

**CITY OF CLEVELAND HEIGHTS
BOARD OF ZONING APPEALS
MINUTES
March 20, 2024**

MEMBERS PRESENT

Ben Hoen	Vice Chair
Gayle Lewin	
Liza Wolf	
Griag Kluge	
Thomas Zych	Chair

STAFF PRESENT

Karen Knittel	Assistant Planning Director
Justin Hines	Assistant Law Director
Christy Lee	Recoding Sectary

CALL TO ORDER

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

APPROVAL OF THE MINUTES

Mr. Hoen motioned to approve the Minutes of January 17, 2024, Ms. Lewin seconded the motion; the motion was approved. The minutes for December 2023, meeting were held until all members were present.

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 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 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. 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, 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

There were also emails submitted by fellow resident Estelle Cooper expressing that she opposes Cal. No. 3577. They too were entered into the record.

Assistant Law Director Hines swore in all who intended to speak.

After hearing no objections, the staff report dated March 14, 2024, was therefore entered into the record.

Staffs Presentation:

Cal. No. 3577 TWG, 2228 Noble Road, "S-2" Mixed Use District developing 52-unit apartment building request variances:

A. Code Section 1131.04(a) to permit the minimum land area per dwelling unit to be less than 1,740 square feet;

B. Code Section 1131.08(b) to permit accessory structure (parking lot) to have a setback less than the required 20 feet when adjacent to "A" Single-Family zoned parcel;

C. Code Section 1161.11(a) to permit parking space lengths to be less than the minimum length of 20 feet; and

D. Code Section 1166.06 parking landscaping (a)(2) to permit no interior landscaping; and

(b)(1) to permit the perimeter landscape yard to be less than 15 feet wide.

Mr. Zych asked if there were any questions at this time for staff.

Ms. Lewin asked if there was is requirement for the number of units per land use or resident need.

Ms. Knittel "per unit".

Mr. Hoen during the overhaul process was there any discussion "urban use dwelling" style format and relaxing some of the setbacks? Especially knowing that development is becoming more popular.

Ms. Knittel appreciated the comment, she went on to state that while the code did look back at various spaces within the C2X, therefore the zoning code is a document that often needs to be updated.

Mr. Zych reminded the public, staff, and the Board of their true function as a Board and the limitations of power and persuasion of any project that comes before them.

Paul Volpe 2593 Fairmount Blvd Cleveland Heights, went to make the public aware of his background as an Urban Designer and Architect. He added that he was also joined by Alex Frazier of TWG.

Mr. Vople confirmed that an application of practical, difficulty was submitted and to the best of his knowledge, the application was true and correct. Therefore, hearing no objection, the information was entered into the record.

Mr. Volpe went on to echo the presentation given by Ms. Knittel, regarding Cal. No. 3577. Adding additional PowerPoints from different Arial views including density and setback. He expresses the importance of saving the current trees surrounding the project including the replacement of the wood fence located on the current property.

JC Nash stated that she lives on Vandemere located in the Noble area, she stated at one time she was against this project however, after seeing the new changes she now supports Cal. No. 3577.

Mr. Vople returned to the stand for additional questions from staff.

Ms. Lewin raised a question regarding the size and width of the parking spaces. Stated that a larger vehicle may find this challenging to park.

Mr. Volpe stated that the modern-day age of large SUVs such as the "Hummer" or other models of sedans are no longer. The models of SUVs have become much smaller in today's modern world; therefore, the size, width, and length of the parking space would be suitable for all models of cars, trucks, and SUVs. He also showed an example of the parking of SUVs, trucks, and sedans.

Mr. Hoen asked if there will in EV Charging within the parking lot. He also mentions the MF2 setback guidelines and this was associated with the Project that the variance would not be needed.

Mr. Volpe stated there will not be charging station however there will be EV parking spaces. Mr. Volpe went on to explain why the variance was necessary for this project and this was something that the community expressed that was wanted and needed for this project. He also mentions how additional parking will be given to residents and guests via the parking lot located across the street, limiting traffic and car density.

Mr. Hoen regarding **Cal. No. 3577 TWG, 2228 Noble Road, "S-2" Mixed Use District developing 52-unit apartment building request variances: I move to grant the application for the variance with conditions to**
A. Code Section 1131.04(a) to permit the minimum land area per dwelling unit to be less than 1,740 square feet;
B. Code Section 1131.08(b) to permit accessory structure (parking lot) to have a setback less than the required 20 feet when adjacent to "A" Single-Family zoned parcel;

C. Code Section 1161.11(a) to permit parking space lengths to be less than the minimum length of 20 feet; and

D. Code Section 1166.06 parking landscaping

(a)(2) to permit no interior landscaping; and

(b)(1) to permit the perimeter landscape yard to be less than 15 feet wide.

After reviewing the application and other submissions, and hearing the evidence under oath, the Board finds and concludes special conditions/circumstances exist which are peculiar to the land structure involved which are not generally applicable to other structures in the same Zoning District, in particular after an assessment that the property would be 52 units that this would be the most practical amount of units for the density of the structure reducing the units to make the development a code conforming development would have required a larger density, which allowed for the practical difficulty does exist and therefore a variance is needed. The variance is insubstantial and is the minimum necessary to make possible the reasonable use of the land structure as demonstrated by the fact reducing the number of units would affect the density of the property creating disputes among the community which would affect the essential character of the neighborhood as far as code section 1131.08(b) to permit as shown on the site plan dated March 24, 2024, accessory structure (parking lot) to have a setback less than the required 20 feet when adjacent to "A" Single-Family zoned parcel; I find there is practical difficulty, if the development were to be in an MF2 Zoning District with no first-floor commercial space permitted that would be a code-conforming development however, it is desirable at this point with time base on testimony brought forth to the Board of Zoning Appeals that residential space is apart of the overall enhancement of neighborhood and the commercial district. It has been a commercial district and the essential character of the neighborhood is to retain the commercial nature of the district adding and enhancing the living space above it. Regarding Code Section 1161.11(a) to permit parking space lengths to be less than the minimum length of 20 feet; and 1166.06 parking landscaping (a)(2) to permit no interior landscaping; and (b)(1) to permit the perimeter landscape yard to be less than 15 feet wide on the site plan date March 12, 2024, finds that there is a particle difficulty the reason for putting these two together is due to unified nature and preserve the trees and create a green space where it is most practical in this development to allow for the enjoyment of the land by the residents and to make it the most desirable living space possible in this development and therefore there is practical difficulty in order to create those spaces. If the motion passes the following conditions should apply: .

1. Variance Cal. No. 3577 is granted to permit

- A. Code Section 1131.04(a) to permit the minimum land area per dwelling unit to be 1,558 square feet.
 - B. Code Section 1131.08(b) to permit as shown on the site plan dated March 12, 2024
 - 1. Northwest parking lot to have a setback from the property line shared with Selwyn Rd. address ranging from 22.9 feet to 13.3 feet to 10.8 feet; and
 - 2. South parking lot to have the east setback from the property line shared with Woodview Rd. addresses of 12.5 feet.
 - C. Code Section 1161.11(a) to permit parking space lengths to be 19 feet in length as shown on the site plan dated March 12, 2024.
 - D. Code Section 1166.06 parking landscaping
 - (a)(2) to permit no interior landscaping; and
 - (b)(1) to permit the perimeter landscape yard as shown on the site plan dated March 12, 2024
 - 1. to be a minimum of 10.8 feet to 15 feet wide for the northwest parking lot; and
 - 2. to be a minimum of 12.5 feet wide for the east edge of the south parking lot.
- 2. Planning Commission approval of the Conditional Use Permits for the apartment building and parking lot located in the "A" Single-Family District; and approval of the lot resubdivision;
 - 3. Approval of final Landscape Plan by Zoning Administrator;
 - 4. Approval of the Architectural Board of Review;
 - 5. Receipt of a Building Permit; and
 - 6. Complete construction within 36 months of the effective date of this variance.

The motion was seconded by Ms. Wolf and approved 5-0.

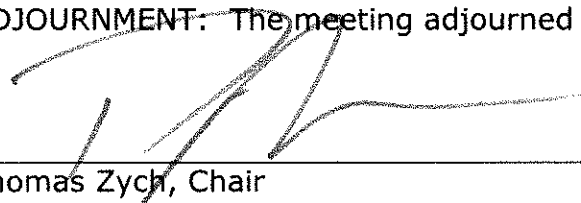
OLD BUSINESS

There was no old business.

NEW BUSINESS

There was no new business.

ADJOURNMENT: The meeting adjourned at 8:05 PM.



Thomas Zych, Chair



Karen Knittel, Secretary