

**CITY OF CLEVELAND HEIGHTS
BOARD OF ZONING APPEALS
MINUTES
May 15, 2024**

MEMBERS PRESENT

Ben Hoen	Vice Chair
Gayle Lewin	
Liza Wolf	
Elchanan Stern	

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 December 20, 2023, Ms. Lewin seconded the motion; the motion was approved. Mr. Hoen moved approval of the Minutes of March 20, 2024, Ms. Lewin seconded the motion; the motion was approved 3-0.

THE POWERS OF THE BOARD AND PROCEDURES OF THE BOARD OF ZONING APPEALS PUBLIC HEARINGS FOR REGULAR VARIANCES

Mr. Hoen 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.

THE POWERS OF THE BOARD AND PROCEDURES OF THE BOARD OF ZONING APPEALS PUBLIC HEARINGS FOR USE VARIANCES

Tonight, the Board is additionally considering a use variance. In making its decision of whether to recommend a use variance, the Board will examine all the criteria set forth in the Zoning Code in Section 1115.07(e)(2). The burden is upon the applicant to demonstrate all seven criteria by clear and convincing evidence. The evidence must show that the literal enforcement of the Zoning Code would result in unnecessary hardship. Clear and convincing evidence means that the evidence is substantially more likely than not to be true. As was the case with standard variances, 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 not the final decision maker for use variances. The Board's decision will be reviewed by City Council at a date to be determined.
Mr. Hines swore all members, the public, staff, and applicants in.

PUBLIC HEARING

Cal. No. 3578 S. & K. Reinhardt, 2527 Derbyshire Rd., "A" Single-Family, requests variance to Code Section 1121.12(a)(5) to permit the west side yard setback of the proposed deck to be less than the minimum 5 feet required and to Code Section 1121.12(c)(2) to permit the side yard coverage to be greater than 60%.

Ms. Knittel reviewed the staff report using a Power Point Presentation.

Context

- This is a single-family house in an 'A' Single-Family District. The properties surrounding this address are single-family houses zoned 'A' Single-Family.
- The Future Land Use Map from the Master Plan shows this area as being used as detached single-family houses.

Project

The applicant proposes to construct a 10-foot by 21.5-foot deck on the west side of their house.

Facts

- This is a non-conforming property in terms of lot area as it is 7,000 square feet in area and is 50 feet wide. Per Section 1121.06, a code conforming 'A' single-family property has a minimum of 7,500 square feet in area and is a minimum of 50 feet wide at the building line.
- County records state this house was built in 1920.
- The applicant's west side property line abuts the rear yard of 2506 Norfolk which includes the corner parcel (2521 Derbyshire) as a side yard.
- There is a chain link fence along this property line.
- Code Section 1121.12(a)(5) requires the house and accessory structures taller than 3 feet to be set back from property lines a minimum of 5 feet.
- The house has a room that extends into this side yard approximately 9 feet 1 inch and is 3 feet 1 inch from the property line.
- The side room setback is less than the 5-foot minimum setback required by Code Section 1121.08, Minimum Yard Requirements.
- The proposed deck extends from the house 10 feet and would be setback from the property line of 25 inches or 2 feet 1 inch.
- Code Section 1121.12(c)(2) states that the maximum side yard coverage (both side yards) is 60%.
- The east side yard is the driveway providing access to the garage in the rear yard.
- With the addition of the deck the applicant's side yard coverage (both yards) is approximately 87%.
- The rear yard is approximately 35 feet deep.
- The rear yard has a detached garage and associated driveway.

If approved, conditions may include:

1. Variance 3578 is granted:
 - a. To Code Section 1121.12(a)(5) to permit a deck as described in the BZA application materials to be setback 2 feet 1 inch from the side property line; and
 - b. To Code Section 1121.12(c)(2) to permit the side yard coverage (both side yards) to be 87%.
2. Approval of the Architectural Board of Review;
3. Receipt of a Building Permit;
4. Complete construction within 24 months of the effective date of this variance.

Ms. Knittel concluded her presentation stating that the applicant is present and prepared to review the project and their statement of practical difficulty.

Mr. Hoen asked if the applicant or their representative would like to add anything at this time.

Ms. Wolf asked whether a variance would be required if the lot was a code-conforming parcel.

Ms. Knittel stated that it was difficult to say, it would be possible that the additional land would be in the side yard and that the variances would not be needed, but it was impossible to know that.

Mr. Hoen asked Mr. Crock to verify that the application submitted is accurate to the best of his knowledge. Mr. Crock stated "Yes" therefore it will be submitted into the record.

Christian Crock stated he was the contractor on the project and affirmed he took the oath. He reviewed the project and statement of practical difficulty.

Ms. Lewin asked for clarification on the sliding door and asked whether there had ever been a deck or patio there.

Mr. Crock replied that there was a deck there when the current homeowners purchased the property. He said it was removed.

Elchanan Stern asked for the location of the previous deck compared to the new deck.

Mr. Crock stated that the proposed deck was in approximately the same location as the former deck.

Ms. Wolf asked if there was information on the original deck for comparison.

Ms. Knittel stated that she could not provide that information.

Ms. Reinhardt 2527 Derbyshire Road affirmed the oath. Ms. Reinhart explained that the previous deck was removed due to water damage and that now they would like a replacement deck added to the property for additional space for family and entertainment.

Mr. Hoen asked if there was a motion.

Ms. Wolf stated that regarding **Cal. No. 3578 S. & K. Reinhardt, 2527 Derbyshire Rd., "A"** Single-Family, requesting a variance to Code Section 1121.12(a)(5) to permit the west side yard setback of the proposed deck to be less than the minimum 5 feet required and to Code Section 1121.12(c)(2) to permit the side yard coverage to be greater than 60%. She moves to grant this application for a variance, after reviewing the application and other submissions and hearing the evidence under oath, the Board finds and concludes special conditions/circumstances exist that are peculiar to the land/ structure involved and are not generally applicable to other land/structures in the same Zoning District, in particular, this is a non-conforming lot the side property line is very close proximity to the home and will align with the house, mainly the part of the house that jets out and there was an existing deck. The property in question will not yield a reasonable return without the variance because the property was bought an existing deck and at this time we just returning it to its original state. 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 the deck size is needed for reasonable use as a deck. The essential character of the neighborhood would not be substantially altered as a result of the variance because there was a deck on the property. The variance would not adversely affect the delivery of government services. The property owner testified that they purchased the property without knowledge of the zoning restriction as there was an existing deck on the property. The following special conditions and circumstances exist that are not a result of the actions of the applicant including that the applicant purchased a home with an existing deck and is replacing it. The applicant's predicament feasibly cannot be resolved through a method other than a variance with out the variance they would not be able to build the deck. If granted, the variance shall have the following conditions:

1. Variance 3578 is granted:
 - a. To Code Section 1121.12(a)(5) to permit a deck as described in the BZA application materials to be setback 2 feet 1 inch from the side property line; and
 - b. To Code Section 1121.12(c)(2) to permit the side yard coverage (both side yards) to be 87%.
2. Approval of the Architectural Board of Review;
3. Receipt of a Building Permit;
4. Complete construction within 24 months of the effective date of this variance.

The motion was seconded by Ms. Lewin and carried 4-0.

Cal. No. 3579 D. Goodman, 2540 Overlook Rd., "MF-3" Multiple -Family, replacing detached garage with parking area requests variance to Code Section 1161.11(a) to permit parking spaces to be less than 9 feet wide and to Code Section 1161.11(c) to permit the circulation aisle to be less than 22 feet wide; to Code Section 1166.06(a)(1) to permit no parking lot landscaping; and to Code Section 1123.12(a) (1) to permit the side yard setback to be less than minimum 5 feet and rear yard setback to be less than 10 feet wide.

Staff Report dated May 9, 2024, was entered into the record. Ms. Knittel reviewed the staff report using a Power Point presentation.

Context

- 2540 Overlook is an 18-unit apartment building in a "MF-3" Multiple-Family District. This property is the third property southeast of the Kenilworth-Overlook intersection. The properties east and west apartment buildings zoned "MF-3" Multiple-Family. The property north across Overlook Road is also zoned "MF-3" Multiple-Family with an apartment building directly across from the applicant. To the south is single-family housing zoned "A" Single-Family.
- The Master Plan Future Land Use Map shows this parcel as continuing to be

used for high density housing.

Project

- Remove 5-space garage and replace it with surface parking lot for 5-vehicles.

Facts

- The property is a nonconforming lot in terms of area and width as it is 50 feet wide and 9,350 square feet. Code Section 1123.06 states that a code conforming "MF-3" parcel has a minimum lot frontage of 60 feet and is 100 feet wide at the building line and has a minimum of 20,000 square feet in area.
- According to County Records the building was constructed in 1917.
- Code Section 1161.03(a)(4) requires 1 space per dwelling unit. The apartment building has 5 on-site parking spaces, which is an existing nonconformity.
- Code Section 1161.03(a)(4) parking requirement does not require parking to be enclosed for multiple-family properties.
- The existing 5 parking space located in the garage do not measure 9 feet by 20 feet as Code Section 1161.11(a) requires.
- The proposed surface parking lot maintains the existing nonconforming parking of 5 on-site parking spaces.
- If the parking spaces were to be 9-feet wide, fewer spaces would be provided and a variance for reducing the number of existing on-site parking space would be needed.
- The existing one-story garage is at the rear and side property lines.
- The 2540 Overlook Rd. apartment building shares a driveway to the parking area with 2544 Overlook Rd. apartment building.
- There is 20-feet between the rear of the building and the beginning of the 20-foot parking spaces.
- The site plan shows the existing dumpster located along the west property line being enclosed by fencing as required by Code Section 1166.10(a).
- The site plan also shows an area along the west property line adjacent to the dumpster to be designated for snow.

If approved, conditions may include:

1. Variance 3579 is granted:

- a. To Code Section 1161.11(a) to permit 4-parking spaces to be 8.3' wide as shown on the site plan;
- b. To Code Section 1161.11(c) to permit the circulation aisle to be 20' wide as shown on the site plan;
- c. To Code Section 1166.06(a)(1) to permit no parking lot landscaping; and
- d. To Code Section 1123.12(a)(1) to permit the parking lot side yard to be 0-feet and the rear yard setback to be 0-feet as shown on the site plan submitted with the BZA application.

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

Ms. Knittel concluded her presentation stating that the applicant is present and prepared to review the project and their statement of practical difficulty.

Ms. Lewin asked questions regarding the fences, noting that the applicant showed details of both an ornamental fence and a wood fence. She asked about process on the fence style and height being approved.

Ms. Knittel stated that the fence would need a fence permit and that the height was code conforming. She explained that since the fence is in the rear yard it would not need to be reviewed by the Architectural Board of Review.

Ms. Lewin noted that there were two versions of the parking plan and asked if it was possible to have the parking spaces be code conforming in size.

Ms. Knittel clarified which plan was the final submission. She stated that if code conforming parking spaces were created, they would have fewer spaces and would have had to request a variance to reduce the number of on-site parking.

Mr. Hoen asked what is the minimum dimensions were for a safe parking space.

Ms. Knittel replied that our code currently requires a space to be 9 feet wide by 20 feet in length. She said that there are zoning codes that permit smaller parking space sizes. She said our code permits compact car spaces to be 7 feet 6 inches by 16 feet.

Ms. Wolf asked if it was correct that the current garage spaces do not measure 9 feet by 20feet.

Ms. Knittel stated that is correct.

Mr. Torowski, CT Consultants Inc., affirmed the oath as the representative for both 2540 & 2544 Overlook Road.

Mr. Hoen asked if he could confirm that the submitted application was true and accurate to the best of his knowledge. Mr. Torowski confirmed this was correct. The application was entered into the record.

Mr. Torowski reviewed the project and statement of practical difficulty. He added the project includes a security gate, wood security fence, dumpster enclosure.

Ms. Wolf asked if there was adequate access for the dumpster to be emptied. She also asked for confirmation that currently there was no landscaping.

Mr. Torowski stated that there was adequate space for accessing the dumpster and that there currently is no landscaping.

Ms. Lewin motioned to approve Cal. No. 3579 D. Goodman, 2540

Overlook Rd., "MF-3" Multiple -Family, replacing detached garage with parking area requests variance to Code Section 1161.11(a) to permit parking spaces to be less than 9 feet wide and to Code Section 1161.11(c) to permit the circulation aisle to be less than 22 feet wide; to Code Section 1166.06(a)(1) to permit no parking lot landscaping; and to Code Section 1123.12(a) (1) to permit the side yard setback to be less than minimum 5 feet and rear yard setback to be less than 10 feet wide. After reviewing the application and other submissions, and hearing the evidence under oath, the Board finds and concludes special conditions and circumstances exist that are peculiar to the land structure involved and are not generally applicable to other structures in the same zoning district, in particular, the narrowness of the parking area at the back of the property and the desire to meet the code with the limited of space as well as the existing structure nor meeting code as it is. The property in question will not yield a reasonable return without the variance because they need the parking space for tenants. The variance is insubstantial and is the minimum necessary to make possible the reasonable use of the land structure as demonstrated by the fact this is a very common situation for this style of apartments where they are limited in the available spaces for parking. The essential character of the neighborhood would not be substantially altered as a result of the variance because it is similar to another parking area in the surrounding community. The variance would not adversely affect the delivery of government services and the property owner testifies that the purchased the property without knowledge of the zoning restrictions. The granting of the variance 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 other properties have very similar situations.

If granted, conditions may include:

1. Variance 3579 is granted:
 - a. To Code Section 1161.11(a) to permit 4-parking spaces to be 8.3' wide as shown on the site plan;
 - b. To Code Section 1161.11(c) to permit the circulation aisle to be 20' wide as shown on the site plan;

- c. To Code Section 1166.06(a)(1) to permit no parking lot landscaping; and
 - d. To Code Section 1123.12(a)(1) to permit the parking lot side yard to be 0-feet and the rear yard setback to be 0-feet as shown on the site plan submitted with the BZA application.
2. Receipt of a Fence Permit;
 3. Receipt of a Building Permit; and
 4. Complete construction within 24 months of the effective date of this variance.

The motion was seconded by Ms. Wolf and carried 4-0.

Cal. No. 3580 D. Goodman, 2544 Overlook Rd., "MF-3" Multiple -Family, replacing detached garage with parking area requests variance to Code Section 1161.11(a) to permit parking spaces to be less than 9 feet wide and to Code Section 1161.11(c) to permit the circulation aisle to be less than 22 feet wide and to Code Section 1166.06 to permit no parking lot landscaping; and to Code Section 1123.12(a)(1) to permit the side yard setbacks to be less than minimum 5 feet and rear yard setback to be less than 10 feet wide.

The staff report dated May 9, 2024 was entered into the record.

Ms. Knittel reviewed the staff report using a Power Point presentation:

Context

- 2544 Overlook is an 11-unit apartment building in a "MF-3" Multiple-Family District. This property is the fourth property southeast of the Kenilworth-Overlook intersection. The properties east and west apartment buildings zoned "MF-3" Multiple-Family. The property north across Overlook Road is also zoned "MF-3" Multiple-Family with an apartment building directly across from the applicant. To the south is single-family housing zoned "A" Single-Family.
- The Master Plan Future Land Use Map shows this parcel as continuing to be used for high density housing.

Project

- Remove 7-space garage and replace it with surface parking lot for 7-vehicles.

Facts

- The property is a nonconforming lot in terms of area and width as it is 50 feet wide and 9,350 square feet. Code Section 1123.06 states that a code conforming "MF-3" parcel has a minimum lot frontage of 60 feet and is 100 feet wide at the building line and has a minimum of 20,000 square feet in area.

- According to County Records the building was constructed in 1920.
- Code Section 1161.03 (a)(4) requires 1 space per dwelling unit. The apartment building has 7 on-site parking spaces, which is an existing nonconformity.
- The existing 7 parking space located in the garage do not measure 9 feet by 20 feet as Code Section 1161.11(a) requires.
- Code Section 1161.03(a)(4) parking requirement does not require parking to be enclosed for multiple-family properties.
- The proposed surface parking lot maintains the existing nonconforming parking of 7 on-site parking spaces.
- If the parking spaces were to be 9-feet wide, fewer spaces would be provided and a variance for reducing the number of existing on-site parking space would be needed.
- The existing one-story garage is at the rear and side property lines.
- The 2540 Overlook Rd. apartment building shares a driveway to the parking area with 2544 Overlook Rd. apartment building.
- There is 19.5-feet between the rear of the building and the beginning of the 20-foot parking spaces.

If approved, conditions may include:

1. Variance 3580 is granted:
 - a. To Code Section 1161.11(a) to permit 6-parking spaces to be 8.3' wide as shown on the site plan submitted with the BZA application;
 - b. To Code Section 1161.11(c) to permit the circulation aisle to be 19.5' wide as shown on the site plan;
 - c. To Code Section 1166.06(a)(1) to permit no parking lot landscaping; and
 - d. To Code Section 1123.12(a)(1) to permit the parking lot east & west side yard to be 0-feet and the rear yard setback to be 0-feet as shown on the site plan submitted with the BZA application.
2. Receipt of a Fence Permit;
3. Receipt of a Building Permit; and
4. Complete construction within 24 months of the effective date of this variance.

Ms. Knittel concluded her presentation stating that the applicant is present and prepared to review the project and their statement of practical difficulty.

Mr. Torowski affirmed that the application that was submitted was true and accurate allowing for it to be placed in the record. He reviewed the project and the statement of practical difficulty.

Ms. Lewin motion approval of Cal. No. 3580 D. Goodman, 2544 Overlook Rd., "MF-3" Multiple -Family, replacing detached garage with parking area requests variance to Code Section 1161.11(a) to permit parking spaces to be less than 9

feet wide and to Code Section 1161.11(c) to permit the circulation aisle to be less than 22 feet wide and to Code Section 1166.06 to permit no parking lot landscaping; and to Code Section 1123.12(a)(1) to permit the side yard setbacks to be less than minimum 5 feet and rear yard setback to be less than 10 feet wide. After reviewing the application and other submissions, and hearing the evidence under oath, the Board finds and concludes special conditions and circumstances exist that are peculiar to the land structure involved and are not generally applicable to other land structures in the same Zoning district, in particular for similar reasons regarding Cal No. 3579 the granting of this variance and should have the following conditions approved

1. Variance 3580 is granted:
 - a. To Code Section 1161.11(a) to permit 6-parking spaces to be 8.3' wide as shown on the site plan submitted with the BZA application;
 - b. To Code Section 1161.11(c) to permit the circulation aisle to be 19.5' wide as shown on the site plan;
 - c. To Code Section 1166.06(a)(1) to permit no parking lot landscaping; and
 - d. To Code Section 1123.12(a)(1) to permit the parking lot east & west side yards to be 0-feet and the rear yard setback to be 0-feet as shown on the site plan submitted with the BZA application.
2. Receipt of a Fence Permit;
3. Receipt of a Building Permit; and
4. Complete construction within 24 months of the effective date of this variance.

The Motion was seconded by Ms. Wolf, and carried 4-0.

Cal. 3581: R. Pietro, The Alcazar, 2450 Derbyshire Rd., "MF-2" Multiple-Family, requests variance to Code Section 1123.06 to permit 133 units with maximum land area per dwelling to be less than 1,750 minimum; to Section 1123.11 to permit the building to be taller than maximum 45 feet; and to Section 1161.03(a)(4) to permit 12 additional dwelling units (total of 133 dwelling units) with existing onsite parking of 43 spaces when the minimum parking required is 133 spaces.

Mr. Hoen reported that the applicant requested the case to be continued until next month's meeting that will be held on June 26, 2024.

Ms. Lewin motioned to continue this case until the next BZA meeting. The motion was seconded by Ms. Wolf, the motion was carried 4-0.

Cal. No. 3582 S. Ismail-Beigi Bartlett, R. Woodbridge, 1774 Lee Rd., 'MF2' Multiple-Family requests to amend the Use Variance to Sections 1123.01, 1123.02 & 1123.03 to permit office use in addition to existing use variance permitting retail bakery in an existing structure.

The staff report dated May 9, 2024 was entered into the record.

Ms. Knittel reviewed the staff report using a Power Point presentation:

Context

1774 Lee Road is zoned 'MF2' Multiple-Family. There is a single story 2,130 square foot structure and 10 space parking lot on the parcel. Most recently there was a retail bakery in the building. Prior to this an office located in the building was a pre-existing nonconforming use.

- The parcel to the north, the parcels up to Somerton Road are zoned 'B' Two-Family
- The parcel to the south at the corner of Lee Road and Euclid Height Blvd. is zoned 'MF2' Multiple Family.
- The parcels at the other three corners at the intersection of Lee and Euclid Heights Boulevard are also zoned 'MF2' Multiple-Family.
- The parcels to the west and the rear of the applicant's property have Cumberland Road addresses are zoned 'A' Single-Family.

The Master Plan Future Land Use Map shows this area of Lee Road to be Attached or Multi-family housing.

Project

The applicant is requesting a use variance to permit an office use in the building. The applicant requests a variance to permit an office use in this building. The applicant owns an HR consulting business and would use this space for client meetings and service delivery. The building currently has 2 large rooms that will be used for the delivery of professional development training and consulting engagements. The building would also have 3 small offices for employees of the business. The business would typically be open Monday through Friday 9 a.m. through 5 p.m.

Zoning District History

- This parcel along with the other MF2 multiple-family zoned parcels at the intersection of Lee Road and Euclid Heights Boulevard were part of a re-zoning that occurred in 2000.
- Prior to 2000, the properties were zoned 'C2' Local Retail.
- Phase One and Two of the Boulevard Townhomes located on Euclid Heights Boulevard were constructed between 2002 and 2005. Phase

three of this development was not constructed. The City owns the vacant lot in the center of the two built phases.

- In 2012, Cal. No. 3283 granted Simon Automotive, 1830 Lee Road located at the request for a new nonconforming 6-bay auto repair building to be larger than the existing building and setback 0' from the south property line (15' required); with 11' Cumberland Rd. building front setback and 14' Euclid Heights Blvd. front setback (30' setback required); and a 20-space parking lot and dumpster area in the Lee Rd. & Euclid Heights Blvd. front yard (permitted only in the side or rear yard).
- In 2019, a use variance (Cal. No. 3475) was granted to permit a retail bakery in the existing building. The BZA Use Variance Approval Findings document is attached to this report.

Facts

- Code Section 1123.03 permits the following uses in a 'MF2' Multiple Family District: townhouses, multiple-family dwellings, cluster development, and public parking.
- Code Section 1123.04 conditionally permits the following uses in a 'MF2' Multiple-Family District: planned residential development, places of worship, schools, colleges and educational facilities, public library, public safety facilities, public and private parks and playgrounds, public recreational facilities, parking decks and one-story garages as the principal structures, accessory parking for contiguous commercial districts, day cares and pre-schools, lodging, boarding or congregate living facilities, nursing homes, hospitals, public utilities, attached single-family dwelling units.
- The structure at 1774 Lee Road was originally built to be a Mikveh. The structure originally housed four ritual baths and two beauty parlor booths. Zoning approval was granted in 1952.
- The property transferred to 1774 Lee Rd, LLC (Rob Woodbridge) in December 2007. The BC Woodbridge Company office remained in this building through December 2018.
- This office use was a prior nonconforming use of this structure. Zoning Code 1173.01 regulates the continuation of nonconforming uses.
- Section 1173.02(a) states whenever a nonconforming use of land or structure is voluntarily discontinued for a period of two (2) years of

more, its use shall be changed to a conforming use. As it has been more than 2 years since an office was in this building, the office use can no longer be defined as a continuation of a nonconforming use.

- Section 1123.01 (b) states the purpose of the district: *The MF-2 District is to establish or provide for medium density developments of approximately twenty-five (25) dwelling units per acre.*
- Code Section 1123.06 Lot Area and Width Regulations states:
 - (a) Minimum land area per dwelling unit is 1,750 square feet. Per this regulation, the parcel could support 5 units.
 - (b) Minimum development area is 20,000 square feet. This parcel is nonconforming as it is 10,045 square feet.
 - (c) Maximum dwelling units per acre is 25 units.
 - (d) Minimum lot width at building line is 100 feet. This parcel is nonconforming as it is 49 feet wide.
 - (e) Minimum lot frontage is 60 feet. This parcel is nonconforming as it is 49 feet wide.
- Code Section 1123.07 Minimum Yard Requirements for Principal Uses
 - (a) Front Yard minimum is 30 feet. The building is nonconforming as it is set back approximately 9.5 feet from the public right-of-way.
 - (b) Side Yard abutting a Multiple-family district is 15 feet. The building is nonconforming as it is located at the south property line.
 - (c) Side Yard abutting a Two-family district is 25 feet. The building is nonconforming as it is 19 feet from the north property line.
 - (d) Rear Yard abutting as Single-family district is 25 feet. The distance from the rear of the building to the rear lot line is approximately 95 feet.
- Code Section 1161.03(a)(4) requires multiple-family dwellings to have 1 space for each dwelling unit. The parcel has 10 parking spaces including one handicap parking space located behind the building.
- Code Section 1161.03(b) requires 1 space for each 300 square feet of floor space for an office. Should this use be granted a variance, the applicant would need to provide 7 parking spaces; the current parking lot has 10 parking spaces.

If approved, conditions may include:

1. Cal. No. 3582 Use variance is approved to amend the existing use variance to permit an office use in addition to the retail bakery use that was granted by Cal. No. 3475.
2. This use variance is conditional on the use of the current building which cannot be demolished;
3. Receipt of required Building Permit(s); and
4. Complete construction within 24 months of the effective date of this variance.

Ms. Knittel stated that the applicant was present and prepared to review her Statement of Hardship.

Mr. Hoen commented that this particular property was used as an office through 2018 then the bakery came in 2019 less which is less than 2 years per 1173.01 non-conforming use. He asked for clarification as to why BZA didn't add an office space use at that time of the last use variance hearing. He stated that he presumed. He stated that he presumed the bakery had some form of a business office located inside and that would take us through one year ago making it less than 2 years and asked whether this would then permit the continuation of the non-conforming office use.

Ms. Knittel stated that she wishes there had been foresight to have included the office use in the original variance hearing. She stated that the primary use of the building was a bakery and that the accessory office space did not equate to an office use under the zoning code and therefore the requested use variance is necessary.

Mr. Hoen replied that the reality is that we are here to grant a use variance based on semantics.

Ms. Wolf asked if we know if the bakery uses included an office space for the business.

Ms. Knittel said she would presume that to be true.

Ms. Lewin stated that looking at the MF-2 Zoning District MF-2 all the ones in Blue are conforming and asked for confirmation that the other properties are not conforming uses in this district.

Ms. Knittel replied that she was correct.

Ms. Wolf asked if a two-family house would be allowed to be built.

Ms. Knittel they would need a use variance.

The applicant, Sara Bartlett, 1774 Lee Road affirmed the oath. She also verified that the application that was submitted on April 12, 2024 and that it was accurate and correct. The application was entered into the record.

Ms. Bartlett reviewed her statement of hardship.

Ms. Bartlett stated that 70% of business is virtual and she's seeing a rapid growth in her in-person sales. She said this is why she needs office space for in-person engagement for the business. She said she would also have functional space for training. She said this is why office space is crucial. She added that this will be her 5th year in business being certified as a WBENT and Edge Certified as well.

Ms. Lewin asked if she was in the process of purchasing the property.

Ms. Barlett replied that this was correct.

Mr. Hoen added that the property cannot be put into an economically viable use with the variance.

Ms. Wolf said that she moved approval of Cal. No. 3582 S. Ismail-Beigi Bartlett, R. Woodbridge, 1774 Lee Rd., 'MF2' Multiple-Family requesting to amend the Use Variance to Sections 1123.01, 1123.02 & 1123.03 to permit office use in addition to existing use variance permitting retail bakery in an existing structure, after reviewing the application and other submissions, and hearing the evidence under oath, the Board finds and concludes:

- The property cannot be put to any economically viable use in the zoning district as evidenced by the fact that the existing building was originally constructed as a Mikveh, then was renovated and used as office space; therefore, it does not lend itself to be used as a multi-family building.
- The variance request stems from a condition that is unique to the property at issue and not ordinarily found in the same zone or district, specifically, the existing building on this property was already with built was built in 1952.
- The hardship condition is not created by actions of the applicant but rather the condition was created in 1952 when the building was constructed and this current building cannot be used as a multifamily building and the lot is a nonconforming parcel in terms of lot area and width and a new multifamily building could not be built on this property without a variance.
- The granting of this variance will not adversely affect the rights of adjacent property owners or residents because the property building will not be altered and will be used as it has been used in the past as it was since 2000 with a short period of time when it was used as a bakery.
- The granting of this variance will not adversely affect the public health, safety, or general welfare because it will be used as an office building which is how the building was used from the years 2000 through 2018 which will not adversely affect public health, safety, or general welfare.
- The variance will be consistent with the general spirit and intent of the Zoning Code because this property has been used as an office for a period of years as well as it has received the use variance for the bakery.
- The variance sought is the minimum which will afford relief to the applicant, as demonstrated by the fact(s) that a multi-family building cannot be built on

this nonconforming parcel without variances because the lot is a nonconforming parcel in terms of lot with and area.

If granted, the use variance should have the following conditions:

1. Cal. No. 3582 Use variance is approved to amend the existing use variance to permit an office use in addition to the retail bakery use that was granted by Cal. No. 3475.
2. This use variance is conditional on the use of the current building which cannot be demolished;
3. Receipt of required Building Permit(s); and
4. Complete construction within 24 months of the effective date of this variance.

The motion was seconded by Ms. Lewin and carried 4-0.

All were reminded that the Use Variance would be reviewed by City Council.

Old Business – There was no old business to discuss.

New Business – There was no new business to discuss.

Adjournment- The meeting adjourned at 8:32 PM.



Ben Hoen, Vice Chair



Karen Knittel, Secretary

