZONING CODE REGULATION

The following are the code sections cited in the violation notices.

Section 1131.09 Supplemental Regulations for Gasoline Stations:

(h) Except while being serviced at a pump island, no vehicles shall be parked between the pump setback line and the front property line; nor on a corner lot shall any vehicle be parked between the pump setback line and the property line on either of the intersecting streets. A vehicle parked in violation hereof during the time such station is open for business shall be presumed to have been so parked with the knowledge and consent of the operator of that station.

(i) No junk, inoperative or unlicensed motor vehicles will be permitted to remain on gasoline station property for more than forty-eight (48) hours.

(j) All refuse shall be kept or stored within the building or screened from view as required in Section 1166.10.

Chapter 1151 Standards for Conditional Uses

(b) *that the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare;*

(c) *that the conditional use will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not essentially change the character of the same area;*

(d) *that the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;*

(e) *that the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;*

Section 1153.05(u): Supplemental Regulations for Conditional Use – Automotive Service Station

(4) No junk, inoperative or unlicensed vehicle will be permitted to remain on the property for more than forty-eight (48) hours;

STAFF ANALYSIS

The Planning Commission should hear from the owner how the business can be operated at this site and consistently adhere to the conditional use permit and zoning regulations. Particularly:

- On-site parking that is compliant
- The restoration of the fuel pump service
- The removal of any recreational vehicles (e.g., boats)
- The removal of any unlicensed vehicles that are parked on the premises for more than the permitted 48 hours.

Should this testimony indicate that the business can successfully follow the conditional use permit requirements, the following conditions could be considered:

1. The owner shall review the existing parking plan and commit to implementing and following it or submitting a revised parking plan for approval by the Planning Director.
2. A new landscape plan should be submitted for the Planning Director's approval.
3. The owner could be given a period of time to demonstrate consistent compliance, to be revisited formally by the Planning Commission.

Ms. Cohen asked if the applicant Mr. Max Abadle-Roufail would come forward and speak on behalf of Proj No 22-21.

Mr. Abadle-Roufail affirmed the oath and began to present his case. Mr. Abadle-Roufail stated that he was aware of why he was brought back before the Planning Commission. Mr. Abadle-Roufail stated the is on plan to make the wanted and needed changes. He is working on making the gas pumps operational, clearing space in front of the store, having only a limited number of cars parked in the parking lot having a time limit of how long they can stay once they have received complete maintenance. Mr. Abadle-Roufail also stated that he understands that he must comply and show evidence of his progress for the next Planning Commission meeting in December 2022.

Ms. Cohen made Mr. Abadle-Roufail aware that he will face charges if he doesn't comply with the request and the seriousness of these circumstances before him.

Ms. Wagner interjected and wanted to make Mr. Abadle-Roufail aware that under the City of Cleveland Heights judicial code along with the Planning Department Code, he would be charged criminally if he chooses not to comply this current order before him. Ms. Wagner also stated that there would serious consequences such as jail time, fines and possible permanent closure to his business if Mr. Abadle-Roufail chose not to comply with the current suggestion of clean up,

removal of unnecessary cars, new parking arrangements along with making the gas station functional.

Mr. Abadle-Roufail stated that he completely understood.

Ms. Cohen asked if there was anyone from the public that wanted to speak.

Mr. Stone 3447 Berkley Road, Cleveland Heights, Oh. Mr. Stone affirmed the oath. Mr. Stone stated that he lives right next to the Mac's and he too has growing concerns regarding the number of cars that are on the property and how long they remain on the property. Mr. Stone stated that he has installed a fence to help preserve his property, the safety of his property and his property value. Mr. Stone, also stated that he hopes that this will be dealt with because the property is bringing down the look and integrity of the neighborhood and community.

Ms. Cohen thanked Mr. Stone for his statement.

Ms. Gaynier stated to the Planning Commission that at this time they should make a motion not to revoke Mr. Abadle-Roufail Conditional Use Permit at this time however allow him time to bring back a plan of action for the December Planning Commission Meeting. Also adding that the new plan of action would include a parking plan along with a landscape site plan.

Ms. Cohen agreed and asked if there was a motion on the floor.

Mr. Gaynier motioned to delay revoking Proj. No 22-21 Condition Use Permit until they return to the December, Planning Commission Meeting with a plan of action. With the amended action plan.

Adam Howe seconded the motion. The motion was carried 6-0.

Staff Report on Planning Activity: there was an update given to the Planning Department regarding the Noble Library which is now under consideration to become a satellite office, they stated a presentation will follow within the next few months.

Annual Zoning Code Review presented by Eric Zamft.

Over View as follow:

- Private Parking Garages
- Signage
- Places of Worship
- Accessory Dwelling Units
- Short-term Rentals
- Window Transparency
- Solar Panels
- Integrating Sustainability
- South Taylor Road

- Park Synagogue Property
- Severance

2021: Private Parking Garages and Other Ancillary Changes

2017: General Cleanup

2012: Sustainable Zoning Regulations

Review of Zoning Code Section 1119.08

Places of Worship- Existing Standards

- Place of Worship:
- Residential district
- Large setbacks
- “Grand” structures
- Not meant to “fit”
- Can be tall
- Limited standards

Meeting Room

- Commercial Districts
- No real standards

Purpose and Intent

- Permitting a range of religious structures and uses that are contextual in the neighborhood, corridor, node, or building that it is located.

Specifics

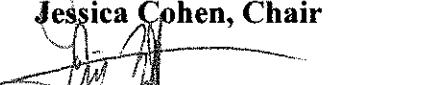
- Distinguishing between different types and contexts
- Creating thresholds
- Signage
- Parking

Old Business

New Business

Adjournment 8:04 pm.


Jessica Cohen, Chair


Eric Zamft, Secretary

