

**CITY OF CLEVELAND HEIGHTS
BOARD OF ZONING APPEALS
MINUTES OF THE MARCH 15, 2023 MEETING**

MEMBERS PRESENT:

Benjamin Hoen	Vice Chair
Dennis Porcelli	
Thomas Zych	Chair
Gayle Lewin	
Graig Kluge	

ABSENT MEMBER: Liza 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 January 18, 2023 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 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 outlined 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. The 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 characteristics 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

The staff report dated March 10, 2023 was entered into the record.

Lee Crumrine swore in all applicants and staff.

Karen Knittel reviewed the staff report using a PowerPoint presentation:

Cal. No. 3559 S. Smith & T. Hitchcock dba Oak Tree Veterinary Hospital, 1808 S. Taylor Rd., C-2 Local Retail, requests variances to Sect. 1166.06(b)(1) to permit parking lot Desota Ave. perimeter landscape area to be less than min. 15' width required

CONTEXT

1808 South Taylor Road is located at the southwest corner of South Taylor Road and Desota Ave. North, across Desota Ave., is the Oak Tree Veterinary Hospital (north building). South is a prior nonconforming two-family house, the properties along South Taylor Road are zoned C-2 Local Retail. East across South Taylor Road are commercial properties, zoned C-2 Local Retail. To the rear of the property, the housing is zoned 'B' Two-family.

The Master Plan Future Land Use Map shows this section of South Taylor Road as attached or multi-family.

PROJECT HISTORY

Jan. 2023 – Proj. No. 23-02 Oak Tree Veterinary Services was granted a conditional use permit for their project that includes the Veterinary Hospital building and parking lot at 1794 South Taylor Road and the parking lot south across Desota Ave. at 1808 S. Taylor Road.

Nov. 2021 – Cal No. 3534 BZA approved a variance to permit parking in the front yard along S. Taylor Rd. and the corner side yard along Desota Ave. (not permitted); approved a variance to provide 27 parking spaces (28 were required); to permit the parking lot perimeter landscape area to be 5' wide along S. Taylor Rd and 10' wide along Desota Ave. (15' req'd); and to permit 11 contiguous parking spaces with no landscape island (req'd between 10 parking spaces).

Oak Tree Veterinary Hospital has been operating for the past 11 years. It is comprised of two buildings on either side of Desota Avenue.

1808 South Taylor Road has been used as a veterinary hospital since at least 1997 and 1794 South Taylor has had a veterinary hospital since at least 1966 (date of earliest Planning Dept. record).

PROJECT DESCRIPTION

The applicant proposes constructing a new building to consolidate the day-to-day operation into one building. The new building is designed for the animal hospital and will be well-insulated to mitigate any noises that may affect the surrounding neighborhood and businesses. Care was taken to consider the zoning requirements as the building was designed. The Architectural Board of Review approved the building design at their December 5, 2023 meeting.

The new building location will allow Oaktree Veterinary to continue operations during construction. The existing buildings will then be demolished to provide for the required parking.

Since going to the Board of Zoning Appeals in November 2021, the plans have been refined and the following variances are no longer required:

- The number of parking spaces required for the proposed building is 33, the number of spaces provided on the site plan is 35; and
- The parking lot perimeter landscape areas along S. Taylor Rd and Desota Ave. are code-conforming as it is 15' wide.

This revised plan removes the south building and uses the entire commercially zoned lot for parking. This revised plan requires a variance for the 1808 South Taylor parking lot to permit the perimeter landscaping along Desota Ave. to be less than the minimum of 15 feet.

Signage was not submitted and was not reviewed as part of this application. The signage plan will need to be submitted for review and approval by the Architectural Board of Review. Should the signage plan submitted not be code-conforming, the appropriate variance process would need to be followed. The applicant will work with the city on any directional signage that would assist with safety.

Facts:

- Code Section 1131.01(b) states that the purpose of the 'C-2' Local Retail District is to provide standards for the continued operation of small neighborhood commercial establishments and to concentrate new retail businesses in buildings that typically locate side by side in order to encourage pedestrian activity. Parking and driveways are generally located so as not to disrupt pedestrian activity.
- The 1808 South Taylor parking lot is part of a larger project site that includes the veterinary hospital across Desota Avenue at 1784 South Taylor Road.
- Code Section 1161.03(b)(1) requires the veterinary hospital to provide one parking space for every 300 square feet of building space; a total of 33 spaces are required;
- The 1784 South Taylor Road site includes a parking lot with 21 spaces and the 1808 South Taylor Road parking lot provides an additional 14 spaces; for a total of 35 parking spaces.
- Section 1166.06(b)(1) requires the perimeter landscape area of a parking lot to be a minimum of 15 feet wide;
- The proposed site plan shows the perimeter landscape area as 15 feet wide along South Taylor Road and 10 feet wide along Desota Ave.;
- Parking along the south side of Desota Avenue is allowed;
- No parking is permitted on this block of South Taylor Road.

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 3559 is granted to permit the 1808 South Taylor Road parking lot Desota Ave. perimeter landscape area to be 10 feet wide, as shown on the site plan dated February 15, 2023, submitted with the BZA Application;
2. Final landscape plan to be approved by the zoning administrator;
3. Receipt of a Building Permit; and
4. Complete construction within 24 months of the effective date of this variance.

Mr. Zych asked the applicant come forward to give their presentation.

The application dated February 15, 2023 was entered into the record after Mr. Smith confirmed that it was the original application that had been submitted for this hearing.

Dr. Scott Smith representative for Oak Tree Veterinary Hospital 1808 S. Taylor Road. came forward and gave a brief overview of the plans for the Oak Tree Veterinary Hospital as a whole including the landscape and other projects that came before the Planning Commission earlier this year. Mr. Smith added that the parking lot on the south side of Desota was something that they intended to keep, Mr. Smith stated that again the end goal is to operate the business under one roof allowing for a better customer experience along with giving better care to each patient. Mr. Smith gave further detail about the potential new parking plan that would allow for spacing for employees and patients.

Ms. Lewin asked what is the offset of the back of the sidewalk from the property line.

Ms. Knittel the right away typically begins where the sidewalk ends.

Ms. Lewin asked in the parking lot there are currently 21 spaces and are those spaces are ever completely filled. Also, do you plan to expand the services and the number of employees with the construction of the new building?

Mr. Smith "Yes" and that is correct as well as extended hours of operation.

Mr. Zych asked if there were any submissions from the public and hearing that there were none, he opened the floor for a motion.

Ms. Lewin motioned for approval of **Cal. No. 3559 S. Smith & T. Hitchcock dba Oak Tree Veterinary Hospital, 1808 S. Taylor Rd.**, C-2 Local Retail, requests variances to Sect. 1166.06(b)(1) to permit parking lot Desota Ave. perimeter landscape area to be less than min. 15' width required. After reviewing the application and other submissions and evidence under oath the Board finds and concludes special conditions and circumstances exist which are peculiar to the land structure that is involved which are not generally not applicable to other land structures in the same zoning district and particular of the narrowness of that particular lot that historical been used for parking the property in question will not yell a reasonable return with variance because they are currently at capacity for parking and are expanding their business and without that additional parking they will not be able to support their clients and staff. The variance is insubstantial and is the minimum necessary to make possible the reasonable use of a land structure demonstrated by the fact that they're matching the existing conditions and providing the absolute minimum amount of space they need vehicles to move. The essential character of the neighborhood would not be substantially altered as a result of the variance because it matches the existing variance and would not adversely affect the delivery of government services, the property owner testified that they purchased the property without knowledge of the zoning restriction. The following special conditions and circumstances exist that are not a result of the action of the applicant that is the existing size of the parcel, the applicant's predicament feasibly cannot be resolved through a method other than a variance because of the size of the property and the number of cars that need to park. The spirit and intent behind the zoning requirement would be observed and substantial justice is done by granting the variance because it's helping the business do what they need to do. The granting of the

variance requested will not confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district because this is the way it's always been because of this parking lot setup. If granted, the variance shall have the following conditions: if approved, conditions should include:

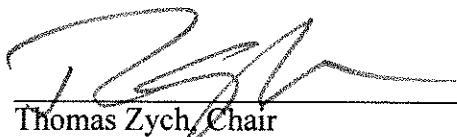
1. Variance 3559 is granted to permit the 1808 South Taylor Road parking lot Desota Ave. perimeter landscape area to be 10 feet wide, as shown on the site plan dated February 15, 2023, submitted with the BZA Application;
2. Final landscape plan to be approved by the zoning administrator;
3. Receipt of a Building Permit; and
4. Complete construction within 24 months of the effective date of this variance.

Motioned was seconded by Mr. Hoen, the motion was approved 5-0.

OLD BUSINESS: Cal No. 3557 an email commenting on the project had been submitted, however, wasn't brought publicly before the Board of Zoning Appeal during the hearing. Each member had received a copy of the email. Mr. Hoen said that despite the commenter's opposition to the variance, the email comment underscored the practical difficulty of the property. Mr. Zych asked if there was a motion to include the emailed comment in the public record of Cal. No. 3557. Mr. Hoen moved to include the comment; the motion was seconded and approved 5-0.

NEW BUSINESS: Board of Zoning Appeals member Dennis Porcelli announced he was resigning from the Board this evening Wednesday, March 15, 2023. Mr. Zych thanked him for his service on the Board of Zoning Appeals.

ADJOURNMENT: The meeting adjourned at 7:27 PM.



Thomas Zych, Chair



Karen Knittel, Secretary