

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

June 21, 2023

MEMBERS PRESENT:

Thomas Zych	Chair
Gail Lewin	
Graig Kluge	

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

The April 2023 Minutes, were approved 3-0.

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 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 character of his or her property. Personal difficulties, hardships, or inconveniences are irrelevant to the Board's determination.

The Board is the final administrative decision-maker for all regular variances.

PUBLIC HEARING

The staff report dated June 15, 2023, was entered into the public record.

Lee Crumrine swore in all applicants and staff.

Karen Knittel reviewed the staff report using a PowerPoint presentation:

Cal. No. 3565 J.W. Turner, Jr., 1763 Cumberland Rd., “A” Single-Family, requests variance to Sect. 1121.12(e)(2) to permit the garage floor area to be greater than 664 sq. ft. max. permitted.

Context

- “A” Single-Family property. The properties along Cumberland are single-family homes zoned “A” Single-Family. To the west, across Cumberland Road is Cumberland Park, and to the east are residential properties zoned “B” Two-Family.
- The Master Plan Future Land Use Map shows this area as continuing to be used for detached single-family housing.

Project

The applicant is proposing to replace a two-car garage with an attached garage that will include space to park three vehicles and provide storage.

Facts

- This parcel is a nonconforming parcel in terms of width and area. It is 48 feet wide and has 6,960 square feet in area. Code Section 1121.06 states that a code conforming “A” single-family parcel has a minimum of 7,500 square feet and is 50 feet wide at the building line.
- County records show that the property was built in 1930.
- Zoning Code Section 1121.12(e)(2) states that the maximum floor area of private parking garages for single-family dwellings shall be 600 square feet plus one (1) additional foot for every fifteen (15) square feet of lot area greater than 6,000 square feet. This property is permitted to have a maximum garage floor area of 664 square feet.
- Section 1103.03 defines “garage, private parking” to mean an enclosed space to store motor vehicles and other normal household accessories of the residents.
- The house has a side yard setback of 3 feet from the side property line shared with 1759 Cumberland Road.
- 1763 Cumberland Road shares a driveway with 1765 Cumberland Road.
- Code section 1175.01 (b) permits the construction of an addition within the minimum side yard required provided the length of the addition wall is no greater than the length of the existing wall. The existing house is 50 feet in length and the proposed addition is 40 feet in length, making it code-conforming.
- Code Section 1121.08 states that parcels zoned “A” Single-Family shall have a minimum rear yard depth of 30 feet. The addition results in the rear yard being 38 feet deep.
- The addition is code conforming in terms of height and location.

If approved, conditions should include:

1. Variance 3565 is granted to permit the garage floor area to be 880 square feet as shown on the plans submitted with the BZA application.
2. Approval of 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 concluded that the applicant was present and prepared to review their request and statement of practical difficulty.

Ms. Lewin asked if the city had maximum lot coverage requirements.

Ms. Knittel replied that there is not a maximum lot coverage, however the code has coverage requirements for the different yards. She explained that the rear yard begins at the rear of the house and extends to the rear property line. She stated that with the addition, this house would have a rear yard of 38 ft. with no coverage in the rear yard and that the code requires a rear yard to be a minimum of 30 ft.

James Tuner 1763 Cumberland Rd went on to affirm the oath. Mr. Turner went on to express his delight with living in Cleveland Heights, he went on to explain that when he purchased the home he realized that he's family truck and the two additional family cars weren't made for such a small area as the backyard. Mr. Turner added that his truck was too tall for his truck in its current condition which is why this variance is needed. Also, if the variance is granted this will allow for additional storage space for the family.

Ms. Lewin motioned for approval of **Cal. No. 3565 J.W. Turner, Jr., 1763 Cumberland Rd., "A"** Single-Family, requests variance to Sect. 1121.12(e)(2) to permit the garage floor area to be greater than 664 sq. ft. max. permitted. after reviewing the application and other submissions and hearing the evidence under oath the board finds and concludes that a special condition and circumstances exist which are peculiar to the land/structure involved and are not generally applicable to other land/structures in the same Zoning District, in particular, the shared driveway and the inability to use and store additional vehicles in the driveway without blocking their neighbor. The property in question will not yield a reasonable return without the variance because the existing garage is not suitable for modern family vehicle needs. The variance is unsustainable and is minimum necessary to make possible the reasonable use of the land/structure as demonstrated by the fact that they're adding on for one additional vehicle storage. The essential character of the neighborhood would not be substantially altered as a result of the variance it's in the back of the home therefore it won't be seen and will not adversely affect the delivery of government services, the following circumstance exist that are not a result of the actions of the applicant. The spirit and intent behind the zoning requirement would be observed and substantial justice done by granting variance because it is necessary for the residents to utilize their backyard and driveway. The granting of the variance will not confer on the applicant any special privileges that are denied by this regulation to other lands, structures, or buildings in the same district because not every shared driveway has similar issues. If approved, conditions should include:

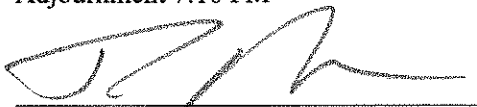
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2. Approval of the Architectural Board of Review;
3. Receipt of a Building Permit; and
4. Complete construction within 24 months of the effective date of this variance.

Motioned was seconded by Mr. Kluge and carried 3-0.

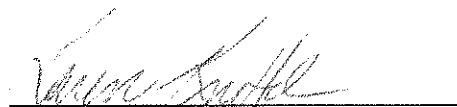
OLD BUSINESS

NEW BUSINESS

Adjournment 7:16 PM



Thomas Zych, Chair



Karen Knittel, Secretary