

**CITY OF CLEVELAND HEIGHTS
BOARD OF ZONING APPEALS
MINUTES
December 17, 2025**

MEMBERS PRESENT

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

STAFF PRESENT

Justin Hines	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 October 16, 2025. Ms. Wolf 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, her, or its 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.

We are a body of limited jurisdiction. We exercise only the powers given to us by City Council. No one sitting up here has been elected by the voters of the City of Cleveland Heights to change the law. We grant variances when these standards are met and only when these standards are met. And those standards all go to the nature of the property. One of the other rules we live by is that we grant variances to parcels not to people. What I mean by that is that when we grant variance, the legal term is that it "runs with the land." Not only the current owner of the property or the applicant gets the benefit of the variance, every subsequent owner, until we revoke it, gets the benefit of that variance. Hence, what we talk about is the property, is what is relevant to us. And we take in all facts that we can to make that determination.

The Board is the final administrative decision-maker for all regular variances.

PUBLIC HEARING

Cal. No. 3617 A. & T. Nadas, 2564 South Taylor Rd., "A" Single-Family, requests variance:

- A. to Code Section 1121.12(a)(4) to permit steps that exceed 3 feet in height to be less than 5 feet from the side property line and
- B. to Code Section 1121.12(a)(5) to permit a patio and walkway to be less than 3 feet from the side property line.

Mr. Yozwiak stated that staff and the applicant is requesting that the case be continued to January to review updated drawings that have been submitted after a survey was completed.

Ms. Hoen motioned Cal. No. 3617 A. & T. Nadas, 2564 South Taylor Rd. to be continued to the January BZA Meeting. Mr. Stern seconded the motion. The motion carried unanimously (5-0).

Cal. No. 3618 M. DeLio & J. Kleinhenz, 2648 Overlook Rd., "AA" Single-Family, requests variance to Code Section 1121.12(i)(2) to permit a 6-foot fence to be closer than 6 feet to the

principal building.

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

After hearing no objections, the staff report dated December 11, 2025, was entered into the record.

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

Mr. Hoen asked if the existing fence was code-conforming. Mr. Yozwiak said the existing fence was likely code-conforming. He said it was difficult to tell if any portion of it extended in front of the building, in which case it would have to step down to 4 feet. Mr. Yozwiak added that there was no record of any previous variances.

Mr. Zych asked if the fence was in the corner side yard. Mr. Yozwiak confirmed that the fence was in the secondary front yard (formally called the corner side yard). He added that fences are permitted to be 6 feet tall along the secondary front yard, but in this case the height of the fence was limited by its closeness to the primary structure.

Ms. Wolf asked if there was any record of a fence in the proposed location. Mr. Yozwiak said he did see one looking at the last few years of the property on Google Maps.

Mr. Michael DeLio and Ms. Julia Kleinhenz (2648 Overlook Rd) came forward to describe the statement of practical difficulty.

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

Mr. DeLio said that they have been at the residence for two years and it is their understanding that the current fence is code-conforming. They said that the family room next to the fence is part of the original structure. He added that they are requesting the variance for privacy given the vehicle traffic down Overlook Ln.

Ms. Kleinhenz said that Overlook Ln has a significant amount of foot traffic as well.

Mr. DeLio confirmed to Ms. Wolf that a fence has never existed at the proposed location. He estimated that the existing fence was built in the 1990s. Ms. Kleinhenz said the fence was not installed by the previous owner.

Mr. DeLio responded to Ms. Lewin and said the solid portion of the fence was about 1.5 feet from the top of the fence and that the solid portion is less than distance of the fence to the home.

Mr. DeLio confirmed to Mr. Zych that room next to the proposed fence is a standard family room. He added that their intention is to restore the transparency of the windows after the fence is built.

Mr. Zych closed the public comment.

Ms. Lewin stated that regarding Cal. No. 3618 M. Delio & J. Kleinhenz, 2648 Overlook Rd., she moved to grant the application for a variance with conditions to Code Section 1121.12(i)(2) to permit a 6-foot fence to be closer than 6 feet to the principal building.

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

- Special conditions and circumstances exist which are peculiar to the land/structure involved as the house is built very close to a public right-of-way, the current fence is 6 feet tall, and they would just be continuing the existing fence for safety and security;
- The property in question will not yield a reasonable return without the variance as anything lower than 6 feet would not provide the safety and security that is necessary;
- 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 anything lower than 6 feet would not substantially protect and give them the privacy needed;
- The essential character of the neighborhood would not be substantially altered as a result of the variance because the current fence is 6 feet and they will be planting liriope along the fence line; and
- The variance would not adversely affect the delivery of government services because government services do not pick up the garbage, etc. from that area.

If granted, the variance shall have the following conditions:

1. Calendar No. 3618 is granted to Code Section 1121.12(i)(2) to permit a 6-foot fence to be 57 inches to the principal building as shown on the drawings submitted to BZA on November 25, 2025;
2. Approval of the Architectural Board of Review;
3. Receipt of a Building Permit; and
4. Complete construction within 12 months of the effective date of this variance.

Mr. Stern seconded the motion. The motion carried unanimously (5-0).

Cal. No. 3619 Y. & R. Kleinman, 3756 Bendemeer Rd., “A” Single-Family, requests variance:

- A. to Code Section 1121.08(b) to permit side yard setbacks that are less than 5 feet;
- B. to Code Section 1121.12(a)(8) to permit a walkway to be less than 3 feet from the side lot

line;

- C. to Code Section 1121.12(e)(3)(B) to permit a parking garage to be less than 5 feet from the front façade; and
- D. to Code Section 1161.03(a)(1b) to permit less than 2 off-street parking spaces.

After hearing no objections, the staff report dated December 11, 2025, was entered into the record.

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

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

Mr. George Pelesky (6860 West Snowville Rd, Brecksville OH 44141; applicant representative) came forward to describe the statement of practical difficulty.

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

Mr. Pelesky addressed each variance:

- Side-yard setbacks: Mr. Pelesky said there are other examples in the neighborhood that do not meet the 5-foot side-yard setback. He added that taking a foot off the width would affect the functionality of the home. He said a common building practice is to work in even numbers (i.e. a 40-foot wide home instead of 39 feet). He said the floor plan was typical for the neighborhood.
- Walkway setback: Mr. Pelesky said most homes in Cleveland Heights have two entries. He said that the walkway will allow people to safely access the side door and is the minimum width for one person.
- Garage distance from the front façade: Mr. Pelesky said that the garage cannot be pushed back because it is already a one-car garage. He added that extended the roof could cause another variance and the roof would become extremely flat.
- Two off-street parking spaces: Mr. Pelesky said that there are instances where there are one-car garages in the neighborhood. He said that they have room for two cars to park on the driveway.

Mr. Yozwiak confirmed to Ms. Wolf that the applicant would not need the side-yard setback variance if it was a 50-foot wide parcel.

Mr. Zych closed the public comment.

Mr. Stern stated that regarding Cal. No. 3619 Y. & R. Kleinman, 3756 Bendemeer Rd., he moved to grant the application for a variance with conditions:

- A. to Code Section 1121.08(b) to permit side yard setbacks that are less than 5 feet;
- B. to Code Section 1121.12(a)(8) to permit a walkway to be less than 3 feet from the side lot line;
- C. to Code Section 1121.12(e)(3)(B) to permit a parking garage to be less than 5 feet from the front façade; and
- D. to Code Section 1161.03(a)(1b) to permit less than 2 off-street parking spaces.

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

- Special conditions/circumstances do exist which are peculiar to the land/structure involved which are not generally applicable to other lands/structures in the same Zoning District in that the lot, as is, is already non-conforming in both area and width;
- The property in question will not yield a reasonable return without the variance as anything less, as indicated by the applicant's representative, would not be safe or functional and the home seems to be very standard for the layout and format of homes that are now being built in Cleveland Heights;
- The essential character of the neighborhood would not be substantially altered as a result of the variance because there are other properties that are similar and have side-yard setbacks that are less than 5 feet and parking garages that are less than 5 feet from the front façade; and
- The variance would not adversely affect the delivery of government services at all as there will be no change.

If granted, the variance shall have the following conditions:

1. Calendar No. 3619 is granted to:
 - A. to Code Section 1121.08(b) to permit side yard setbacks of 4.5 feet as shown on the drawings submitted to BZA;
 - B. to Code Section 1121.12(a)(8) to permit a walkway to be 1.5 feet from the side lot line as shown on the drawings submitted to BZA;
 - C. to Code Section 1121.12(e)(3)(B) to permit a parking garage to be 0.17 feet from the front façade as shown on the drawings submitted to BZA; and
 - D. to Code Section 1161.03(a)(1b) to permit 1 off-street parking spaces;
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.

Ms. Wolf seconded the motion. The motion carried (4-0). Ms. Lewin abstained.

Cal. No. 3620 Y. & C. Hertz, 3638 Severn Rd., "A" Single-Family, requests variance:

- A. to Code Section 1121.12(e)(3)(B) to permit a parking garage to be less than 5 feet from

- the front façade; and
- B. to Code Section 1161.105(a) to permit a driveway to be greater than 12 feet wide.

After hearing no objections, the staff report dated December 11, 2025, was entered into the record.

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

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

Mr. Yozwiak responded to Ms. Wolf and said that he was not sure of the width of nearby driveways shown in the presentation, but one was probably at least 16 feet given that a car on the image took up half the driveway.

Mr. George Pelesky (6860 West Snowville Rd, Brecksville OH 44141; applicant representative) came forward to describe the statement of practical difficulty.

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

Mr. Pelesky said that extending the porch would cause a zoning conformance issue with the front yard setback and would alter the roofline greatly. He pointed out that other homes in the neighborhood have front doors that are behind the garage.

Mr. Pelesky said that narrowing the driveway at the curb would cause safety issues for vehicles leaving exiting the home and would prohibit two cars parking in the driveway.

Mr. Yozwiak pointed out that porches are considered accessory structures and if the porch was extended the front yard setback would be unaffected.

Ms. Wolf asked if there would be water intrusion issues with a flat roofline. Mr. Pelesky said that there is a greater risk of ice damming with a lower slope. He added that a flat roof over the porch would less aesthetically-pleasing.

Mr. Zych closed the public comment.

Mr. Hoen stated that regarding Cal. No. 3620 Y. & C. Hertz, 3638 Severn Rd., he moved to grant the application for a variance with conditions:

- A. to Code Section 1121.12(e)(3)(B) to permit a parking garage to be less than 5 feet from the front façade; and
- B. to Code Section 1161.105(a) to permit a driveway to be greater than 12 feet wide.

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

- There are special conditions that exist at this particularly property, notably that it is a non-conforming lot and the area is 7,200 square feet where a 7,500 square foot lot is required;
- The property in question will not yield a reasonable return without the variance as the homes being built in this neighborhood require greater areas than the non-conforming areas that are plotted in this neighborhood, the driveway would cause safety concerns and allow for potential hazards, and the wider driveway will allow double-parking which is a desirable conclusion to the construction;
- The variance is insubstantial specifically to the first variance, which is for the garage be less than 5 feet from the front façade and 2.5 feet behind the porch, because the project is in a neighborhood where other properties have very similar front facades;
- The variance would not adversely affect the delivery of government services; and
- The spirit and intent behind the zoning requirement would be observed and substantial justice done by granting variance because this is a desirable construction project in a neighborhood where larger housing is necessary yet the lots are non-code-conforming.

If granted, the variance shall have the following conditions:

1. Calendar No. 3620 is granted to:
 - A. to Code Section 1121.12(e)(3)(B) to permit a parking garage to be 2.5 feet from the front façade as shown on the drawings submitted to BZA; and
 - B. to Code Section 1161.105(a) to permit a driveway to be 16 feet wide as shown on the drawings submitted to BZA;
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.

Ms. Wolf seconded the motion. The motion carried (5-0).

Cal. No. 3621 OVERBROOK AM LLC, 3472 Severn Rd., “A” Single-Family, requests variance to Code Section 1165.02(b)(3) to permit 5 people employed or engaged in the furtherance of the home occupation who is not a member of the immediate family residing on the premises, when the maximum is 1 person.

Mr. Zych entered into the record emails received between December 15-17, 2025 from residents generally in the neighborhood of the applicant.

Mr. Zych also entered into the record an email from the Building Commissioner, Eric Elmi, informing the Board that the applicant previously requested review of the building plans and the plan examiner found that the documents were inadequate for construction.

After hearing no objections, the staff report dated December 11, 2025, was entered into the record.

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

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

Mr. Hoen asked why the application was not a use variance, given that the application related to the use of the building rather than its structure, setbacks, etc. Mr. Yozwiak said that the applicant has decided to present the application as a standard variance to the requirements for a home-based business, rather than a use variance. Mr. Yozwiak confirmed that the standard for the variance is practical difficulty not unnecessary hardship.

Mr. Yozwiak confirmed to Mr. Zych that the driveway entry was along Severn Rd, it was one car wide, and there could be tandem parking.

Ms. Jeanne Gordon (2928 Scarborough Rd; applicant representative) came forward to describe the statement of practical difficulty.

Mr. Zych entered Ms. Gordon's application into the record.

Ms. Gordon explained that they applied for a standard variance because they met all standards for a home-based occupation other than the number of employees and the proposed home-based occupation will be subordinate to the use of the property as a residence. She added that the limit of one employee creates a practical difficulty for providing any professional services that requires licensing and certification. She said that permitting the variance advances the intent of the zoning code to allow small-scale economic activities while preserving the residential character of neighborhoods. She said that dental care cannot be delivered without a small staff, and that the limit on the number of employees ties home-based occupations to family size rather than a difference in intensity of uses.

Ms. Wolf asked if staff will be parking on the premises. Ms. Gordon said that the staff will not be parking on the premises and will walk to the premises. Mr. Zych pointed out that that is the intention of the current owner, but future owners could have employees that drive to the property. Ms. Gordon agreed and said there was room for four cars including the garage.

Mr. Zych asked what is different about this property that merits it being treated differently than any other property in Cleveland Heights. Ms. Gordon said that the property is on the base of a commercial area. She reiterated that home-based occupations are permitted in any home, and suggested that many have more than one employee. Mr. Zych said that the Board does not handle code enforcement.

Ms. Nancy Vasse-Hansell (3304 Hyde Park Ave) said that she has been a patient of Dr. Gross (applicant) for many years and the exterior of his existing office (located in Eastlake, OH) is always clean. She said there are never any cars backed up around his clinic.

Mr. Yeshai Kutoff (3495 Severn Rd) said that he is a neighbor of Dr. Gross and that he has second nicest lawn in the neighborhood. He said 3472 Severn Rd is an eyesore and that he would encourage anyone who is going to bring something nicer to the neighborhood.

Mr. Jacob Berger (3543 Shannon Rd) said that he has spends a lot of time taking his three teenagers to the dentist and that he supported having a dentist office in the community that was walkable.

Mr. Uziel Kuriansky (3604 Blanche Ave) said he has been to Dr. Gross's office twice in the past year, he would walk to appointments, and currently he has to drive a half-hour to go to an appointment and take time out of his workday. He said that bringing a good healthcare practice to the community will enhance the community.

Dr. Jeffrey Gross (3492 Severn Rd) said he had lived at 3492 Seven Rd since 1977 and has heard over time from his neighbors that they had limited options for dental care on Medicaid/Medicare plans. He said when he saw an eviction notice on 3472 Severn Rd he saw an opportunity to provide quality dental care for the neighborhood that currently was missing and was walkable. He emphasized that customers and employees would be from the neighborhood.

Ms. Gordon explained that only two patients would be seen at a time. She described the proposed modifications to the driveway that will make it easier for cars to pull into the garage. Mr. Zych said the garage spaces would be for the dwelling. Ms. Gordon clarified the space would allow cars to be parked in front of the garage.

Mr. Stern asked who will be residing in the home. Ms. Gordon said Dr. Gross will be residing in the home.

Ms. Gordon confirmed to Ms. Wolf that the type of dental practice being proposed would be very difficult to have only family members employed.

Mr. Hoen asked how the applicant arrived at the request of five employees and if it will expand. Ms. Gordon said that the practice will not expand and that they will have a dentist, hygienist, and an assistant. She said that they may have less than five employees at a time. She confirmed to Mr. Zych that there will administrative staff.

Mr. Zych closed the public comment.

Ms. Lewin stated that regarding Cal. No. 3621 OVERBROOK AM LLC, 3472 Severn Rd., she moved to grant the application for a variance with conditions to Code Section 1165.02(b)(3) to permit 5 people employed or engaged in the furtherance of the home occupation who is not a member of the immediate family residing on the premises, when the maximum is 1 person.

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

- The property in question will not yield a reasonable return without the variance as evidenced by the following that this house has been purchased for the purpose of being converted to a dental office without the purchaser fully understanding the zoning details and will not be able to have his dental practice in this building without the variance and without not being able to hire non-family members;
- 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 he needs to be able to hire qualified people to run his business and he is unable to hire family members because they are not qualified and they are not certified to be employed as members of his dental business;
- The essential character of the neighborhood would not be substantially altered as a result of the variance because the exterior of the home will not change significantly and it will still look like a home;
- The variance would not adversely affect the delivery of government services such as water, sewer, trash pickup, because there is nothing significant changing on the exterior of the home;
- The property owner testified that he purchased the property without knowledge of the zoning restriction as evidenced in the application stating that there were aspects of the zoning code that were not discussed even though they did have discussions with city staff prior to the purchase of the property; and
- The applicant's predicament feasibly cannot be resolved through a method other than a variance because he is not able to hire his own family members to run his business and he needs to hire people outside his family.

If granted, the variance shall have the following conditions:

1. Calendar No. 3621 is granted to Code Section 1165.02(b)(3) to permit 5 people employed or engaged in the furtherance of the home occupation who are not members of the immediate family residing on the premises as shown on the drawings submitted to BZA dated December 9, 2025;
2. Receipt of a Building Permit;
3. Complete construction within 12 months of the effective date of this variance; and
4. Resolution of the deficiencies noted in the Building Commissioner's report dated December 15, 2025.

Mr. Hoen seconded the motion.

Mr. Hoen said that the application would have made more sense as a use variance. He said he felt that the use variance standard was met based on the arguments presented by the applicant. He said he had a difficult time finding practical difficulty for the application, but that he felt that unnecessary hardship would have been met, so he was going to vote for the application.

Mr. Zych said that Board of Zoning Appeals is a creature of City Council and only has the authority given to them by Council. He said that he is not elected and has no votes to change the zoning code. He explained the concept of "spot-zoning," or practically changing the zoning code one property at a time. He said that the variance application is a standard variance, they cannot apply any other standard, and that there should be something unique or special to the property. He said that he appreciated the comments from the public and the applicant's presentation. He said that he understands the benefits of the practice and that it would be easier to grant variances to a person, if they could, but variances "run with the land." He said that the proposed business is a dental practice, but he could think of almost any home occupation these days where it would be hard to be limited to one family member. He said that he struggled to see something unique about the property. He said that he had a principal basis for a variance that there would be other properties where they wouldn't grant variance, and he difficulty seeing that principal basis here. He concluded by saying the case felt like spot zoning. He concluded that he had difficulty finding practical difficulty and that he would be voting no.

The motion carried (4-1). Mr. Zych voted no.

Cal. No. 3622 2211 LEE ROAD OWNER, LLC, 2211 Lee Rd., "C2-X" Multiple Use, requests variance to Code Section 1161.07(a) to permit a drive-thru window with less than 10 waiting spaces.

Mr. Yozwiak stated that staff is requesting that the case be continued to January to advertise for an additional variance.

Ms. Hoen motioned Cal. No. 3622 2211 LEE ROAD OWNER, LLC, 2211 Lee Rd. to be continued to the January BZA Meeting. Mr. Stern seconded the motion. The motion carried unanimously (5-0).

OLD BUSINESS


There was no old business.

NEW BUSINESS

Mr. Yozwiak said that there will be a BZA meeting in January.

The meeting was adjourned at 8:33 p.m.



Thomas Zych, Chair

Xavier Yozwiak, Secretary