

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

December 21, 2022

MEMBERS PRESENT:

Benjamin Hoen	Vice Chair
Dennis Porcelli	
Thomas Zych	Chair
Liz Wolf	

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 October 19, 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 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 inconvenience 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.

Karen Knittel PowerPoint Presentation:

Cal. No. 3555 D. King & S. Curry, 1582 Compton Rd., 'A' Single-Fam., requests a variance to Schedule 1121.12(g) to permit the studio/garage to be taller than max. 15'.

Context

This is a single-family house zoned 'A' Single-Family. The properties to the north, south and east of this property are single-family homes zoned 'A' Single Family and to the west (rear) of the applicant's property is Park Synagogue, 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 an addition to the garage building that would be used as an artist's studio. The proposed height of this addition is 20 feet to enable the production of large pieces of art and allow for windows to bring indirect natural light into the proposed art studio.

Facts

- This parcel is 100 feet wide and has 38,639 square feet in area. Section 1121.06 states that a code conforming 'A' Single-Family parcel is 50' wide at the building line and has a minimum of 7,500 square feet in area.
- The proposed addition is setback 7' from the side property line which is code conforming, Section 1121.12(a)(2) requires a minimum setback of 5 for a pool house, shed, and other similar buildings.
- The rear yard is approximately 30,690 square feet.
- Code Section 1121.12(d) allows an accessory building to cover up to 20% of the rear yard which for this property would be 6,138 square feet.
- The garage/art studio is 1,532 square feet, with a code-conforming rear yard coverage of 5%.
- The proposed studio addition is 68' 5" from the rear property line.
- The property to the south has a garage sited approximately even to the applicant's current garage.
- Across the west (rear) property line is a drive lane/ parking area.
- The current garage is 188.5' from the Compton Road right-of-way.
- The proposed studio with the 20' height would be 226' from the Compton Road right-of-way.
- The art studio height is 20 feet tall. Code Section 1121.12(g) states that an accessory building shall not exceed 15 feet., Therefore a variance is needed.
- The Architectural Board of Review approved this studio/garage at their December 6, 2023 meeting.

If approved, conditions should include:

1. Variance 3555 is granted to permit the studio addition to the garage to be 20 feet tall as shown on the plans dated October 15, 2022, submitted with the BZA application.
2. Receipt of a building permit;
3. Complete construction within 24 months of the effective date of this variance.

Ms. Knittel said the applicants were present and prepared to review their project and statement of practical difficulty.

D. King & S. Curry, 1582 Compton Rd, reviewed their statement of practical difficulty.

Ms. Wolf asked for the height of the current garage.

Ms. Knittel showed a picture that gave a visual of the height and size of the garage, the drawings show the current garage to be 15' to the ridge. She reminded all that the zoning code definition for building height included different methods for calculating the building height depending on the type of roof. As the roof on the proposed building did not fit into any of these definitions, the height to the ridge line was used as the height of the proposed garage/studio, which is 20; as shown on the drawings.

Mr. Porcelli discussed whether there were alternative windows or building designs that could have been used that could have resulted in a code-conforming height.

The applicant discussed the need for tall interior spaces and the desire to maximize natural light as reasons for the proposed garage/studio.

It was noted that the applicant included a statement from his neighbor, Jason Steiber, 1590 Compton Road supporting the request for the height variance for the studio. With no objection, Mr. Zych entered the letter into the record.

Ms. Wolf motioned approval of **Cal. No. 3555 D. King & S. Curry, 1582 Compton Rd., 'A'** Single-Family requests a variance to Schedule 1121.12(g) to permit the studio/garage to be taller than the maximum 15'. 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, this parcel is extremely larger than the minimum lot width and area that the code requires, and therefore, this height variance for the garage/studio will not impact neighbors;
- The property in question would not yield a reasonable return without this variance as the additional studio/garage space provides flexible space to be used for an art business;
- The variance is insubstantial and is the minimum necessary to make possible the reasonable use of the land and structure as the design was specific to the needed space for the art business and the current garage was not sufficient and the addition could not reasonably be added to the house;

- The essential character of the neighborhood would not be substantially altered as a result of the variance as the proposed garage is located behind the house and will not be visible from the public right-of-way; and
- The variance does not adversely affect the delivery of government services.

If granted the variance shall have the following conditions:

1. Variance 3555 is granted to permit the studio addition to the garage to be 20 feet tall as shown on the plans dated October 15, 2022 and submitted with the BZA application;
2. Receipt of a Building Permit; and
3. Complete construction within 24 months of the effective date of this variance.

Motioned second, carried 3-1.

Mr. Zych stated the next case on the agenda was :

Cal. No. 3556 Cleveland Heights-University Heights Public Library, 2800 Noble Rd. & 2780 Kirkwood Rd., 'A' Single-Family & 'MF-2' Multi-Family proposed Noble Rd. Library addition requests variances to:

1. Schedule 1153.03(4) supplemental standards for conditional uses
 - (a) to permit library front yard setback on Noble Rd. to be less than 50';
 - (b) to permit the parking lot along Kirkwood to be set back less than 50' from ROW;
 - (c) to permit expansion of parking lot along Montevista to be setback less than 50' from ROW and
 - (d) to permit a portion of Montevista parking lot to have rear yard setback less than min. 10'; and
2. Section 1123.12(a)(5) to permit the dumpster to be setback less than min. 25' from the rear & side property line.

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

Context

Noble Road Library, 2800 Noble Road (PPN 683-05-009) is zoned 'A' Single-Family, and 2780 Kirkwood (PPN 683-05-008) the site of the former Noble Road Presbyterian Church is zoned 'MF-2' Multiple-Family (collectively the "site"). The parcels to the east are zoned 'A' Single-Family. Parcels across Noble Road are apartment buildings zoned 'MF-2' for Multiple Family. To the north along Noble Road are apartment buildings zoned 'MF-2' Multiple Family. South of the library, across Montevista Road, is Noble Elementary School, zoned 'A' Single Family.

The Future Land Use Map located within the City's adopted Master Plan shows this area as being institutional and attached or multi-family.

Project

The Noble Library branch was developed to capacity with no meaningful expansion possible. The site included the original 1937 Walker and Weeks designed building and a 1960s renovation. Even with a 2010 renovation, the existing site was not adequate to satisfy the current and anticipated service goals of the library and community requests. The library purchased the adjacent property to the north and demolished the church to allow for the expansion of the library. The expansion

of the Noble Branch library includes the demolition of the 1960's addition, a renovation of the existing branch with a new addition to the building, and expanding the parking lot to the north. The northeast corner of the site is proposed as a community outdoor space for the Noble neighborhood.

The addition will provide a new accessible entrance from the parking lot and will include space for children and teens and meeting rooms. The original 1937 library will include quieter reading, study, and computer access areas for adults.

The library campus will include community green space at the northeast corner, accessible porch, outdoor programming space, reading nooks, bicycle parking and a vegetable garden

ZONING HISTORY

Proj. No. 96-25, June 1996: Planning Commission approved the joining of 3889 and 3895 Montevista Road (PPN 683-05-054 and 683-05-055) with 2800 Noble Rd. for the library parking lot.

Proj. No. 97-9, April 1997: Planning Commission approval of parking lot on unused land behind existing Noble Library.

Cal. No. 2660, April 1997: Board of Zoning Appeals approved a 5 ft. side yard (north property line) setback and 7 ft. rear yard (west property line) setback (10ft, was required) for a parking lot and to permit 9 ft. by 17 ft. parking spaces (9 ft. by 20 ft. was required).

Proj. No. 21-07, August 2021: Planning Commission approved the joining of 2800 Noble Road and 2780 Kirkwood Road (PPN 683-05-008 & 683-05-009). The parcels are being joined for the library expansion.

Proj. No. 22-24, December 2022: Planning Commission approved a reduction in parking to permit 42 parking spaces and approved the conditional use permit for the expanded library.

Facts

- This parcel is in two zoning districts: 'A' Single-Family and 'MF-2' Multiple-Family.
- A library is a conditionally permitted use in both the 'A' Single-Family District and the 'MF-2' Multiple-family District.
- Supplemental Standards for Conditional Uses Schedule 1153.03(4) requires a library to have a minimum lot size of one acre and a minimum lot width of 150 feet.
 - A library is required to have front, side, and rear yards that are a minimum of 50 feet.
 - Parking for a library is required to be set back 50 feet from the front and side yards and 10 feet from the rear yard.
- The library expansion designed a campus setting for providing services to patrons and the neighborhood, including outdoor areas as well as the building addition to provide space for their services.
- The Planning Commission reviewed and approved the library expansion conditional use at their December 14, 2022 meeting.
- The library site is approximately 1.67 acres and has 294 linear feet of frontage along Noble Road.

- The existing Walker and Weeks library building is a setback 42.4' from the Noble Road right-of-way.
- The library addition is setback from Noble Road 42.4 ft, matching the 1937 Walker and Weeks building setback (*variance needed, 50' setback required*).
- The minimum front yard setback in an 'MF-2' District is 30 feet (Sect. 1123.07).
- The Kirkwood Road parking lot is setback 15 feet from the Kirkwood Rd. right-of-way. (*variance needed, 50' setback required*)
- The former church building was setback 7 feet from the property line at the closest point.
- The proposed parking lot includes the required 15' landscaping buffer along Kirkwood Road.
- A reduction in the total number of required parking spaces was granted by the Planning Commission. The parking lot provides 42 parking spaces for motor vehicles.
- The Perimeter parking lot landscaping appears to conform to Section 1166.06 Parking Lot Landscaping. A final landscape plan will be reviewed for approval by the Zoning Administrator.
- The Montevista Road Parking lot setback is 16.7' at its narrowest point from the Montevista Road right of way. (*variance required, 50' setback required*)
- The Montevista Road Parking lot rear yard setback is approximately 7' at its closest point. This parking lot is expanded beyond where the 1997 variances were granted which is why this variance is requested. (*variance required, 10' setback required*)
- The new parking lot changes the ingress and egress patterns. Vehicles will enter the parking lot from Kirkwood Road and can exit from the northern parking lot back to Kirkwood or go to the southern parking lot.
- The southern parking lot will have one access drive that will be one way out of the parking lot onto Montevista Road. The current parking has an entrance and exit driveways.
- Multifamily Zoning Code Regulation Section 1123.12(a) requires the accessory use to maintain the same yard requirement as the principal use as set forth in Section 1123.07. The rear and side yard setback from an 'A' Single-Family District is 25'.
- The dumpster location is proposed to be 12.6' from the rear property line shared with 3872 Kirkwood Road. (*variance required, 25' setback required*)
- The dumpster location must be accessible from a refuse truck, the parking lot design considered the turn radius and access needs of this vehicle.
- The library use extends to the outdoor areas surrounding the building including a community garden, outdoor amphitheater, and reading nooks.
- The site plan includes code-conforming bicycle parking at convenient locations near library entrances.
- Aside from the variance being requested, the project site plan is code-conforming.
- Signage was not submitted with this request; the signage plan must be submitted for review and approval.

If approved, conditions should include:

1. Variance 3556-1 to Schedule 1153.03(4) supplemental standards for conditional uses is approved as shown on the drawings submitted with the BZA application
 - (a) to permit the library front yard setback on Noble Rd. to be 42.4' from Noble Road (less than 50');

- (b) to permit the parking lot along Kirkwood to be set back 15' from Kirkwood Road ROW (less than 50' from ROW);
- (c) to permit expansion of parking lot along Montevista to be setback 16.7' at its narrowest point (less than 50' from ROW) and
- (d) to permit a portion of the Montevista parking lot to have a rear yard setback of 7' at its closest point (less than min. 10')

2. Variance 3556-2 to Section 1123.12(a)(5) to permit the dumpster to be setback less than min. 25' from the rear & side property line as shown on the plans submitted with the BZA application is approved.
3. Approval of the final Landscape Plan, including the Tree Preservation Plan by the Zoning Administrator
4. Approval of the Architectural Board of Review;
5. Receipt of required building permits;
6. Receipt of fence permit;
7. Signage Plan must be submitted and reviewed by the Architectural Board of Appeals;
8. Complete construction within 36 months of the effective date of this variance.

Ma. Knittel stated that the applicants were present and prepared to review their request and to review their statement of practical difficulty.

Library Director Nancy Levin and architects for the library project Meagan Dutczak and Megan Dibner-Dunlab reviewed their project and their statement of practical difficulty.

There were no comments from the public.

Mr. Hoen said that he moved to grant the application for variances with conditions to Zoning Code Section 1153.04(4) (a) to permit the library front yard setback on Noble Road to be less than 50 feet; (b) to permit the parking lot along Kirkwood Road to be set back less than 50 feet from the right-of-way; (c) to permit expansion of the parking lot along Montevista to be setback less than 50 feet from the right-of-way; and (d) to permit a portion of the Montevista parking lot to have a rear yard setback less than the minimum 10 feet. After reviewing the application and other submissions, and hearing evidence under oath the Board finds and concludes that special conditions and circumstances exist which are peculiar to this property, specifically the original historic library building is a nonconforming structure that is setback 42 feet from the public right-of-way and the new building is designed to match this setback; special conditions and circumstances exist which are peculiar to this property, specifically, the conditional use requirement of a 50 feet setback for the parking lot would require reducing the number of parking spaces and the parking lot will have a 15 feet landscape buffer to sufficiently screen it; special conditions and circumstances exist which are peculiar to this property, specifically allowing the setback from Montevista Road right-of-way to be 16.7 feet allows the addition of handicapped parking close to the rear entrance; special conditions and circumstances exist which are peculiar to this property, specifically, the existing parking lot along Montevista Road is setback less than 10 feet from the rear property line, and the request is to allow a small addition to this existing condition,

If granted, the variances shall have the following conditions:

1. Variance 3556-1 to Schedule 1153.03(4) supplemental standards for conditional uses is approved as shown on the drawings submitted with the BZA application
 - (a) to permit the library front yard setback on Noble Rd. to be 42.4' from Noble Road (less than 50');
 - (b) to permit the parking lot along Kirkwood to be set back 15' from Kirkwood Road ROW (less than 50' from ROW);
 - (c) to permit expansion of the parking lot along Montevista to be setback 16.7' at its narrowest point (less than 50' from ROW) and
 - (d) to permit a portion of the Montevista parking lot to have a rear yard setback of 7' at its closest point (less than min. 10')
2. Approval of the final Landscape Plan, including the Tree Preservation Plan by the Zoning Administrator
3. Approval of the Architectural Board of Review;
4. Receipt of required building permits;
5. Receipt of fence permit;
6. Signage Plan must be submitted and reviewed by the Architectural Board of Appeals;
7. Complete construction within 36 months of the effective date of this variance.

Ms. Wolf seconded the motion, the motion was approved 4-0.

Mr. Hoen motioned to grant the application for a variance with conditions to Section 1123.12(a)(5) to permit the dumpster to be setback less than the minimum 25 feet from the rear and side property lines. After reviewing the application and other submissions and hearing the evidence under oath during a public hearing, the Board finds and concludes: special conditions and circumstances exist which are peculiar to this property, specifically, the plan was designed for outdoor spaces next to the building to be used by the public and therefore not a location where the dumpster could be located and the location of the dumpster had to take into consideration the needed access of the refuse truck and the dumpster enclosure is otherwise code conforming. If granted, the variance shall have the following conditions:

1. Variance 3556-2 to Section 1123.12(a)(5) to permit the dumpster to be setback less than min. 25' from the rear & side property line as shown on the plans submitted with the BZA application is approved.
2. Approval of the final Landscape Plan, including the Tree Preservation Plan by the Zoning Administrator
3. Approval of the Architectural Board of Review;
4. Receipt of required building permits;
5. Adequate fencing shall be installed and receipt of fence permit;
6. Signage Plan must be submitted and reviewed by the Architectural Board of Appeals;
7. Complete construction within 36 months of the effective date of this variance.

Ms. Wolf seconded the motion, the motion was approved 4-0.

Old Business

Cal. No. 3524(a,b,c & d) Greg & Mary Pat Jolivette, 2791 Scarborough Rd. Per Section 1115.07 (j) Terms of the Variance request for extension of time.

BZA reviewed Mr. Jolivette's request to extend the time for completing the project for an additional 18 months.

Mr. Portcelli moved to approve the extension of time, the motion was seconded and approved. 4-0

New Business

There was no new business to discuss.

The meeting was adjourned at 8:10 pm

Respectfully Submitted,



Thomas Zych, Chair



Karen Knittel, Secretary