

**CITY OF CLEVELAND HEIGHTS
BOARD OF ZONING APPEALS
MINUTES**

September 17, 2025

MEMBERS PRESENT

Thomas Zych	Chair
Benjamin Hoen	Vice Chair
Gayle Lewin	
Elchanan Stern	
Liza Wolf	

STAFF PRESENT

Justin Hines	Assistant Law Director
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 July 16, 2025. Ms. Lewin 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.

PUBLIC HEARING

Cal. No. 3615 P. & C. Byrne, 1224 Oxford Rd., "A" Single-Family, requests variance:

- A. to Code Section 1121.08(b) to permit an attached garage with a second-floor living space to be less than 5 feet from the side lot line;
- B. to Code Section 1121.08(c) to permit an attached garage with a second-floor living space to be less than 30 feet from the rear lot line;
- C. to Code Section 1121.12(a)(8) to permit a driveway to be less than 3 feet from the side lot line; and
- D. to Code Section 1121.12(e)(2) to permit the garage floor area to be greater than 610 square feet.

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

After hearing no objections, the staff report dated September 12, 2025, was entered into the record.

Mr. Yozwiak reviewed the staff report using a PowerPoint Presentation. Mr. Yozwiak explained that the variance request was previously heard at the April 2025 BZA meeting under Cal. No. 3605. That variance request was continued to "more accurately determine the property line." The applicant accidentally withdrew the variance request and re-applied.

Ms. Lewin asked if staff could explain the photo showing the strings that represent property line and the construction line of the new garage. Mr. Yozwiak said that the inner string was the outer edge of the garage and the outer string was the property line.

Mr. Zych asked the distance of the proposed garage to the property line and if the gutters may extend past that setback. Mr. Yozwiak said that the wall of the garage will be 21 inches from the property line and that the gutters may extend past that distance.

Mr. Zych asked how close the neighbor's home (1228 Oxford Rd) was from the proposed garage. Mr. Yozwiak approximated the distance at 10 to 15 feet.

Mr. Yozwiak confirmed to Mr. Zych that the proposed addition has windows that face the neighbor's property and that the neighbor's yard and home would be visible from the addition.

Mr. Yozwiak confirmed to Ms. Lewin that it is his understanding that the three trees next to the proposed garage would need to be removed as part of the project. He added that he was not aware of conversations between the neighbors about replacing the trees.

Mr. Patrick Byrne (1224 Oxford Rd) came forward to describe the statement of practical difficulty.

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

Mr. Byrne said the purpose of the addition was to add living space and a shower to the home for his family. He added that he does handyman work which was why he needed the additional space in the garage.

In reference to a previous question from Ms. Lewin to Mr. Yozwiak, Mr. Byrne said that a wood plank in a photo of the property line represented the outer edge of the proposed garage. Mr. Yozwiak said that the string was above the wood plank when he took the photo. Mr. Byrne disagreed.

Mr. Byrne and Mr. Yozwiak responded to Ms. Wolf that the current garage is 3'-10" from the property line.

Mr. Byrne confirmed to Mr. Hoen that if the garage was any further from the side property line it would not be impossible to park two cars.

Ms. Lewin asked if the trees were Mr. Byrne's property. Mr. Byrne said that the trees were not wholly on either property and that he hoped they could save them. Ms. Lewin said that the foundation for the proposed garage will make it that the trees have to be removed.

Ms. Lewin asked if Mr. Byrne had any conversations with his neighbor about the trees. Mr. Byrne said they had not but that he would in the future.

Mr. Byrne confirmed to Mr. Zych that there is almost no chance that trees will be saved.

Ms. Lewin asked Mr. Byrne if he had considered expanding the garage towards the rear property line to increase the setback from the side property line. Mr. Byrne responded that he considered other options but wanted to preserve space in the rear yard. Ms. Lewin said that there were other layouts for the garage that would increase the side yard setback.

Mr. Zych asked about the dimensions of the portion of the garage that is used for parking and what the city considers as a standard two-car garage. Mr. Yozwiak said that a garage that is 20 feet wide by 20 feet long is considered a two-car garage. He added that the proposed garage area for parking is 22 feet 8 inches long and 511 square feet in total area. Mr. Byrne said the garage has a standard 16-foot garage door. Ms. Lewin noted that the stairs coming out of the existing home prevents the side-yard setback from increasing. Mr. Zych stated that one factor the Board considers in granting a variance is whether code-conforming alternatives are possible.

Ms. Wolf suggested rotating the addition and attaching it to the other corner of the house. She acknowledged that while preserving green space is important, she thought it would be difficult for cars to enter the garage in the current design.

Mr. Byrne confirmed to Mr. Zych that the second floor of the garage is designed as an occupiable space, with a bathroom, storage room, and bedroom that will be occupied overnight. Mr. Byrne described the portions of the neighbor's home and yard that will be visible from the windows in the bedroom.

Ms. Jennifer Avery (1228 Oxford Rd.) said that she had no concerns about the windows on the proposed garage facing her property. She said that they would be facing portions of her home that are used for storage or have safety glass. She added that she spoke with Mr. Byrne about the trees and she previously hoped that two of out of the three could be preserved. She concluded by that Mr. Byrne is a great neighbor, she supported the project, and that the Board should consider the proposal.

Mr. Byrne reiterated that he considered many options for the proposed garage and other layouts increased yard coverage or made it more difficult to open car doors. He added that he would prefer to maintain the existing stairs out of the first floor of the home.

Mr. Zych asked the what type of vehicles are outlined on the plans. Mr. Byrne said the outer lines shown are for mini-vans, like a Toyota Sienna. Mr. Zych explained that he asked the question because variances run with the land and the Board must consider different circumstances.

Mr. Byrne confirmed to Mr. Hoen that he would work with Ms. Avery to add landscaping in between the proposed garage and her home.

Mr. Zych closed the public comment.

Ms. Lewin stated that regarding Cal. No. 3615 P. & C. Byrne, 1224 Oxford Rd., she moved to grant the application for a variance with conditions:

- A. to Code Section 1121.08(b) to permit an attached garage with a second-floor living space to be less than 5 feet from the side lot line;
- B. to Code Section 1121.08(c) to permit an attached garage with a second-floor living space to be less than 30 feet from the rear lot line;
- C. to Code Section 1121.12(a)(8) to permit a driveway to be less than 3 feet from the side lot line; and
- D. to Code Section 1121.12(e)(2) to permit the garage floor area to be greater than 610 square feet.

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 that the property has a code-conforming width but a non-conforming area – it is only 6,144 square feet and a code-conforming parcel is 7,500 square feet;
- 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 property owner has looked at various alternatives for how they could construct this attached garage with additional living space and this is the layout that makes the most sense and still maintains green space;
- The essential character of the neighborhood would not be substantially altered as a result of the variance because, as demonstrated by staff, there are other properties in the area that have attached garages on both flat and sloped properties and with and without living space above the garage;
- The variance would not adversely affect the delivery of government services such as water, sewer, or trash pickup because it is still the homeowner's responsibility;
- The applicant's predicament feasibly cannot be resolved through a method other than a variance, as the applicant has described the need to park two cars in the garage and have space for his handyman business and the size of the garage is the minimum necessary to make that space usable; 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 the variance is the minimum necessary to make this addition to the house feasible.

If granted, the variance shall have the following conditions:

1. Calendar No. 3615 is granted to:
 - A. to Code Section 1121.08(b) to permit an attached garage with second-floor living space to be 1'-9" from the side lot line as shown on the drawings submitted to BZA dated August 15, 2025;
 - B. to Code Section 1121.08(c) to permit an attached garage with second-floor living space to be 19'-10" to 17'-3" from the rear lot line as shown on the drawings submitted to BZA dated August 15, 2025;
 - C. to Code Section 1121.12(a)(8) to permit a driveway to be 1'-4" from the side lot line as shown on the drawings submitted to BZA dated August 15, 2025; and
 - D. to Code Section 1121.12(e)(2) to permit the garage floor area to be 661 square feet as shown on the drawings submitted to BZA dated August 15, 2025.
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; and
5. Applicant shall work with the 1228 Oxford Rd property owner and submit a landscape plan to the city to replace the trees that will be damaged and/or removed as part of this construction project and implement the landscape plan prior to completion of construction.

Mr. Hoen seconded the motion. Mr. Hoen added that the current driveway is 3 feet 9 inches from the side property line, the new driveway will be 1 foot 4 inches from the side property line, and that difference of 29 inches is insubstantial.

The motion carried 4-1. Mr. Zych casted the dissenting vote.

Cal. No. 3616 TRAINOO LLC, 1933 Lee Rd., "S-2" Mixed-Use, proposes adding 1 dwelling unit and requests variance:

- A. to Code Section 1123.06:
 1. to permit the land area per dwelling unit to be 900 square feet when the minimum is 1,750 square feet; and
 2. to permit a density of 48.4 units per acre when the maximum is 25 units per acre; and
- B. to Code 1161.03(4) to permit 13 off-street parking spaces when 14 are required.

Mr. Yozwiak said that staff is requested that Cal. No. 3616 TRAINOO LLC, 1933 Lee Rd. be continued to the October BZA meeting to advertise an additional variance.

Mr. Hoen motioned to continue Cal. No. 3616 TRAINOO LLC, 1933 Lee Rd. to the October BZA meeting. Ms. Wolf seconded the motion. The motion carried unanimously (5-0).


OLD BUSINESS

Mr. Hines said that the appeal to Cal. No. 3585 T. Morford, 2677 Berkshire Rd is still pending.

NEW BUSINESS

Mr. Yozwiak said that there will be three cases at the next BZA meeting. He pointed out that the next meeting will occur on a Thursday.

The meeting was adjourned at 7:56 p.m.


Thomas Zych, Chair
Xavier Yozwiak, Secretary

