

**CITY OF CLEVELAND HEIGHTS
BOARD OF ZONING APPEALS
MINUTES
December 18, 2024**

MEMBERS PRESENT

Thomas Zych	Chair
Benjamin Hoen	Vice Chair
Gayle Lewin	
Elchanan Stern	

STAFF PRESENT

William Hanna	Law Director
Karen Knittel	Assistant Planning Director
Christy Lee	Recording Secretary
Xavier Yozwiak	Planner / Zoning Inspector

CALL TO ORDER

The meeting was called to order at 7:12 p.m.

APPROVAL OF THE MINUTES

Mr. Hoen motioned to approve the Minutes of November 20, 2024. Mr. Stern seconded the motion. 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.

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.

PUBLIC HEARING

Cal. No. 3591 Yeshiva Derech Hatorah, 1700 S. Taylor Rd., "C2-X" Multiple-Use, requests variance:

- A. to Code Section 1131.08(c)(1) to permit a fence located in the front yard to be taller than the maximum height of four (4) feet above the ground; and
- B. to Code Section 1131.08(c)(3) to permit a fence located in the corner side yard to be taller than the maximum height of four (4) feet above the ground.

Law Director Hanna swore in all who intended to speak.

Mr. Zych entered one public comment into the record without objection. The comment was from Tom and Linda Herman (3428 Euclid Heights Blvd.), dated December 18, 2024, which noted that the existing fence at 1700 S. Taylor Rd was in poor condition.

After hearing no objections, the staff report dated December 13, 2024, was entered into the record.

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

Mr. Yozwiak confirmed to Ms. Lewin that the fence will need to go to the Architectural Board of Review.

Mr. Klein (3507 Shannon Rd.) came forward to describe the statement of practical difficulty.

Mr. Zych entered Mr. Klein's application into the record.

Mr. Klein responded to the public comment by explaining that the project would repair the broken fence. He explained that people cut through the parking lot at 1700 S. Taylor Rd because it is a corner lot, which makes students at the school uncomfortable. He added that the six-foot fence is necessary to prevent people from climbing over. Finally, Mr. Klein said that the fence would be at the curb of the parking lot and maintain the existing landscaping.

Mr. Klein clarified to Mr. Stern which parts of the proposed fence are replacing existing fence sections and which parts will be new construction.

Ms. Lewin stated that regarding Cal. No. 3591 Yeshiva Derech Hatorah, 1700 S. Taylor Rd., she moved to grant the application for a variance with conditions:

- A. to Code Section 1131.08(c)(1) to permit a fence located in the front yard to be taller than the maximum height of four (4) feet above the ground; and
- B. to Code Section 1131.08(c)(3) to permit a fence located in the corner side yard to be taller than the maximum height of four (4) feet above the ground.

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 which are not generally applicable to other lands/structures in the same Zoning District, in particular: 1700 S. Taylor Rd is a corner lot that people cut through and it is a girl's school where students feel unsafe when people are cutting through;
- The variance is insubstantial in that it is minimum necessary to make possible the reasonable use of the land as demonstrated by the facts that the fence will be placed at the curb of the parking lot and that fence will not encroach onto the landscaped beds;
- The essential character of the neighborhood would not be substantially altered as a result of the variance because the only public comment was that a broken fence be repaired and is included in the proposed project;

- The variance would not adversely affect the delivery of government services because there will be a gate that opens as necessary;
- The special conditions/circumstances that exist were not the result of actions of the applicant;
- The applicant's predicament feasibly cannot be resolved through a method other than a variance because the height and location of the fence is necessary because of the safety and security issues; and
- The granting of the variance requested 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 similar properties have also been granted variances to have security-style fences.

If granted, the variance shall have the following conditions:

1. Calendar No. 3591 is granted to:
 - A. to Code Section 1131.08(c)(1) to permit a fence located in the front yard to be a maximum height of six (6) feet above the ground as shown on the drawings submitted to BZA dated December 2, 2024; and
 - B. to Code Section 1131.08(c)(3) to permit a fence located in the corner side yard to be a maximum height of six (6) feet above the ground as shown on the drawings submitted to BZA dated December 2, 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. Hoen seconded the motion. The motion carried unanimously (4-0).

Cal. No. 3592 F. Blackman, 905 Keystone Dr., "A" Single-Family, requests variance:

- A. to Code Section 1121.12(b) to permit a porch to extend more than six (6) feet into the required front yard; and
- B. to Code Section 1121.12(c)(1) to permit the front yard coverage to be greater than the maximum of thirty (30) percent.

Director Hanna swore in all who intended to speak. Ms. Lewin recused herself from the case.

After hearing no objections, the staff report dated December 13, 2024, was entered into the record.

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

Mr. Yozwiak explained to Mr. Hoen that all properties on Keystone did not have a porch, were between 30 and 35 feet from the front property line, and that the proposed porch would be 25 feet from the front property line.

Mr. Reynolds (Pantuso Architecture) and Mr. Blackman (905 Keystone Dr.) came forward to describe the statement of practical difficulty.

Mr. Zych entered the application into the record.

Mr. Reynolds said that front porch was a modest addition and its was designed to fit a few rocking chairs. He added that the existing front yard coverage of 28 percent makes it very difficult to add a front porch at all. Lastly, he said that the because of the setbacks of 905 Keystone Rd the variance is just a “two-foot request.”

Mr. Blackman said that he envisioned himself spending a lot of time on the porch during his retirement. He also described the other improvements that he’s made to the property and said that he loves the home.

Mr. Zych noted that facilities for aging-in-place is common in Cleveland Heights.

Mr. Zych entered into the record statements of support from Rodney Davis (3938 Keystone Dr.), Elizabeth Pack (897 Keystone Dr.), Christopher Thurman (906 Keystone Dr.), and Carmen Davenport (901 Keystone Dr.).

Ms. Davenport (901 Keystone Dr.) said that Mr. Blackman was a great neighbor and that she supported the project.

Mr. Hoen stated that regarding Cal. No. 3592 F. Blackman, 905 Keystone Dr., he moved to grant the application for a variance with conditions:

- A. to Code Section 1121.12(b) to permit a porch to extend more than six (6) feet into the required front yard; and
- B. to Code Section 1121.12(c)(1) to permit the front yard coverage to be greater than the maximum of thirty (30) percent.

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, in particular that the parcel is a non-conforming lot and that the existing home is setback 34 feet when the requirement is 33 feet;
- The essential character of the neighborhood would not be substantially altered as a result of the variance because the porch will be a nice addition to the home; and
- The applicant’s predicament feasibly cannot be resolved through a method other than a variance because the front yard lot coverage is near the maximum allowed and cannot be minimized because the lot is non-conforming.

If granted, the variance shall have the following conditions:

1. Calendar No. 3592 is granted to:
 - a. to Code Section 1121.12(b) to permit a porch to extend eight (8) feet into the required front yard as shown on the drawings submitted to BZA; and
 - b. to Code Section 1121.12(c)(1) to permit the front yard coverage to be forty (40) percent as shown on the drawings submitted to BZA.
2. Approval of a landscaping plan by the Zoning Administrator that addresses stormwater management;
3. Approval of the Architectural Board of Review;
4. Receipt of a Building Permit; and
5. Complete construction within 24 months of the effective date of this variance.

Mr. Stern seconded the motion. The motion carried unanimously (3-0).

Cal. No. 3594A Cleveland Premium Rentals 5, LLC, 2230 Grandview Ave., “B” Two-Family requests use variance to Code Sections 1121.03 and 1121.04 to permit a lodging house.

Law Director Hanna swore in all who intended to speak.

After hearing no objections, the staff report dated December 13, 2024, was entered into the record.

Mr. Zych entered five public comments into the record without objection. All were letters to the Board which opposed the granting of the variance. The comments were from:

- Michael Bier (2333 Grandview Ave.), dated December 17, 2024
- Herb Brosnan (2239 Grandview Ave.), dated December 18, 2024
- Benjamin Kuester (2236-2238 Grandview Ave.), dated December 17, 2024
- Kari Moore (2239 Grandview Ave.), undated
- Min Schmitkons (2224-2226 Grandview Ave.), dated December 17, 2024

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

Ms. Lewin asked if how wide the driveway is directly next to 2230 Grandview. Mr. Yozwiak responded that he did not have that information. Mr. Zych added that there is photo of the driveway.

Mr. Yozwiak confirmed to Ms. Lewin that the prior owner registered the property as a rental and was local. Mr. Yozwiak also confirmed that the new owner purchased in February 2024, but did not register it as a rental until March 2024.

Mr. Hoen asked why the property was not zoned “MF-1” Multiple. Mr. Yozwiak stated that it relates to the purpose of “B” Two-Family Districts, which describes that “B” Two-Family Districts have similar characteristics to single-family districts. Ms. Knittel added that the map of non-conforming vs. conforming lots on Grandview also provides context.

Mr. Yozwiak confirmed to Mr. Zych that the higher density, non-conforming buildings on Grandview were built for that purpose and prior to the current zoning code.

Ms. Rachel Kuhn (4070 Mayfield Rd., attorney on behalf of Cleveland Premium Rentals 5) came forward with Ms. Stacey Ebosh (740 E. 212th St., property manager) to describe the statement of practical difficulty.

Mr. Zych entered the application into the record.

Ms. Kuhn said that the property cares for his property and that there is a local property manager. She mentioned that this particular property has changed hands a lot, since 2008 there have been seven transfers of ownership with this property. She suggested that the property was used as a rental property before 2019. She said that the target market for the property would be grad students, undergrad students, interns, and international students, who will not have vehicles. She said that the variance was required because renting out the property as a single home was challenging. She explained the incident where 14 people were living in the home, saying that they thought that only 5 people were moving in and that the tenants have since been removed.

Mr. Zych asked why the issue went undetected and took until August to be resolved.

Ms. Ebosh said they thought there was 5 people living in the home. They stepped in when they received a call regarding the number of vehicles.

Ms. Lewin asked if the owner was aware that the home was a single-family home and the boarding house regulations in Cleveland Heights when the property was purchased. Ms. Lewin also asked if the owner was under the impression that he would be to rent to as many people as he desired.

Ms. Kuhn said she thought the owner was aware that it was a single-family property when it was purchased. She could not confirm if the owner was aware of the Cleveland Heights regulations, but that he was informed once legal representation became involved.

Ms. Kuhn confirmed to Mr. Stern that the property was listed for sale in November.

Ms. Kuhn confirmed to Ms. Lewin that she and her client completed the application. Also, in response to a question from Ms. Lewin, Ms. Kuhn said that the bedrooms on the first floor were created during previous renovations.

Ms. Kuhn confirmed to Mr. Zych that the home was originally built as a five-bedroom home, that the third floor doesn't have a kitchen, and that there is one kitchen area and laundry area for the entire home.

Mr. Stern said that the target demographic of the rooms could change depending on the demand of the rooms, which Ms. Kuhn confirmed.

Mr. Zych opened the public comment for the case.

Ms. Nicole Tugeau (2231 Grandview Ave.) said that the request should be denied. She was not in favor of a boarding house directly across from her. She described her experience as a long-time homeowner, love for her house, and lack of investment at 2230 Grandview. She described instances where trailers and boats were parked on the street in front of the home when the previous renters were there because of parking concerns. She said that the Uber Eats and food deliveries were also a nuisance. She said that multiple calls to the property owner about maintenance concerns went unanswered. She said the beautifying the home could help attract renters. Ms. Tugeau also confirmed to Mr. Zych that her home had 6 bedrooms.

Ms. Kari Moore (2239-43 Grandview Ave.) echoed the sentiments of Ms. Tugeau and said the variance should be denied. She said that the experience with property since March 2024 indicated that a boarding house is inappropriate. She also mentioned that there are several YouTube videos featuring the property owner that discuss "home-hacking" and renting by room.

Mr. Hugh Fisher (2514 Fairmount Blvd..) said the property could be put economical use a two-family or rented to a single-family, but that the applicant hasn't made any effort to improve the appeal of sale or renting for the property. He also said that there is nothing unique about the property. He requested that variance be denied.

Mr. Herb Brosnan (2239 Grandview Ave.) raised questions about the marketing of the home towards international graduate students, noting that there would be nothing restricting the home to those renters and that unrelated people will have separate cars. He gave an example of a nearby home that was rented to three graduate students who had three cars. He also said that other homes nearby rent to families. He added that the well-known local realtor who sold the house notified the property owner of local regulations.

Mr. Paul Schambs (2289 Grandview Ave.) expressed concern about setting a precedent in this case for other out-of-state property owners. He said that he was against the variance.

Mr. Ben Kuester (2236 Grandview Ave.) said he was the owner of the home next to 2230 Grandview. He said that he has had a tenant for eight years. He said that has been numerous issues with vehicles parked in the shared driveway between 2230 Grandview and his property, especially when there was many people living in 2230 Grandview, such as affecting snow clearance. He said that the number of tenants in 2230 Grandview created sound issues that was part of the reason two of his tenants left. He said that making the property an official boarding house will affect his ability to rent his property.

Ms. Lisa Snyder (2435 W. St. James Parkway) said she rents nearby 2230 Grandview Ave. She said her home was roughly 4,000 square feet and divided into two units. She said there was never an issue finding tenants.

Ms. Loretta Feller (2240 Grandview Ave.) said that she opposed the variance. She that under a previous owner, people were constantly working on cars in the driveway which released fumes and that the yard was unkempt. She said that she was invited into 2230 Grandview by the tenants over the summer and observed more than 10 people living in the home. She described that there were mattresses on the floor of the basement and living room and that the kitchen and bathroom was inadequate for that number of people. She said that she didn't hear much noise from the tenants, but added that the next group of tenants may not be as considerate.

Mr. Zych closed the public comment.

Ms. Kuhn addressed the concerns raised during the public comment. She explained that the timing of the tenants leaving the home and the delay was because they had them leave voluntarily. She suggested that an eviction process would have taken longer.

Ms. Ebosh said that the kitchen has been expanded and that the property has been cleaned thoroughly. She gave other examples of several other internal and external repairs completed and planned for the Spring. She said they are working on resolved all violations mentioned on the point-of-sale (POS) inspection. Ms. Kuhn said that the listing photos for the property show that it is good condition.

Ms. Ebosh added that they supply the furniture, cleaning supplies, and other basic supplies for tenants.

Ms. Ebosh explained to Mr. Zych the areas in listing photos that are bedrooms in the floor plans submitted in the BZA application.

Ms. Lewin asked city staff if there was difference if rooms are rent individually versus one lease for the entire home in classifying a boarding house.

Ms. Knittel said that renting individual rooms is a boarding house.

Ms. Knittel confirmed that the applicant intends to rent 7 rooms on separate leases to people who may not know each other, based on the city's understanding of their application.

Ms. Kuhn said separate leases is typical for student housing. She said that it allows a single student to be evicted without affecting the entire group.

Mr. Zych noted that there is nothing that prohibits other groups of people from renting the property.

Ms. Lewin stated that regarding Cal. No. 3594A Cleveland Premium Rentals 5, LLC, 2230 Grandview Ave., she moved to deny the application for a use variance to Code Sections 1121.03 and 1121.04 to permit a lodging house.

After reviewing the application and other submissions, hearing the evidence under oath, the Board finds and concludes that applicant did not demonstrate by clear and convincing evidence that the applicant will suffer unnecessary hardship if strict compliance with the terms of the Code is required:

- The applicant did not prove that the property cannot be put to any economically viable use under any of the permitted uses in the zoning district as evidenced by the fact that they did not investigate cost of converting the house to a duplex and that they have attempted to sell the house but it has only been listed for one month;
- The applicant did not prove that the variance requested stems from a condition which is unique to the property at issue and not ordinarily found in the same zone or district because the condition of the house, the size of the house, the number of bedrooms, and the use of the house as a single-family home is very typical of the district;
- The evidence demonstrated that the hardship condition was created by actions of the applicant because the applicant purchased the house knowing it was a single-family house;
- The applicant did not prove that the granting of the variance will not adversely affect the rights of adjacent property owners or residents as testified by the adjacent property owners, evidenced by photographs from adjacent property owners that show that they have already been adversely affected, and the evidence presented by the applicant has not sufficiently shown that this will not continue;
- The applicant did not prove that the variance will be consistent with the general spirit and intent of the Zoning Code in that there are other properties on Grandview Ave that are non-conforming but those properties were already non-conforming at the time that the

Zoning Code was brought into place and those properties were intended to be highly dense properties, were built as such, and were not converted to that; and

- The evidence demonstrated that the variance sought was not the minimum which will afford relief to the applicant because converting a four-bedroom house with a one-and-a-half-car garage to a lodging house with seven bedrooms is a maximum not a minimum.

Mr. Stern seconded the motion.

Mr. Zych made a statement about the role of Board. He said that City Council passes a zoning code and that the Board is given discretion to grant variances. He added that that the role is limited, they cannot effectively “re-write” the zoning code, and that the standards for a use variance are very high.

Mr. Zych continued, and said that in this case he was unconvinced by the evidence presented that they property can be put to no economically viable use. He mentioned that there was testimony from a nearby property-owner that has put a five- to six-bedroom home to economically viable use. He said that he was therefore going to vote “no” because the legal standard for a use variance was not met.

The motion carried unanimously (4-0).

Because Cal. No. 3594A was denied, Cal. No. 3594B Cleveland Premium Rentals 5, LLC, 2230 Grandview Ave. was not heard.

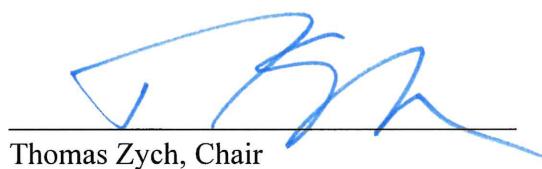
OLD BUSINESS

There was no old business.

NEW BUSINESS

Mr. Yozwiak gave the Board members a copy of the BZA calendar for 2025 and stated that there will be two cases at the next BZA meeting.

The meeting was adjourned at 9:30 PM.



Thomas Zych, Chair

Xavier Yozwiak,

Xavier Yozwiak, Secretary