

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

SEPTEMBER 20, 2023

MEMBERS PRESENT

Thomas Zych
Gayle Lewin
Liza Wolf
Robert Brown
Chair

STAFF PRESENT

Karen Knittel
Lee Crumrine
Nicole Blunk
Christy Lee
Assistant Planning Director
Assistant Law Director
City Planner I
Recording Secretary

CALL TO ORDER

The meeting was called to order at 7:00 p.m.

APPROVAL OF THE MINUTES

The June 21, 2023, and August 16, 2023 Minutes will be considered at the next meeting.

Lee Crumrine swore in Robert Brown as the newest member of the Board of Zoning Appeals 2023.

Lee Crumrine swore in staff and applicants.

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 September 14, 2023, was entered into the public record.

Lee Crumrine swore in all applicants and staff.

Karen Knittel and Nicole Blunk reviewed the staff report using a PowerPoint presentation:

Subject: **Cal. No. 3569 R. Bucchieri, 2101 Stillman Rd.,** "B" Two-Family, requests a variance to
(a)Schedule 1121.12(d)(3) to permit the pavement related to parking to be greater than 40% maximum permitted.
(b)Schedule 1121.12(d)(5) to permit the total maximum rear yard coverage to be greater than 60% maximum permitted.

Context:

- This is a two-family house, zoned "B" Two-Family, the properties surrounding it are also two-family houses, zoned "B" Two-Family. The properties located behind or directly east of the home are zoned "A" single-family.
- The Master Plan Future Land Use Map shows this area as continuing to be used for Two-Family housing.

Project:

- The applicant is proposing to install a paved parking area in place of an enclosed parking structure, therefore a variance to both (a)Schedule 1121.12(d)(3) maximum permitted paved parking of 40%, and (b)Schedule 1121.12(d)(5) maximum rear yard coverage of 60%.

History:

- On June 14th, 2023, the applicant received approval from The Cleveland Heights Planning Commission to reduce the required enclosed parking and to further permit no enclosed parking, with the following conditions: Receipt of the required rear yard coverage variance(s); Receipt of required building

permits; a final landscape plan drawn after the resolution of the BZA variance request is to be approved by the Zoning Administrator; and all required construction and installation of the use shall be completed within 24 months of Planning Commission approval. (Project No. 23-15)

Facts:

- This parcel is 40 feet wide, with a depth of 105 feet, and is 4,200 square feet in total, making it a nonconforming parcel in terms of lot width and lot area. Section 1121.06 states that in a "B" Two-Family District the minimum lot width is 60 feet and that the minimum lot area is 10,000 square feet.
- The house is a two-family home that is 2.5 stories tall and built in 1915, with a detached garage that has been demolished.
- The rear yard is 1,375 square feet.
- The proposed pavement related to parking is 1,239 square feet which is a 90.1% rear yard coverage.
- Schedule 1121.12(d)(3) pavement related to parking including driveway states to cover 30% of the rear yard; with a note permitting nonconforming properties to be covered 40% providing there is a landscape plan and screening plan addresses stormwater management; however, the applicant has stated that the site cannot support onsite stormwater management techniques.
- Forty Percent (40%) of the Applicant's rear yard is 550 square feet.
- The former detached garage was approximately 312.12 square feet.
- Schedule 1121.12 (d)(1) permits accessory buildings in the rear yard to cover 30% of the rear yard; 30% of the Applicant's rear yard is 412.5 square feet.
- Planning Commission approval of removing the enclosed parking requirement included the applicant's desire to use this area as parking, however, the surface parking area is categorized with the existing pavement related to parking calculations and not reviewed as an area covered by an accessory structure.
- The permitted coverage for both accessory structures and pavement related to parking is 70%; in the Applicant's yard this would be 962.5 square feet; which is also the maximum total rear yard coverage permitted in Schedule 1121.12(d).
- There is an existing fence and stone wall located in the rear of the property, along the eastern property boundary. There are bushes located in the rear, along the northern property boundary.

If approved, conditions should include:

1. Variance 3569 is granted
 - (a) to permit the pavement related to parking in the rear yard to be 1239 square feet, 90.1% coverage, and

- (b) to permit the total rear yard coverage to be 1239 square feet, 90.1% as shown on the site plan submitted with the BZA application.
- 2. Approval of Landscape Plan by Zoning Administrator.
- 3. Receipt of a Building Permit; and
- 4. Complete construction within 18 months of the effective date of this variance.

Nicole Blunk reported that the applicant was present and prepared to briefly review their project and statement of practical difficulty.

Mr. Zych reminded the Board of Zoning Appeals of the past case relating to enclosed parking and asked what changes have occurred that allow for this to happen with the City of Cleveland Heights.

Ms. Knittel reminded the Board that about two years ago the Zoning Code changed giving the Planning Commission the authority to approve the reduction of required enclosed parking spaces commonly referred to as garages. Section 1161.051 requires a minimum of one of five exceptions to be present in order for the Planning Commission to grant the reduction. The exceptions include: a legal nonconforming parcel that does not have the requisite minimum lot area or width to accommodate a code-conforming parking garage; a substantial expansion or addition to the principal building; removing the garage/associated pavement to increase green or open space; and replacing a single-car garage

Ms. Wolf asked if the current area was originally paved before converting to gravel and to clarify whether the driveway has been paved, where the former garage was located, and if it will be covered as well.

Ms. Knittel showed on the site plan where the existing pavement is located and where the applicant is proposing to add pavement. She stated that the applicant could respond to the question about when the gravel was added.

Mr. Zych asked if there were any additional questions from the Board. There were none.

Mr. Zych asked Mr. Buccieri to affirm that he submitted an application dated June 14, 2023, and to the best of his knowledge, the application was true and accurate.

Rick Buccieri 2101 Stillman Rd, affirmed that he had been sworn in and that the application submitted by him was true and correct. Mr. Buccieri gave additional detail regarding his project, he stated that he has had this property for many years. With tenants who have been with him just as long, and because of that he wanted to make improvements to the property to allow additional comfort for his residents and add additional home value. If granted this would allow for comfortable parking for residents, and give more appeal to the back of the property. Mr. Buccieri added that they will also add landscaping and possibly a fence at a later date. He mentioned that snow removal would be easier, storage for trash cans would be better accessible, giving all residents a better experience and quality of life.

Ms. Wolf asked if all of the current graveled areas were gravel when the property was purchased. She also asked when considering building a replacement garage if the conclusion was that it would allow for less parking space, which is why you're asking for this particular variance,

Mr. Bucchieri responded that he had looked at a number of different garage alternatives and that all were not practical and that due to changes in the zoning ordinance, he was here now trying to make improvements to the driveway. Mr. Bucchieri agreed with Ms. Wolf's conclusion.

Ms. Lewin asked if the existing driveway would be paved with asphalt at the same time.

Mr. Bucchieri stated that he had spoken with contractors who said that there would be a little bit of chipping at the current asphalt to enable the two surfaces to meet.

Ms. Lewin asked about how stormwater on the driveway would be managed.

Mr. Bucchieri said there were no storm drains in the driveway. He said the former garage's gutters drained to the landscaped area in the northeast corner of the property. He said the asphalt contractor would construct the parking area so the stormwater would travel down the driveway to the street.

Ms. Lewin asked if the stormwater could flow to the northeast corner and landscaped areas to the rear of the property.

Mr. Bucchieri said it could.

Ms. Wolf motioned for the approval of Cal. No. 3569 R. Bucchieri, 2101 Stillman Rd., "B" Two-Family, requests a variance to

(a)Schedule 1121.12(d)(3) to permit the pavement related to parking to be greater than 40% maximum permitted.
(b)Schedule 1121.12(d)(5) to permit the total maximum rear yard coverage to be greater than 60% maximum permitted. After reviewing the application and other submissions, hearing the evidence under oath the Board finds and concludes special/ circumstances exist that are peculiar to the land/structure involved which are not generally applicable to other lands/structures in the same Zoning District, in particular, this is a non-conforming lot that is 4200 sq. ft and 40 ft wide which gives very little space for parking for a two-family structure that may have more than 2 vehicles on the property at one time. The property in question will not yield a reasonable return without the variance for the same reason as you need off-street parking in Cleveland Heights and to accommodate those parking spots to allow for additional parking for residents. The variance is insubstantial and is the minimum necessary to make possible the reasonable use of the land/structure as demonstrated by the fact that it zones a B-2 Family and there is a need for substantial off-street parking. The essential character of the neighborhood would not be substantially altered as a result of the variance as the backyard would not be seen from the street and the adjacent properties have the same type of paved coverage. The variance would not adversely affect the delivery of government

services as the services do not need access to the backyard. The property owner has testified that he purchased the property without knowledge of the zoning restrictions. The granting of the variance request will not confer to the applicant any special privileges that are denied by this regulation to other lands, structures, or buildings in the district, again this is a very small non-conforming lot and this is the best option for all. The applicant's predicament feasibly cannot be resolved through a method other than a variance as the applicant attempted numerous plans to fit a new garage on the site however these were not practical as the garage would take up too much space and result in less on-site parking.

If approved, conditions should include:

1. Variance 3569 is granted
 - (a) to permit the pavement related to parking in the rear yard to be 1239 square feet, 90.1% coverage, and
 - (b) to permit the total rear yard coverage to be 1239 square feet, 90.1% as shown on the site plan submitted with the BZA application.
2. Approval of Landscape Plan including a water surface management plan by Zoning Administrator.
3. Receipt of a Building Permit;
4. Complete construction within 18 months of the effective date of this variance; and
5. Approval of a Parking Plan by the Zoning Administrator.

The motion was seconded by Mr. Brown, carried 3-1.

Ms. Lewin recused herself from the BZA Board for the balance of the meeting.

Lee Crumrine swore in all applicants and staff.

Staff Report Dated September 14, 2023, entered into the record.

Karen Knittel and Nicole Blunk reviewed the staff report using a PowerPoint presentation:

Cal. No. 3570 G. Lewin & A. Vorell, 3171 Essex Rd., "A" Single-Family,
requests variance to Schedule 1121.08 (a)(2) to enclose the front porch resulting in front yard depth being less than the minimum required.

Context:

- This is a single-family house, zoned "A" Single-Family, the properties surrounding the Applicant are also single-family, zoned "A" Single-Family. The properties located behind the home or directly north of the home are zoned "B" Two-family.

- The Master Plan Future Land Use Map shows this area as continuing to be used for Single-family housing.

Project:

- The applicant is proposing to enclose the front porch, which will result in the front yard exceeding its permitted area according to Schedule 1121.08(a)(2).

Facts:

- This parcel is 50 feet wide, with a depth of 167 feet, and is 8,350 square feet in total. Section 1121.06 states that in an "A" Single-Family District the minimum lot width is 50 feet and that the minimum lot area is 7,500 square feet.
- The house is a Single-Family home with a detached garage.
- The west side yard is not code-conforming, having less than five feet
- The property has an existing deck on the rear of the house.
- Section 1103.03(120) Definitions defines "Yard, front" as the yard across the full width of the lot extending from the front of the principal building to the front yard line.
- Unenclosed porches are defined as accessory structures, regulated by Section 1121.12(b) and therefore the applicant's front yard begins at the front of the enclosed house.
- Code Section 1121.08(4) states that an addition to the front yard of the existing dwelling shall comply with Schedule 1121.08 and follow the exceptions specified in subsections (a) (1), (2), or (3) as applicable. While Schedule 1121.08 states the minimum front yard for an "A" Single-Family district principal use is 25 feet, exceptions as regulated in subsection (a) applies.
- Section 1121.08(a) Front Yards subsection (1) states that when there is not more than a ten (10) foot difference in the front yard setbacks of existing houses, the front yard is established by averaging all of the front yard setbacks; a review of the front yard setbacks in this block face showed that this subsection did not apply.
- Section 1121.08(a)(2) states that when subsection (a)(1) is not the case and the adjacent existing dwellings are within 100 feet of the subject parcel then a line is drawn from the closest front corners of the existing adjacent dwellings.
- Following Section 1112.08(a)(2), the front yard of the applicant's property is defined to be the existing front yard located in front of the enclosed house.
- The footprint of the applicant's house will not change.

- The enclosing of the front porch will make the proposed front yard a depth of 29 feet from the enclosure to the public right of way, keeping it within the 20-foot minimum depth, as required in schedule 1121.08 for District A.
- The enclosure of a front porch will require an Architectural Board of Approval.

If approved, conditions should include:

1. Variance 3570 is granted to permit the front porch to be enclosed resulting in the front yard depth as shown on the site plan 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.

Ms. Blunk concluded by saying the applicants were present and prepared to briefly review their project and statement of practical difficulty.

Mr. Zych asked for the applicant to come forth at this time. Asking the applicant if the application that was submitted on August 29, 2023, was true and accurate.

Ms. Lewin 3171 Essex Rd affirmed the oath as well as affirmed that the application was true and accurate. Ms. Lewin explained in more detail why they desired this project and reviewed their statement of practical difficulty. She stated that due to how the family unit is and enjoys being outdoors having a three-season room added to the home would allow for complete use of the property throughout the year. She also mentioned that the property directly in front of her also has an enclosed porch on the front of the home, which adds additional character and charm. She added that they plan to add new windows to the structure as well.

Ms. Wolf Regarding Cal. No. 3570 G. Lewin & A. Vorell, 3171 Essex Rd.,
 "A" Single-Family, requests variance to Schedule 1121.08 (a)(2) to enclose front porch resulting in front yard depth being less than the minimum required. After reviewing the application and other submissions, and hearing the evidence under oath, the Board finds and concludes special circumstances exist that are peculiar to the land structures involved and are not generally applicable to other land/structures in the same Zoning District, in particular, the houses on this block do not line up with a uniform setback as the existing structures are various distances from the public right away resulting in the subsection 1121.08(a) being applicable. And the fact that our zoning code defines open porches as accessory structures and not as part of the principal structure, if that were not the case this would be a code-confirming and the porch could be enclosed without this variance. The property in question will not yield a reasonable return without the variance due to the nature of the area we live in this is the best use of the front porch to allow for a three-season usage. The variance is insubstantial and is the

minimum necessary to make possible the reasonable use of the land structure as demonstrated by the fact the applicant reported that this would be the best use of the front porch. The essential character of the neighborhood would not be substantially altered as a result of the variance due to there being many distances from the other homes along the block to the public right away and other enclosed porches do exist on the block currently. The variance would not adversely affect the delivery of government services, the property owner testified that she purchased the property without knowledge of the zoning restriction. If granted the variance shall have the following conditions:

1. Variance 3570 is granted to permit the front porch to be enclosed resulting in the front yard depth as shown on the site plan 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.

The motion was seconded by Mr. Brown, the motion carried 3-0.

OLD BUSINESS

There was no old business.

NEW BUSINESS

There was no new business.

ADJOURNMENT

The meeting adjourned at 8:09 PM.



Thomas Zych, Chair



Karen Knittel, Secretary