

CITY OF CLEVELAND HEIGHTS
BOARD OF ZONING APPEALS
MINUTES OF THE MEETING

September 21, 2022

MEMBERS PRESENT:

Benjamin Hoen	Vice Chair
Dennis Porcelli	
Thomas Zych	Chair
Liz Wolf	
Gayle Lewin	

STAFF PRESENT:

Karen Knittel	Assistant Planning Director
Lee Crumrine	Assistant Law Director
Christy Lee	Recording Secretary

CALL TO ORDER

The meeting was called to order at 7:00 pm.

APPROVAL OF THE MINUTES

Ben Hoen motioned to approve both the June 15, 2022 Minutes as corrected, 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 a 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 inconveniences are not relevant to the Board's determination. The Board is the final administrative decision-maker for all regular variances.

PUBLIC HEARING

Lee Crumrine swore in all applicants and staff.

Cal. No. 3550 B. & T. Shockey, 2925 N. Park Blvd., 'AA' Single-Fam. requests a variance to Sect. 1121.12(k) to permit parking pad in the front yard (not permitted). Was withdrawn from the agenda, motioned by Benjamin Hoen, and second by Dennis Porcelli all members unanimously agreed and the motion was carried.

Lee Crumrine swore in all applicants and staff.

Karen Knittel reviewed her staff report using a PowerPoint:

Cal. No. 3551 P. Barata & S. McMurray, 2685 Fairmount Blvd., 'AA' Single-Fam., requests a variance to Sect. 1121.12 (p)(2) to permit driveway pavement to exceed 12' wide.

Context

- This is a single-family house zoned 'AA' Single-Family. Properties to the east, west, and south across Fairmount Boulevard are all single-family houses zoned 'AA' Single-Family. The properties to the north (rear of the property) are single-family houses zoned 'A' Single-Family.
- The Master Plan Future Land Use Map shows this area as continuing to be used for single-family housing.

Project

The applicant proposes expanding the width of the horseshoe-shaped driveway in front of the garage by 10 feet. Currently, the drive is 14 feet wide in front of the garage.

Facts

- This is a code-conforming parcel in terms of lot width and area. It is 110 feet wide and 29,008 square feet. Per Section 1121.06, a code-conforming 'AA' parcel has a minimum of 15,000 square feet and is 100 feet wide at the building line.
- This is a corner property located on the northwest corner of the Fairmount Boulevard and Chatfield Drive intersection.
- The property has 263.20 linear feet along Chatfield Drive.
- The property has an attached garage with a door facing Chatfield Drive.
- The existing driveway is horseshoe-shaped and centered on the garage door.
- The existing driveway is code-conforming. It is 12 feet wide at the Chatfield Drive public right of way and expands to be 14 feet in front of the garage door.
- Code Section 1121.12 (p)(2) states that pavement width shall not exceed twelve (12) feet except where necessary to provide direct access to a private garage.
- Code Section 1161.105 (a) states that the driveway may be the width of the private parking garage for a distance (depth) of twenty (20) feet from the garage door before tapering back to the maximum driveway width of twelve (12) feet.
- The site plan dated August 17, 2022, submitted with the BZA application shows landscaping between the driveway and the Chatfield Drive public right of way.

If approved, conditions should include:

1. Variance 3551 is granted to permit the driveway pavement to expand the width of the current driveway by 10' at the garage door area as shown on the site plan dated August 17, 2022, submitted with the BZA application.
2. Approval of the final landscape plan by the Zoning Administrator;
3. Receipt of applicable building permits; and

4. Complete construction within 24 months of the effective date of this variance.

Ms. Knittel further explained the zoning code and how it pertains to the proposed project. She stated the applicant's representative was present and prepared to briefly review the project and statement of practical difficulty.

Justin Davis stated he was the representative for the homeowners of 2685 Fairmount Blvd and he affirm the oath. Mr. Davis explained the reasons for wanting to expand the current driveway and how it would improve the current functionality of the property.

Liza Wolf made a motion to approve **Cal. No. 3551 P. Barata & S. McMurray, 2685 Fairmount Blvd., 'AA' Single-Fam.**, requests a variance to Sect. 1121.12 (p)(2) to permit driveway pavement to exceed 12' wide. , after reviewing the application, staff report, and other submissions and hearing the evidence under oath during a public hearing, the Board of Zoning Appeals found the following facts and made the following conclusions of law:

- Special conditions and circumstances exist which are peculiar to this property, specifically, the current width of the driveway makes it difficult to maneuver a vehicle into and out of a garage;
- The property in question will not yield a reasonable return without the variance as in order to safely maneuver vehicles into and out of both parking spaces in the garage a wider driveway is needed;
- The variance is insubstantial and the minimum necessary and allows for the widening of the driveway and providing landscaping;
- The character of the neighborhood would not be substantially altered as a result of this variance as with the landscaping the increased width of the driveway would not be seen from the public sidewalk or street;
- The granting of this variance will not adversely affect the delivery of government services and may improve service by providing delivery trucks a driveway they could maneuver around;
- Special conditions and circumstances are not a result of the actions of the applicant;
- The applicant's predicament cannot be resolved through a method other than a variance as was shown by the applicant discussing alternative locations that did not result in workable solutions; and
- The spirit and intent behind the zoning requirement would be observed and substantial justice is done by granting this variance because the variance will not change the appearance of the home.

If granted, the variance shall have the following conditions:

1. Variance 3551 is granted to permit the driveway pavement to expand the width of the current driveway by 10' at the garage door area as shown on the site plan dated August 17, 2022, submitted with the BZA application.
2. Approval of the final landscape plan by the Zoning Administrator;
3. Receipt of applicable building permits; and
4. Complete construction within 24 months of the effective date of this variance.

Motioned was seconded by Mr. Hoen. Ms. Lewin recused herself from voting on this project. The motion carried 4-0.

Old Business

Cal. No. 3518 T. and C.W. Vieder, 3041 Essex Rd. Per Section 1115.07 (j) Terms of the Variance request for extension of time.

The request for an extension of time was reviewed by the Board.

Mr. Hoen motioned to approve the extension of time for 18 months. The motion was seconded by Mr. Porcelli motion was carried 5-0.

New Business

There was no new business to discuss.

Adjournment

The meeting adjourned at 7:29 p.m.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'T. Zych', written over a horizontal line.

Thomas Zych, Chair

A handwritten signature in black ink, appearing to read 'Karen Knittel', written over a horizontal line.

Karen Knittel, Secretary