



CLEVELAND HEIGHTS

MINUTES OF THE COUNCIL MEETING OF MONDAY, JUNE 21, 2004

Council Committee of the Whole of the City of Cleveland Heights, Ohio, met on the above date at 6:25 p.m.

Edward Kelley, presiding

Council Members present: Caplan, Dietrich, Evans, Hicks, Kelley, Montlack, Wilcox

Council Members absent: None

Staff present: Carter, Czaga, Downey, Gibbon, Malone, Niermann O'Neil, Reddy, Ruane, Wagner, Wong, Zins

Topic of discussion included general information pertaining to the City Manager's weekly memo.

Committee of the Whole adjourned at 7:40 p.m.

The Council of the City of Cleveland Heights, Ohio, met on the above date at 7:53 p.m.

Edward Kelley, presiding

Council Members present: Caplan, Dietrich, Evans, Hicks, Kelley, Montlack, Wilcox

Council Members absent: None

Staff present: Carter, Czaga, Downey, Gibbon, Malone, Niermann O'Neil, Ruane, Wagner, Wong, Zins

The minutes of the Regular Council Meeting held Monday, June 7, 2004 were approved and signed by Mayor Kelley along with the ordinances and resolutions passed at that meeting.

Eric Garvin, 3852 Bainbridge Road, stated, "I moved in this month. One thing I was looking forward to doing as part of buying a home in a community and being a part of the community is going to the council meetings to stay focused and updated on things that are going on and to kind of plant my roots and make myself a part of this wonderful city. I've got a softball game at 8:30 for Brennan's Colony so I'll be taking off a little bit earlier, but everyone has been very friendly today, and a day like today has made living in Cleveland Heights very worthwhile and I'm certain it's going to be a wonderful experience."

Mayor Kelley asked if he had a family. Mr. Garvin continued, "Not [living] in the Heights, but I grew up in Shaker on Lomond Boulevard. My mother was actually involved in city politics and city

community so I was pretty fortunate to meet people when I was young, anyone like Lee Fisher to other different congressmen. I always remember the campaign process and being a part of that. My father and mother bought the house in '72 when I was born and that I've got a sister who is the oldest in the family, she now lives in Toledo and is a school teacher in Toledo. I've got a brother, Jonathan, who is an attorney in New York and a brother, Anthony, who is a salesman for Parker Hannifin, that's actually a little ironic, because I work for a company called Swaglok and he works for one of our big competitors, but that's beside the point - no plug there for any one company. But yes, two brothers, one sister. I guess I'm probably the quiet one who doesn't like to talk and tells bad jokes."

Mayor Kelley interjected, "You and I have had a few conversations, I didn't notice anything shy about you when we had a chance to talk."

Mr. Garvin continued, "It takes time, but people really get to notice how quiet I am."

Mayor Kelley asked, "Well, enjoy your softball. You play in the coed league now?"

Mr. Garvin continued, "Correct. I play in a coed league on Mondays and Wednesdays and on Fridays I play in a men's league."

Mayor Kelley said, "Thanks for coming. Come back anytime you want."

Mr. Garvin replied, "I'll be back July 6. I hope I'll be able to stay for the whole meeting."

Mayor Kelley responded, "We'll try and start on time that night."

Mr. Garvin said, "Whatever your schedule is - I'm fine with that."

Mayor Kelley said, "Thanks for coming, nice to see you again."

Mr. Garvin replied, "You too."

REPORT OF THE CITY MANAGER

Mr. Downey stated, "Thank you very much, your Honor. I have several items this evening. The first of which would be to request authority to advertise for bids for clothing items for the Public Work Department."

Mayor Kelley made it a matter of record and referred it to the Municipal Services Committee of Council.

Council Member Hicks moved that the City Manager be given authority as requested.

Second by Council Member Evans.

Roll Call: Ayes: Caplan, Dietrich, Evans, Hicks, Kelley, Montlack, Wilcox

Nays: None **Motion passed**

Mr. Downey continued, "Thank you very much, your Honor. In your packet you received a copy of Bid Document No. 2004-17, one tri-axle chassis, dump body and snow plow. The lowest and best

bidder is Cleveland Mack Sales in the amount of \$143,047.32; and Bid Document No. 2004-18, one rear-loader refuse truck. The lowest and best bidder is Cleveland Mack Sales in the amount of \$146,501.30. Last week we opened Bid Document No. 2004-19, the Queenston area water main rehabilitation [project]. The lowest and best bidder is the Terrace Construction Company in the amount of \$539,119.00. Your Honor, I would request that these bid tabulations and award of contract be made a matter of record."

Mayor Kelley made them a matter of record.

REPORT OF THE DIRECTOR OF FINANCE/CLERK OF COUNCIL

Mr. Malone stated, "Thank you, your Honor. I need to notify Council that five resolutions of the Board of Zoning Appeals have been received pertaining to variances in the Zoning Code and are requested by the following: BZA Calendar No. 3039 Brian Stratham, 2832 Washington Boulevard, accessory use regulations; BZA Calendar No. 3040 Omega Properties, Ltd., and Michael Occhinero, owners of an 8-unit multiple-family dwelling at 2600 Mayfield Road, off-street parking regulations; BZA Calendar No. 3041(a) Nicholas Zarnas, 12655 Cedar Road, accessory use regulations; BZA Calendar No. 3041(c) Nicholas Zarnas, 12655 Cedar Road, accessory use regulations; and BZA Calendar No. 3041(d) Nicholas Zarnas, 12655 Cedar Road, accessory use regulations. I wish to make these a matter of record."

Mayor Kelley made them a matter of record and referred them to the Planning and Development Committee of Council.

REPORT OF THE PUBLIC SAFETY AND HEALTH COMMITTEE

Council Member Evans stated, "Thank you, your Honor. I'd like to present Ordinance No. 81-2004(PSH), Second Reading, amending Subsection (b)(1)(A) of Section 303.99, "Penalties," of Part Three, "Traffic Code," of the Codified Ordinances of the City of Cleveland Heights. The penalties for parking violations will be increased. There has not been a raise since 1990 with the exception of parking in a handicapped zone. After much conversation and evaluation, we decided that it would be in the City's best interest to amend the subsection. There is so much to read, but there are three different categories of parking tickets and certainly if anyone cares to review these they are on file with the Clerk of Council's office. In Section 2 it states that the effective date of this Ordinance, if passed, will be January 1, 2005. I'd like to submit Ordinance No. 81-2004(PSH), Second Reading, for passage this evening."

Mayor Kelley accepted Ordinance No. 81-2004(PSH), Second Reading.

Council Member Caplan added, "Thank you. For the most part I am supportive of this Ordinance because it is time to raise some of the fines with one exception and that exception is the single use of meter. When a meter runs out at the moment we pay \$6.00 and this raises it to \$10.00 for a ticket and it concerns me that we have done that. I think parking in a handicapped space, somebody should be punished; parking on private parking, somebody should be punished, so I have no problem with the others, but when a meter runs out and you're having lunch or you're having dinner and you're a few minutes late to get it I think that - we're in competition with lots of other commercial areas in the eastern suburbs and I think this does not encourage people to come here. They will see it as a punishment and so unfortunately because of that one item, I'm going to vote no on this."

Council Member Dietrich added, "I agree with Councilwoman Caplan and yet I'm voting yes for this and actually I feel like I'm not quite standing up for my convictions since I also feel like we should not be raising the fee for overtime in a parking meter and then on the other hand it's only such a tiny little bit of this ordinance that I am going to vote yes on the ordinance but I do have an objection to that little part of it."

Council Member Hicks asked, "A question, a quick question to the City Manager or Tom Malone, if you can answer this question. Out of everything that we're passing, does the most amount of money that the city receives - come from the parking meters - from parking meters being expired?"

Mayor Kelley asked, "The changes on here?"

Council Member Hicks continued, "The revenue that we get from these items of the changes--"

Mr. Downey responded, "On this list--"

Council Member Hicks continued, "Of this list--"

Mr. Downey continued, "There are about 15 or 20 violations - parking overtime in a meter is probably the largest."

Council Member Hicks thanked Mr. Downey. Mayor Kelley asked for any more comments or questions of the City Manager.

Vice Mayor Montlack stated, "Our bottom line - expired parking meter fine for penalty was \$6.00 and frankly if you're going to have a law that encourages enforcement, from an economic standpoint that amount has been too low for a long time and we are not at the highest among various adjacent communities in raising it to \$10.00. If anything, the \$10.00, frankly, may be a little on the low side. Among the basic purposes of these laws are to encourage people, certainly to obey the law and to move along. If it's an hour meter, do their business and move along and if they can't or if it doesn't work out that way, then there are other parking options in the particular commercial districts that are available. When it is working right, it's not about collecting revenue, it's about maintaining the flow of traffic and parking in a way that makes sense for the neighborhood, the commercial district and the community."

Council Member Evans added, "I just wanted to reiterate that this is the first increase that there will be since 1990, that's 14 years. In my mind it's a nominal increase and probably is not keeping up with the inflation, so I am definitely in favor of the small increase."

Mayor Kelley added, "I think I'm just going to weigh in very slightly on this. Yes, I'm in favor of this. I think it was about eight or nine years ago when we put the present rates for our meters - 10 cents for 20 minutes and a quarter for 40 minutes. I think it was about eight or nine years ago and I think that's very reasonable - we haven't raised that. Secondly and most effectively in my mind, probably about 90% of the people actually do work the meters effectively, know how to put the right amount of the money in the meters and do not receive tickets. It's very effectively used and I think 27 cents a year for the last 14 or 15 years - we're certainly behind some of the other cities that we compete with for business whether it be Lakewood/ University Heights or whatever. It is \$15.00 in Lakewood, I believe \$10.00 in University Heights, probably six or seven years ago in some of the other cities, so I think it's about time to raise this and I will be voting for this."

Roll Call: Ayes: Dietrich, Evans, Hicks, Kelley, Montlack, Wilcox

Nays: Caplan **Ordinance passed**

Council Member Evans continued, "Ordinance No. 92-2004(PSH), amending Section 553.07, "Criminal Activity as a Nuisance; Costs of Enforcement", of Chapter 553, "Abatement of Nuisances", to enact and adopt a new Subsection 553.07(a)(9) to add commercial parties in residential districts to the

list of nuisance activities; and declaring an emergency. You may recall a couple weeks ago we had an ordinance that talked about the pay parties in Cleveland Heights and the need to have an ordinance about them. This one includes it in the chapter as one of the nuisances to charge property owners with enforcement and administrative costs incurred by the City for abatement of specified nuisances. We believe it would be in the best interest of the City and its residents to amend said Section to include commercial parties in residential districts among the criminal activities constituting a nuisance. Therefore, in Section 1 number (9) will be a new subsection and it reads: Commercial parties in residential districts in violation of Section 509.09. Section 2 is notice of passage and Section 3 declares this Ordinance to be passed as an emergency. I'd like to submit Ordinance No. 92-2004(PSH) for passage."

Mayor Kelley accepted Ordinance No. 92-2004(PSH).

Roll Call: Ayes: Evans, Hicks, Kelley, Montlack, Wilcox, Caplan, Dietrich

Nays: None **Ordinance passed**

REPORT OF THE ADMINISTRATIVE SERVICES COMMITTEE

Council Member Dietrich stated, "I have some reappointments to make on the Commission on Aging tonight. The terms are up for six of the eleven members on the Commission on Aging and all six of them would like to continue for another two year-term. Our Commission on Aging is actually a really involved group and I think they represent seniors very well and really very energetically. They don't really seem like aging people even though you have to be over 601 to be on it. I would like to move the reappointment of the following six Commission on Aging members for another two-year term which will begin on July 1, 2004 and end June 30, 2006. The six are Elsie Day, Dr. John Elder, Myldred Boston Howell, Frank Ruther, Louise Tuffs and Harold Williams."

Second by Council Member Caplan.

Roll Call: Ayes: Hicks, Kelley, Montlack, Wilcox, Caplan, Dietrich, Evans

Nays: None **Reappointments passed**

Council Member Dietrich added, "I just want to make a comment about our boards and commissions. This is something - that if you listen a lot, I said before, but it does bear repeating every year or so, as of today all our boards and commissions are full. Now, as a city we're really lucky to have that as our situation. I'm really proud of our boards and commissions. I think that we have people who work really conscientiously and really well for the city, but if you are a person who has applied and you have not been appointed, I just don't want you to think that we're rejecting you. I always worry about the people who apply and are not appointed and I just want you to know that there are so many factors that go into making appointments to boards and commissions. You may be a very well-qualified person but we try to balance our boards and commissions according to all the diverse factors like gender and race and age and neighborhood that you live in and in fact many of our applicants are white people from Coventry or Roxboro neighborhoods. I'm certain that these people would serve really well, but we just can't have all our boards and commissions full of just white people from Coventry and Roxboro. So, if you are one of the 38 applicants that I have sitting in my file, we definitely want you to know that we appreciate your willingness to serve and that we keep your file active and that should something come up that's a good fit for you and hopefully that won't take long and will happen some time and we will be eager to appoint you. In the meantime we just want you to know that we sincerely thank you for your interest."

REPORT OF THE COMMUNITY RELATIONS AND RECREATION COMMITTEE

Council Member Caplan. "Thank you. I have one piece of legislation and it gives me pleasure to present it because we like to be known as the City of the Arts and this is certainly very supportive of it and this is Resolution No. 93-2004(CRR), authorizing the City Manager to accept a grant from the Canyon Johnson Urban Fund, L.P. on behalf of the City of Cleveland Heights; and declaring an emergency. Canyon Johnson Urban Fund, L.P., the former owner of Severance Town Center, has awarded two grants to the City of Cleveland Heights in the sums of Twenty-five Thousand Dollars (\$25,000.00) for arts programming and Eleven Thousand Dollars (\$11,000.00) for maintenance and fence repairs. Acceptance of said grants will be of benefit to the City and its residents. Therefore, be it resolved by this Council of the City of Cleveland Heights, that the City Manager be authorized to accept these two grant awards and that the City Manager be authorized to execute any and all documents. Notice of passage shall be given and this Resolution shall be declared an emergency for passage tonight. I offer Resolution No. 93-2004(CRR)."

Mayor Kelley accepted Resolution No. 93-2004(CRR).

Roll Call: Ayes: Kelley, Montlack, Wilcox, Caplan, Dietrich, Evans, Hicks

Nays: None **Resolution passed**

Council Member Caplan concluded, "Going along with my little theme tonight, the City of the Arts, you will soon be getting in the mail your Focus Magazine and in the Focus besides reminding you to recycle and to tell you how to recycle we need to be paying attention to that there is of course in the center a calendar again of all of the programming that is going on at Cain Park so that you can avail yourself of all the wonderful things that are going on. Many of them are free and don't forget, of course, the Arts Festival begins on Friday, the 9th of July and goes for the weekend. In the back on the last page is the calendar of other summer concert series that will be at Fairmount and Cedar, at Coventry, at Cedar and Lee and so there is lots of information in this book. Do pay attention, there are lots of things going on in Cleveland Heights, including, don't forget - I think beginning next week is the Farmer's Market on Coventry that will be from 6:00 to 9:00 on Thursday nights. I've been corrected, it starts this week, so do remember to go from 6:00 to 9:00 on Thursday nights, Coventry by the Medic Parking Lot, so you know where you're going. The produce is from local farmers and in the past they have fresh baked bread and flowers and other kinds of things and frequently there is music too. This is the City of the Arts, come and enjoy the things we have to offer this summer. That's all I have. Thank you."

REPORT OF THE FINANCE COMMITTEE

Council Member Wilcox stated, "I have 5 resolutions from the Finance Committee all involving our CDBG funding. The first one is a resolution that approves use of contingency monies that are available and that is Resolution No. 94-2004(F), authorizing the reprogramming and reallocation of Community Development Block Funds; and declaring an emergency. CDBG program includes funds which have not been allocated. The Housing Preservation Office is in need of funding to cover the cost of Lead Risk Assessments and Clearance Testing. The proposed reprogramming of these funds has been approved by the Citizens Advisory Committee and City Staff. Therefore, Section 1 of this Resolution authorizes reallocation of the Community Development Block Grant Fund 208 from \$9,000 from the Contingency Fund to the Lead Testing Fund and Resolution No. 94-2004(F) also authorizes the City Manager to enter into an agreements to implement these changes. I offer Resolution No. 94-2004(F) for passage tonight."

Mayor Kelley accepted Resolution No. 94-2004(F).

Roll Call: Ayes: Montlack, Wilcox, Caplan, Dietrich, Evans, Hicks, Kelley

Nays: None **Resolution passed**

Council Member Wilcox continued, "Next, I have four resolutions that authorize contracts for the Year 30 CDBG funding program. A number of the contracts were actually approved at the last meeting and these will complete the contracts for the years beginning July 1, 2004 through June 30, 2005. Again, each of these funding programs was approved last fall by Council - after reviewing the recommendations of the city staff and the CAC. First, I have Resolution No. 95-2004(F), authorizing the City Manager to enter into an agreement with the Center for Families and Children, a non-profit corporation, for the use of Community Development Block Grant funds for assistance with its FAME (Fun After-school Methods of Enhancement), and its Pinpoint Program at the RapArt Center; providing compensation therefor; and declaring an emergency. This authorizes the City Manager to enter into an agreement to provide funding from 30th year Community Development Block Grant funds for the Center for Families and Children's programs as follows: Fifteen Thousand Five Hundred Dollars (\$15,500.00) for the Fun After-school Methods of Enhancement ("FAME") program, and Twenty-six Thousand Dollars (\$26,000.00) for the PINPOINT Program, for a total grant of Forty-one Thousand Five Hundred Dollars (\$41,500.00). I just wanted to note the FAME Program has a goal of serving forty-five youths in our community and the PINPOINT Program has a goal of assisting seventy-five youths in our community. I offer Resolution No. 95-2004(F) for passage tonight."

Mayor Kelley accepted Resolution No. 95-2004(F).

Roll Call: Ayes: Wilcox, Caplan, Dietrich, Evans, Hicks, Kelley, Montlack

Nays: None **Resolution passed**

Council Member Wilcox continued, "Next, I have Resolution No. 96-2004(F), authorizing the City Manager to enter into an agreement with the Heights Community Congress, a non-profit corporation, for the use of Community Development Block Grant funds for assistance with its programs to promote integration and fair housing; providing compensation therefor; and declaring an emergency. This Resolution then authorized the City Manager to enter into an agreement with the Heights Community Congress for a grant of Twenty Thousand Dollars (\$20,000.00) from 30th year Community Development Block Grant funds to perform these important educational and investigative programs to promote integration and fair housing in our city. I offer Resolution No. 96-2004(F) for passage tonight."

Mayor Kelley accepted Resolution No. 96-2004(F).

Roll Call: Ayes: Caplan, Dietrich, Evans, Hicks, Kelley, Montlack, Wilcox

Nays: None **Resolution passed**

Council Member Wilcox continued, "Thank you. Next, I have Resolution No. 97-2004(F), authorizing the City Manager to enter into an agreement with the Home Repair Resource Center ("HRRC"), a non-profit corporation, for the use of Community Development Block Grant funds for assistance with HRRC's home-repair and home-improvement programs; providing compensation therefor; and declaring an emergency. This Resolution then provides funding for the following programs: One Hundred Seventy-nine Thousand Four Hundred Fifty Dollars (\$179,450.00) for HRRC Operating Expenses; Three

Thousand Dollars (\$3,000.00) for the Assist 0% Program; Sixteen Thousand Five Hundred Dollars (\$16,500.00) for Neighborhood Project Repair Grants; Six Thousand Dollars (\$6,000.00) for Lead Based Paint Hazard Reduction activities; for a total grant for this important agency in our city of Two Hundred Four Thousand Nine Hundred Fifty Dollars (\$204,950.00). I offer Resolution No. 97-2004(F) for passage tonight.”

Mayor Kelley accepted Resolution No. 97-2004(F).

Roll Call: Ayes: Dietrich, Evans, Hicks, Kelley, Montlack, Wilcox, Caplan

Nays: None **Resolution passed**

Council Member Wilcox continued, “Finally, I have Resolution No. 98-2004(F), authorizing the City Manager to enter into an agreement with the Jewish Community Center of Cleveland, a non-profit corporation, for the use of Community Development Block Grant funds to provide funding for its Nutrition and Afternoon Out Program; providing compensation therefor; and declaring an emergency. This Resolution authorizes the City Manager to enter into an agreement to provide funding in the amount of Fifty-six Thousand Dollars (\$56,000.00). It notes in the Statement of Work that this program is located in Cleveland Heights and has a goal of assisting 2,448 seniors. I offer Resolution No. 98-2004(F) for passage tonight.”

Mayor Kelley accepted Resolution No. 98-2004(F).

Roll Call: Ayes: Evans, Hicks, Kelley, Montlack, Wilcox, Caplan, Dietrich

Nays: None **Resolution passed**

REPORT OF THE MUNICIPAL SERVICES COMMITTEE

Council Member Hicks stated, “Thank you, your Honor. I have one piece of legislation this evening and that is Resolution No. 99-2004(MS), authorizing the City Manager to enter into an agreement with the Ohio Department of Transportation for participation in the Department’s contract for the purchase of sodium chloride; providing compensation therefor; and declaring an emergency.

In this Resolution, the City Manager is authorized to enter into an agreement, as agent for the City, with the Ohio Department of Transportation for participation in the Department’s contract for the purchase of sodium chloride for the 2004-2005 winter season. The agreement shall be for a one year period, effective as of the date of award, and shall contain the following terms:

a) The City shall purchase between 50% and 150% of the estimated salt tonnage of 8000 tons; The City shall be bound by the terms and conditions of ODOT’s contract with the successful bidder/ vendor;

The City shall be responsible for payment directly to the vendor for quantities purchased under the contract; and

The City shall hold the Director of Transportation and the Ohio Department of Transportation harmless for any claim or dispute arising out of participation in the contract.

The agreement shall contain such further terms as recommended by the City Manager and Director of Law and shall be approved as to form by the Director of Law. Your Honor, I offer Resolution No. 99-2004(MS) for passage this evening.”

Mayor Kelley accepted Resolution No. 99-2004(MS).

Roll Call: Ayes: Hicks, Kelley, Montlack, Wilcox, Caplan, Dietrich, Evans
Nays: None **Resolution passed**

Council Member Hicks stated, "Thank you. I want to commend our city staff, community relations department. I attended the performance of Grease last evening and it was a wonderful outing for myself and my family. Truly, it's one of the hidden jewels of this community. A lot of times people are talking about the taxes and the high price of premium we pay for this community, but if you do not take advantage of the things that we have in this community such as Cain Park, such as the community center and our wonderful parks then you will feel as though your money is not being put to good use or the taxes are too high. But, if you were to go out and experience some of the things that we do have in this community, you would appreciate what we have and what is not found in other communities. Thank you, your Honor."

REPORT OF THE PLANNING AND DEVELOPMENT COMMITTEE

Vice Mayor Montlack stated, "Thank you, your Honor. There is one piece of legislation from this committee tonight. Ordinance No. 100-2004(PD), amending Part Eleven, Zoning Code, of the Codified Ordinances of the City of Cleveland Heights to create a new Commercial District classification to be known as the C-2X Multiple Use District.

This is on for first reading tonight and I will briefly explain the procedure on this as with all proposed zoning changes shortly.

The City has determined to amend Part Eleven, Zoning Code, of the City's Codified Ordinances to establish a new Commercial Zoning District to be known as a C-2X Multiple Use District which would permit greater density mixed uses in certain commercial areas of the City in which customers are drawn both from Cleveland Heights and a regional area outside of the City, and which districts are serviced by large multi-level public parking deck structures.

To translate that into English it means that actually Richard Wong, our Director of our Planning Department, understanding the goal that we are moving toward on Lee Road in the Meadowbrook/Tullamore area, understanding that we're going to have some new construction coming down the pike and looking at what makes sense in terms of heights and other factors. We went to work and he [Mr. Wong] made some suggestions and these were all discussed in Planning and Development committee meetings. Out of all of that, the proposal, that is the heart of this, Ordinance No. 100-2004(PD), is to create a commercial zoning district classification to be known as C-2X Multiple Use District and governed by the following regulations:

I Permitted Uses: All uses currently permitted in the C-2 Zoning District. This is a rather standard zoning classification in many of our commercial areas.

II Conditional Uses: All uses currently permitted as Conditional Uses in the C-2 Zoning District, except for automobile dealers (selling new vehicles or new and used vehicles); gasoline stations; car wash establishments; automobile service stations providing minor repairs; and automobile service stations providing major repairs.

These would not be included within the conditional uses.

III Permitted Accessory Uses: All uses which are currently permitted as Accessory Uses in C-2 Zoning Districts.

IV Conditionally Permitted Accessory Uses: All uses which are currently Conditionally Permitted Accessory Uses in C-2 Zoning Districts.

V Lot Area and Width Regulations: There shall be no minimum area or width requirements for lots in C-2X Districts.

There would be a variety of regulations with regard to Yard Requirements. I will not go through them at this point and then a final - almost final - important set of regulations relates to height regulations.

VII Height Regulations: Height regulations shall be as follows:

(a) Buildings in C-2X districts shall not exceed 65 feet in height. Mechanical space for building equipment placed on the building roof may be allowed above the maximum height specified, provided that such mechanical space is set back a minimum of 15 feet from any exterior wall, does not exceed 15 feet in height and is adequately screened from view.

(b) The portion of a building in a C-2X district which is within 30 feet of a residential district may not exceed 45 feet in height.

(c) A building in a C-2X district that exceeds 45 feet in height shall have transparent glazing covering at least 15% of the face area of each wall that exceeds 50 feet in width, unless prohibited by the Building Code or other applicable regulations.

(d) When a building exceeds 45 feet in height, at least one-half of each building face on the building's top floor shall be set back at least 8 feet from the building's setback at street level.

VIII District Boundaries: All properties within a C-2X District shall be within convenient walking distance of a multi-level public parking deck facility, and the District shall contain one or more businesses which habitually draw a substantial number of customers from the region outside of Cleveland Heights as well as from Cleveland Heights residents.

IX Other Regulations: All other regulations in the Zoning Code pertaining to commercial properties shall be applicable to properties within the C-2X Zoning District unless inconsistent with the above regulations in which case the above regulations shall govern.

The provision that was passed by this Council a while ago, providing that the parking requirements that are impossible to meet and usually not met in Cedar Fairmount, Coventry and Cedar Lee will not require a formal procedure for the Board of Zoning Appeals in the new district also. That's a quick summary of Ordinance No. 100-2004(PD) which is on first reading only tonight and certainly copies of this can be obtained from the Clerk of Council. The next step is to refer to the Planning Commission which will look into the proposal, conduct one or more public hearings and give its recommendations back to City Council. That referral is made now and in addition we will set a public hearing on this Ordinance No. 100-2004(PD), before Council on Monday, July 26, 2004 at 7:00 p.m. and that sets that procedure in motion. Again, good work by the planning department because we are looking to the future, you should excuse that cliché and trying to update our zoning requirements - our zoning code, especially in the commercial districts where different kinds of construction are now very possible and seem to make sense given the conditions that I read to you in this Ordinance. That is Ordinance No. 100-2004(PD).

The other matters for Planning and Development Committee are several calendar resolutions from the Board of Zoning Appeals from its recent meeting and the Vice Chair of this Planning and Development Committee, Councilwoman Evans, attended that meeting and she will handle these calendars.”

Council Member Evans stated, “The public hearing that the BZA held was last Wednesday, June 16, 2004 at 7:30 p.m. BZA Calendar No. 3039 Brian Stratham, 2832 Washington Boulevard, in an ‘A’ single-family district, hereinafter referred to as the ‘applicant’ has made formal application requesting a variance from the accessory use regulations of the Zoning Code, to permit placement of an air-conditioning condenser unit in front of his house. The applicable provision of the Zoning Code is contained in Section 1121.12, which restricts placement of condenser units to rear and interior side yards. In the opinion of the Board of Zoning Appeals the applicant clearly demonstrated that there were exceptional and unusual circumstances resulting in practical difficulty in complying with the requirements of the Zoning Code. It states that it was resolved by the Board of Zoning Appeals that the applicant will suffer practical difficulty if the variance is not granted because placement of the condenser in his rear yard would result in an inefficient and unwieldy connection to the blower unit which, for lack of other options is located in the front of his attic, and there is no logical place where the condenser could be placed in a side yard; the applicant’s property is unique in that visibility into the front yard is screened by a significant change in elevation up from street level; and his property is not across the street from other dwellings, but a school parking lot. The issuance of a special permit is hereby authorized to permit placement of an air-conditioning condenser unit in front of the applicant’s house at 2832 Washington Boulevard, as shown in plans submitted to the Board. The applicant is required to obtain a building permit and submit a landscaping plan for the Planning Director’s approval prior to installation of the unit. All construction, which is the subject of this application, shall be completed within 6 months of the date of approval of this resolution by City Council. I move to confirm BZA Calendar No. 3039.”

Second by Council Member Dietrich.

Roll Call: Ayes: Kelley, Montlack, Wilcox, Caplan, Dietrich, Evans, Hicks

Nays: None **Resolution confirmed**

Council Member Evans continued, “Next, is BZA Calendar No. 3040 Omega Properties, Ltd., and Michael Occhinero, owners of an 8-unit multiple-family dwelling at 2600 Mayfield Road, in an MF-3 multiple family district, have made formal application requesting a variance from the off-street parking regulations of the Zoning Code, to permit maintaining an uncovered 5-space parking lot where a 2-car garage once stood, which, with three additional parking spaces along an access driveway, constitute the dwelling’s entire off-street parking supply. The applicable provision of the Zoning Code is contained in Schedule 1161.03, which requires that multiple-family dwellings provide 2 spaces; at least one of which must be covered, for each dwelling unit in this 8-unit building. It was in the opinion of the Board of Zoning Appeals that the applicants clearly demonstrated that there were exceptional and unusual circumstances resulting in practical difficulty in complying with the requirements of the Zoning Code, and that the variance was in harmony with the general purpose and intent of the Zoning Code, and that the public health, safety, and general welfare were safeguarded and substantial justice was done. It was resolved by the Board of Zoning Appeals that the applicants would suffer practical difficulty if the variance is not granted because the building’s density precludes a Code-conforming parking arrangement on this small lot. The proposed arrangement is the best solution and a Code-conforming solution would be unfeasible, less attractive, and otherwise more burdensome to the community; the applicants cooperated with the City in addressing parking concerns by granting an access easement to allow the development of an adjoining City parking lot; and the applicants’ predicament cannot be

resolved without a variance. The issuance of a special permit is hereby authorized to permit the applicants to retain an open parking area at the rear of their property at 2600 Mayfield Road, as shown in plans submitted to the Board. The applicants are required to seal and stripe the parking area according to the plans submitted to the Board within 3 months of the date of approval of this resolution by City Council. I would like to submit BZA Calendar No. 3040 for confirmation this evening.”

Second by Council Member Hicks.

Roll Call: Ayes: Montlack, Wilcox, Caplan, Dietrich, Evans, Hicks, Kelley

Nays: None **Resolution confirmed**

Council Member Evans continued, “The next three calendars, actually, involve the same property. There are three separate parts to this - a somewhat complicated issue, I guess. BZA Calendar No. 3041(a) Nicholas Zarnas, 12655 Cedar Road, in an ‘A’ single-family district, has made formal application requesting a variance from the accessory use regulations of the Zoning Code, to permit construction of a garage in the applicant’s rear yard with no setback from the north property line. The applicable provision of the Zoning Code is contained in Section 1121.12, which requires garages in rear yards be set back at least 3 feet from all property lines. In the opinion of the BZA, the applicant clearly demonstrated there were exceptional and unusual circumstances resulting in practical difficulty in complying with the requirements of the Zoning Code, and further that the variance was in harmony with the general purpose and intent of the Code and that the public health, safety, and general welfare were safeguarded and substantial justice was done. It was resolved by the Board of Zoning Appeals that the applicant will suffer practical difficulty if the variance is not granted, because due to the small size and constrained nature of the rear yard, the proposed arrangement is optimal; and the proposed arrangement would result in a 1-car garage being replaced with a 2-car garage required by Code. The issuance of a special permit is hereby authorized to permit the applicant to construct a 2-car garage with no setback from the north property line on his property at 12655 Cedar Road, as shown in plans submitted to the Board, but the applicant shall still be required to provide a 3-foot setback for the garage from the east property line, where he had also proposed providing no setback. The applicant is required to obtain a building permit and approval of the Architectural Board of Review prior to the start of construction on the garage. All construction which is the subject of this application shall be completed within 18 months of the date of approval of this resolution by City Council. I’d like to submit BZA Calendar No. 3041(a) for approval.”

Second by Council Member Caplan.

Roll Call: Ayes: Wilcox, Caplan, Dietrich, Evans, Hicks, Kelley, Montlack

Nays: None **Resolution confirmed**

Council Member Evans continued, “BZA Calendar No. 3041(c) Nicholas Zarnas, 12655 Cedar Road, located in an ‘A’ single-family district has made formal application requesting a variance from the accessory use regulations of the Zoning Code, to permit construction of a garage covering 23.5% of his rear yard. The applicable provision of the Zoning Code is contained in Section 1121.12, which limits garage footprints in single-family districts to no more than 20% of a rear yard. In the opinion of the Board of Zoning Appeals, the applicant clearly demonstrated there were exceptional and unusual circumstances resulting in practical difficulty in complying with the requirements of the Zoning Code, and further that the variance was in harmony with the general purpose and intent of the Code and that the public health, safety, and general welfare were safeguarded and substantial justice was done. It was resolved by the Board of Zoning Appeals that the applicant will suffer practical difficulty if the variance

is not granted, because the size of his garage is limited by the unusual small size of his rear yard. The issuance of a special permit is hereby authorized to permit the applicant to construct a 2-car garage covering 23.5% of the rear yard on his property. The applicant is required to obtain a building permit and approval of the Architectural Board of Review prior to the start of construction on the garage. All construction which is the subject of this application shall be completed within 18 months of the date of approval of this resolution. I submit BZA Calendar No. 3041(c) for approval.”

Second by Council Member Wilcox.

Roll Call: Ayes: Caplan, Dietrich, Evans, Hicks, Kelley, Montlack, Wilcox

Nays: None **Resolution confirmed**

Council Member Evans concluded, “Lastly, BZA Calendar No. 3041(d) Nicholas Zarnas, 12655 Cedar Road, making formal application from the accessory use regulations of the Zoning Code, to permit construction of a driveway with a 2-ft. setback from the north property line. The applicable provision of the Zoning Code is contained in Section 1121.12, which require that driveways in single-family districts be set back at least three feet from all property lines. In the opinion of the Board of Zoning Appeals, the applicant clearly demonstrated there were exceptional and unusual circumstances resulting in practical difficulty in complying with the general purpose and intent of the Zoning Code and that the public health, safety, and general welfare were safeguarded and substantial justice was done. It was resolved by the Board of Zoning Appeals that the applicant will suffer practical difficulty if the variance is not granted, because the driveway position is necessary to accommodate his proposed garage, for which he obtained a variance to build with no setback from the north property line. The issuance of a special permit is hereby authorized to permit the applicant to install a driveway with a 2-foot setback from the north property line on his property at 12655 Cedar Road, as shown in plans submitted to the Board. The applicant is required to obtain a paving permit prior to the driveway’s installation. The driveway is required to be in place within 18 months of the date of approval of this resolution by City Council. I’d like to submit BZA Calendar No. 3041(d) for approval.”

Second by Council Member Dietrich.

Roll Call: Ayes: Dietrich, Evans, Hicks, Kelley, Montlack, Wilcox, Caplan

Nays: None **Resolution confirmed**

REPORT OF THE MAYOR

Mayor Kelley stated, “Our next meeting will be Tuesday, July 6, 2004, don’t be fooled by July 5th, that’s actually the government’s way of celebrating Sunday, July 4th as a holiday. There will be no mail service or a lot of other things going on Monday, July 5th, but we will meet Tuesday, July 6, 2004. City Hall will not be open that day nor will trash be collected that day, so everything will be a day late that week. Our next meeting will be Tuesday, July 6, 2004 at 7:30 p.m. Our meeting will be adjourned at 8:50 p.m. Thank you for coming.”

Respectfully submitted,

Edward J. Kelley, Mayor
President of Council
/mwc

Thomas K. Malone
Clerk of Council