

**CITY OF CLEVELAND HEIGHTS  
BOARD OF ZONING APPEALS  
MINUTES  
July 17, 2024**

**MEMBERS PRESENT**

Thomas Zych	Chair
Gayle Lewin	
Elchanan Stern	
Liza Wolf	

**STAFF PRESENT**

Justin Hines	Assistant Law Director
Karen Knittel	Assistant Planning Director
Xavier Yozwiak	Planner / Zoning Inspector

**CALL TO ORDER**

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

**APPROVAL OF THE MINUTES**

Ms. Lewin motioned to approve the Minutes of June 26, 2024. The motion was seconded by Mr. Stern. The minutes were approved with no objections.

**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**

**Cal. No. 3584 A. Hite, 3427 Ormond Rd., "A" Single-Family**, requests variance to Section 1121.08(a)(1) to enclose front porch resulting in front yard depth being less than the minimum required.

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

After hearing no objections, the staff report dated July 12, 2024, was entered into the record.

Mr. Yozwiak reviewed the staff report using a PowerPoint Presentation.

Ms. Wolf asked about the number and the front yard depth of the enclosed porches on Ormond. Mr. Yozwiak said that there is one enclosed porch on the northern block face and two enclosed porches on the southern block face. Mr. Yozwiak said that the front yard depth of the home of the northern block face (3253 Ormond) was 30' and that he did not measure the front yard depth of the homes on the southern block face.

Mr. Yozwiak confirmed to Mr. Zych that the proposed porch will not expand the footprint of the existing porch.

Mark Williams from Joyce Factory Direct (Address: 1125 Berea Industrial Parkway, Berea, Ohio) went to the podium representing the applicant.

Mr. Williams 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. Williams explained that the practical difficulty for the project is that the home sits on the setback line and that there is no area to add a front porch. He added that the variance is not substantial because the project is not a sunroom or a solid-wall structure and that main parts of the enclosure (columns, roof, etc.) are already in place. Mr. Williams also said that the porch predates the existing homeowner and that there would be no negative effect on government services from the enclosure.

Mr. Zych asked if there were questions from the Board for Mr. Williams.

Responding to Ms. Wolf and Mr. Zych, Mr. Williams said the purpose of the screen enclosure was to provide a “little bit” more protection from weather for the homeowner and visitors and to expand the usability of a southern-facing porch to more parts of the year.

Mr. Zych invited the public comment. No members of the public commented on the proposed project.

Ms. Wolf stated that regarding A. Hite, 3427 Ormond Road, she moved to grant the application for a variance with conditions to Section 1121.08(a)(1) to enclose front porch resulting in front yard depth being less than the minimum required.

After reviewing the application and other submissions, hearing the evidence under oath, the Board finds and concludes:

- Special conditions/circumstances exist which are peculiar to the land/structure involved: the enclosed porch once will not take up any additional yard space, the home is non-conforming in terms of building square footage, and enclosing the porch will increase the building square footage;
- The property in question will not yield a reasonable return because the purpose of screening the porch is to allow usage of the porch with protection from elements, rodents, etc;
- 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 screening the porch will make it a more usable feature and the enclosure will not take up more yard space than is currently occupied;
- The essential character of the neighborhood would not be substantially altered as a result of the variance because the look of the porch is not changing, the existing columns will remain, and there are other homes with enclosed porches on Ormond;

- The variance would not adversely affect the delivery of government services because additional porch space is not being created that would interfere with government services;
- The property owner testified that she/he purchased the property without knowledge of the zoning restriction; and
- The applicant's predicament feasibly cannot be resolved through a method other than a variance because, per the zoning code, enclosing the porch makes it a living space and the only way to enjoy the porch would be to enclose it.

If granted, the variance shall have the following conditions:

1. Calendar No. 3584 is granted Code Section 1121.08(a)(1) to permit the front porch to be enclosed resulting in the front yard depth of 30' as shown on the site plan 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.

The motion is seconded by Mr. Stern and passes 4-0.

**Cal. No. 3585 T. Morford, 2677 Berkshire Rd., "AA" Single-Family, requests variance:**

- A. to Code Section 1121.12(g) to permit garage height to be taller than the maximum 15 feet;
- B. to Code Section 1121.12(a)(2) to permit garage to be less than the minimum 5 feet from the rear property line.

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

After hearing no objections, the staff report dated July 12, 2024, was entered into the record.

Mr. Yozwiak reviewed the staff report using a PowerPoint Presentation.

Ms. Knittel clarified to Mr. Stern that floor area for the living space in the garage does not count towards the maximum floor area of the garage.

Mr. Yozwiak responded to Mr. Zych and said that during his site visit the garage at 2676 Overlook looked like it was being used for storage and it was unclear if there was a dwelling in it. Mr. Yozwiak also confirmed that the proposed height of the garage would be taller than the garage at 2676 Overlook.

Ms. Knittel explained to Ms. Wolf that historically when there is human activity in a garage, the setback requirements for a pool house are used rather than the requirements for a garage.

Mr. Yozwiak confirmed to Ms. Wolf that if the garage was to stay a garage it would be code-conforming except for the part of the garage that is 2'-9 5/8" from the rear lot line.

Ms. Lewin asked if there were any carriage houses or two-story garages in the neighborhood.

Ms. Knittel said that there probably were carriage houses in the neighborhood. Mr. Yozwiak pointed out the garage at 2688 Overlook was "at least" one-and-a-half (1.5) stories tall. Mr. Zych said that there were several "unusual" structures that are not the primary building in the neighborhood, which Ms. Knittel confirmed.

Matt Ross from Matt Ross Architecture (Address: 1587 Sylvan Drive, Chagrin Falls, Ohio) went to the podium representing the applicant.

Mr. Ross 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. Ross said that the design of the garage was intended to be "tastefully proportional" to the neighborhood by keeping the addition as a half-story with dormers to capture additional interior space. He added that the outdoor stair was needed because interior space in the garage was limited. Further, he said that the stair depth of 4 feet is more accommodating and safer than a depth of 3 feet.

Mr. Zych asked if there were questions from the Board for Mr. Ross.

Mr. Zych asked about the windows and the light that would be cast onto 2676 Overlook. Mr. Ross said that a minimal amount light would be casted onto 2676 Overlook.

Mr. Stern asked Mr. Ross to clarify a sentence in the application that said that similarly-sized homes in the neighborhood had guest houses. Mr. Ross said that he noticed a number of one-and-a-half and two-story garages in the neighborhood, with the assumption that they were guest houses.

Mr. Yozwiak responded to Ms. Wolf and said that the roof on 2676 Overlook was a flat roof at a similar height to the existing garage at 2677 Berkshire.

Ms. Lewin asked if the applicant had communicated with the neighbors at 2676 Overlook. Mr. Ross nodded, and Ms. Knittel added that all neighbors would have received a public notice. There were no public comments received by staff, Ms. Knittel said.

Responding to Mr. Zych, Mr. Ross confirmed that the building extension will not affect neighbors from accessing/maintaining their garages.

Ms. Lewin asked staff if there was a “code reason” for the windows on the back of existing garage. Ms. Knittel said the windows were part of the existing structure.

Mr. Zych invited the public comment. No members of the public commented on the proposed project.

Ms. Lewin stated that regarding Calendar Number 3585 T. Morford, 2677 Berkshire Rd., she moved to grant the application with conditions to a) Code Section 1121.12(g) to permit garage height to be taller than the maximum 15 feet; and b) to Code Section 1121.12(a)(2) to permit garage to be less than the minimum 5 feet from the rear property line.

After reviewing the application and other submissions, hearing 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 lands/structures in the same Zoning District, in particular the existing proximity of the structure to the rear property line, the fact that the building is already within the 3’ setback for a detached garage, and that the addition will not be closer than current garage;
- The property in question will not yield a reasonable return without the variance as evidenced by the applicant building on top of an existing garage instead of adding expanding the ground floor footprint;
- 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 applicant is only adding a half-story to the existing garage, using dormers to minimize the height of proposed garage, and keeping the addition on the rear of the building as far as possible from the rear lot line;
- The essential character of the neighborhood would not be substantially altered as a result of the variance because there are other buildings of this type on other properties in this neighborhood;
- The variance would not adversely affect the delivery of government services such as: because the applicant is not altering the primary building or driveway;
- The property owner testified that she/he purchased the property without knowledge of the zoning restriction; and
- The spirit and intent behind the zoning requirement would be observed and substantial justice done by granting variance because the applicant is trying to minimize the impact of the project while still achieving their goal of providing a place for family members to stay while visiting.

If granted, the variance shall have the following conditions:

1. Calendar No. 3585 is granted:
  - a. to Code Section 1121.12(g) to permit the garage to be 19'-5 5/8" tall; and
  - b. to Code Section 1121.12(a)(2) to permit the garage to be 2'-9 5/8" to 4'-9 1/2" from the rear lot line as shown on the drawings submitted to BZA dated July 1, 2024;
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.

Mr. Stern seconds the motion. The motion carries 4-0.

### **OLD BUSINESS**

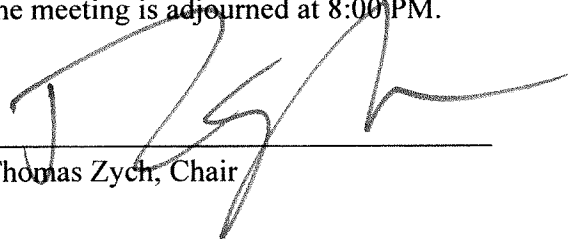
Ms. Knittel provided an update about the Alcazar project (2450 E Derbyshire) discussed at the previous BZA meeting (June 26, 2024). Ms. Knittel explained that the project is going to Planning Commission to evaluate its parking requirements.

Ms. Wolf asked about an article on Cleveland.com about accessory dwelling units (ADUs) in Cleveland Heights ("Cleveland Heights wins AARP grant to hold design competition for so-called 'granny flats,'" published July 12, 2024). Ms. Knittel said that there will be more updates and conversations with community about ADUs in the future. Ms. Knittel and Ms. Wolf briefly discussed owner-occupancy of ADUs and the possible impacts of permitting the building type.

### **NEW BUSINESS**

Ms. Knittel said there will be BZA cases next month.

The meeting is adjourned at 8:00 PM.



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Thomas Zych, Chair



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Karen Knittel, Secretary