

**CITY OF CLEVELAND HEIGHTS  
BOARD OF ZONING APPEALS  
MINUTES  
January 15, 2025**

**MEMBERS PRESENT**

Thomas Zych	Chair
Benjamin Hoen	Vice Chair
Graig Kluge	
Elchanan Stern	

**STAFF PRESENT**

H. Lee Crumrine	Assistant 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 7:00 p.m.

**APPROVAL OF THE MINUTES**

Mr. Hoen motioned to approve the Minutes of December 18, 2024. Mr. Stern seconded the motion. The minutes were approved with no objections. Mr. Kluge abstained from the vote.

**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. 3596 J. & M. Berger, 3543 Shannon Rd., "A" Single-Family, requests variance:**

- A. to Code Section 1121.08 to permit an addition to be less than 30 feet from the rear property line;
- B. to Code Section 1121.12(a)(8) to permit a sidewalk to be less than 3 feet from the rear property line;
- C. to Code Section 1121.12(b): to permit a porch to extend more than 6 feet into the required corner side yard.

Mr. Yozwiak confirmed that staff and the applicant requested the case to be continued to the February BZA meeting.

Mr. Hoen motioned to continue Cal. No. 3596 J. & M. Berger, 3543 Shannon Rd. Mr. Stern seconded the motion. The motion carried unanimously (4-0).

**Cal. No. 3595 M. & L. Tohn, 3743 Shannon Rd., "A" Single-Family, requests variance:**

- A. to Code Section 1121.12(c)(1) to permit the front yard coverage to be greater than 30 percent;
- B. to Code Section 1121.12(c)(2) to permit the side yard coverage to be greater than 60 percent;
- C. to Code Section 1161.105(a) to permit a driveway to be greater than 12 feet wide; and
- D. to Code Section 1161.105(c) to permit a driveway to be less than 3 feet from the side property line.

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

After hearing no objections, the staff report dated January 10, 2025, was entered into the record.

Mr. Yozwiak reviewed the staff report using a PowerPoint Presentation. Mr. Yozwiak added that he received a phone call from the neighbor at 3737 Shannon Rd and she said that she did not have any issues with the variances.

Ms. Knittel explained to Mr. Hoen the changes that have taken place to the zoning code which permitted front-facing garages. She added that driveways are allowed to be the width of the garage when the garage is less than 25 feet from the public right-of-way. Mr. Hoen said that having an 18-foot driveway is therefore not an “exclusive” right, which Ms. Knittel confirmed based on what Mr. Hoen described.

Mr. Tohn (3743 Shannon Rd.) came forward to describe his statement of practical difficulty.

Mr. Zych entered Mr. Tohn’s application into the record.

Mr. Tohn mentioned that when they did their addition there was not an option to put a front-facing garage and a wider driveway. He added that the driveway becomes blocked with one parked car and was not wide enough for a residential plow to clear the snow. He said that a wider driveway would not harm the neighbors and would benefit future owners of the home.

Mr. Tohn confirmed to Mr. Hoen that there was no way to get around a parked vehicle in the driveway. Mr. Tohn added that a bike could block the driveway. Mr. Tohn also confirmed to Mr. Hoen that the neighbor at 3749 Shannon Rd had no issues with the variance.

Mr. Hoen stated that regarding Cal. No. 3595 M. & L. Tohn, 3743 Shannon Rd., he moved to grant the application for a variance with conditions:

- A. to Code Section 1121.12(c)(1) to permit the front yard coverage to be greater than 30 percent;
- B. to Code Section 1121.12(c)(2) to permit the side yard coverage to be greater than 60 percent;
- C. to Code Section 1161.105(a) to permit a driveway to be greater than 12 feet wide; and
- D. to Code Section 1161.105(c) to permit a driveway to be less than 3 feet from the side property line.

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 specifically: that the homeowner previously made a code-conforming addition at the time when no front-facing garages were permitted and the current code could have permitted a wider driveway, the property is narrow at the driveway given the proximity of the structure to the driveway, there are issues accessing the driveway if cars are parked in the

driveway, and a benefit to the property and any future property-owner would be space in the driveway to park multiple cars or have room for bikes, plows, et cetera;

- The variance is insubstantial and is the minimum necessary to make possible the reasonable use of the land/structure as demonstrated by the facts that the applicant stated that the homeowner to be most impacted by the variances did not object and that the driveway will be extended to point that will not hinder the essential character of the neighborhood as indicated by other addition projects in this neighborhood that provide homeowners with wider driveways;
- The variance would not adversely affect the delivery of government services; and
- The applicant's predicament feasibly cannot be resolved through a method other than a variance due to the code restrictions on coverage on the front yard which will automatically be extended as a result of the project.

If granted, the variance shall have the following conditions:

1. Calendar No. 3595 is granted to:
  - A. to Code Section 1121.12(c)(1) to permit the front yard coverage to be 38 percent;
  - B. to Code Section 1121.12(c)(2) to permit the side yard coverage to be 75 percent;
  - C. to Code Section 1161.105(a) to permit the driveway to be 18 feet as shown on the drawings submitted to BZA; and
  - D. to Code Section 1161.105(c) to permit the driveway to be 0 feet from the side property line as shown on the drawings submitted to BZA.
2. Receipt of a Building Permit; and
3. Complete construction within 24 months of the effective date of this variance.

Mr. Stern seconded the motion. The motion carried unanimously (4-0).

## **OLD BUSINESS**

There was no old business.

## **NEW BUSINESS**

Mr. Yozwiak stated the next BZA meeting will have at least one case.

Mr. Zych requested nominations for the Chair of the Board of Zoning Appeals for 2025. Mr. Hoen nominated Mr. Zych. Seeing no more nominations, Mr. Hoen moved to closed the nominations for Chair, which was seconded by Mr. Stern. Mr. Zych was elected as Chair unanimously (4-0).

Mr. Zych requested nominations for Vice Chair for 2025. Mr. Stern nominated Mr. Hoen. Seeing no more nominations, Mr. Stern moved to closed the nominations for Vice Chair, which was seconded by Mr. Kluge. Mr. Hoen was elected as Vice Chair unanimously (4-0).

The meeting was adjourned at 7:31 PM.



Thomas Zych, Chair



Xavier Yozwiak, Secretary