

CITY OF CLEVELAND HEIGHTS
BOARD OF ZONING APPEALS
MINUTES OF THE MEETING
FEBRUARY 17, 2016

MEMBERS PRESENT:	Gail E. Bromley Thomas Zych Benjamin Hoen	Chair Vice Chair
MEMBERS ABSENT	George A. Gilliam	
STAFF PRESENT:	Vesta A. Gates Karen Knittel Elizabeth Rothenberg Richard Wong	Zoning Administrative Assistant City Planner Assistant Law Director Planning Director
OTHERS PRESENT:	Mary Dunbar	Chair, Planning & Development Committee

CALL TO ORDER

Ms. Bromley called the regular meeting to order at 7:00 p.m. at which time three members, which is a quorum, were present. Mr. Gilliam's absence was excused.

APPROVAL OF THE MINUTES OF THE DECEMBER 16, 2015 PUBLIC HEARING

Mr. Zych stated that he had given Ms. Gates some corrections to the minutes prior to the meeting. He moved to approve the minutes subject to those corrections.

Mr. Hoen seconded the motion which carried 3-0.

THE POWERS OF THE BOARD AND PROCEDURES OF THE
BOARD OF ZONING APPEALS PUBLIC HEARINGS

For the benefit of the applicants, representatives, and the public, Ms. Bromley stated that these hearings are quasi-judicial and certain formalities must be followed as if this were a court of law. Those who wish to speak regarding each case will be placed under oath. Following a presentation by City staff, each applicant may present his or her case. The Board will open a public hearing to obtain testimony from any other persons and the applicant will have a chance to respond to any such testimony. The Board will then ask questions of the applicant and render its decision. The formal nature of these proceedings is necessary because the applicant is asking for an extraordinary remedy called a variance. A variance is formal permission for the applicant not to comply with the municipal ordinances by which all other citizens are bound. The factors and criteria weighed by the Board with respect to the granting of variances are set forth in the Zoning Code and have been made available to all applicants. The burden is upon each applicant to establish the right to a variance under these criteria. The applicant must demonstrate circumstance unique to the physical character of his or her property, not personal difficulty, hardship or inconvenience. All variances granted by this Board are subject to review by City Council.

PUBLIC HEARING

FEBRUARY 17, 2016

CALENDAR NO. 3391

Richard Alt, 2710 Fairmount Blvd., 'AA' single-family district, requests the following variances 1) to Code Section 1121.08 for side yard setback of 3'2" to 3'5" for an attached garage addition (10' min setback req'd) and 2) to Code Section 1121.09 (b) to permit garage doors to be visible on the street elevation (not permitted).

All those who wished to testify regarding this request were sworn in by Ms. Rothenberg.

Ms. Knittel, who had been sworn in, reported the following:

This property is located in an 'AA' single family district and is surrounded by single family homes. The property is code conforming and is 104 feet wide along the street and is 18,336 square feet.

The house was built in the 1920s and the original garage was approximately 18'

deep. The applicant states that the garage could not be used for modern vehicles and that it also had access restrictions due to the limited space available for a side load garage. The original garage had a second floor bedroom. The garage and second floor bedroom have been removed due to decay of structural elements.

The applicant is seeking a variance to construct a new attached garage attached to a two-floor addition that is located in approximate location of the original garage. The original garage had a door that faced the side yard, and the applicant is seeking to build a garage that is both deep enough and wide enough for modern vehicles and to orient the garage door so that a vehicle could pull straight in from street without a 90 degree turn.

The location of the house on the property results in the garage being just 3'2" to 3'5" from the side property line. Code requires the setback to be 10'. If the garage were detached and located completely in the rear yard, the required setback would be 3'. The applicant had considered replacing the garage with a detached garage in the rear yard, sited further to the south on the property, but this would have resulted in the removal of an oak tree with a 36" caliber trunk. The applicant also states that a detached garage would not provide the same value to the property as an attached garage.

Because the garage is attached to the house, the doors of the garage cannot be visible from the street elevation. The garage doors are set back 40' from the front of the house. The intent of Code Section 1121.09 (b) was to prohibit attached garages from being added to the front or side of the house that would result in the garage being the prominent feature of the house. The zoning code permits the doors of detached garages to be seen from the street.

If approved, conditions should include:

1. Approval of the Architectural Board of Review;
2. Receipt of all applicable Building Department permits;
3. Complete construction within 18 months of City Council's approval of this resolution;
4. A tree preservation plan to be approved by the Planning Director; and
5. A requirement to return to the Board of Zoning Appeals for another variance should the property owner or any successor in interest to the property consider modifications that would increase the garage's height, width or length.

That being the end of Ms. Knittel's report, Ms. Bromley asked the applicant to come to the microphone.

Richard Alt, 2710 Fairmount Blvd., and David Sabol, architect, 10065 Echo Hill Drive, Brecksville OH, came forward and confirmed they had been sworn in.

Mr. Sabol thanked staff for a thorough presentation stating that he had some color drawings of the addition that he intended to present to the Architectural Board of Review. He explained that the owner planned to match the existing architecture in terms of materials. The brick on the façade will match existing exterior materials on the second floor where there are cedar-shake shingles. At the rear of the house we tried hard to take into consideration the overall architecture of the house as well as the neighbor's. They looked at different locations, as staff mentioned, but because of restrictions such as the tree in the rear yard and the general narrowness of the lot, this location seemed to be the best solution.

Mr. Alt stated that he had shown the plan to the neighbors to the west, Bill and Mary McClung, 2696 Fairmount Blvd., who will be most affected because of the proximity of their driveway. The McClung's have been neighbors for about 10 years and had given him a letter stating that they had no objections to what is being built and would be happy to come to the meeting if he had asked them. He could not imagine how it would affect any other neighbors but the McClung's approval of the project was paramount to moving forward.

Ms. Bromley asked if the letter from the neighbor or a copy of it could be submitted to become a part of the record.

Mr. Alt submitted the letter to Ms. Knittel to be copied and returned to him.

Ms. Bromley asked the applicant if he wished to add anything further to his presentation.

Mr. Alt continued, explaining that the old garage had to be demolished because of an accident. A vehicle hit the pillar that stood between the doors. He and his family have lived in this residence for 21 years and for 21 years have never been able to use the garage. Everyone always parked at the furthest end of the driveway. The former garage was very small and there was a bedroom above it for his twin boys. Fortunately by the time of the accident the boys had moved to the attic 6 months before. Within 6 weeks of the accident, the insurance company, the contractor, and the City determined that it was necessary to tear down the structure because it wasn't safe. At that point a decision had to be made between rebuilding as it was, or with the help of an architect's vision, determining a more practical placement while improving the overall property. Now the funds are in place, we have the plans, and it is our intention to architecturally mimic the roof line, the windows, the brickwork, and everything of a historic nature of our home. This process has been arduous. Initially the plan was to obtain city approvals in November of last year with construction starting in the spring and completed by fall but for several reasons this did not happen. The contractor at the time told us that if the Board had only one request on the agenda, the meeting would be cancelled. When he spoke with Richard Wong himself he was told that the meeting would never be cancelled for that reason. That architect was let go and David Sabol was

hired He drew up the new plans and here we are in February.

PUBLIC HEARING OPENED/PUBLIC HEARING CLOSED

There being no further questions or comment from the Board, Ms. Bromley asked for a motion.

Mr. Hoen moved to grant variances to Richard Alt, 2710 Fairmount Blvd., to Code Section 1121.08 for a side-yard-setback of 3'2" to 3'5" for an attached garage addition where a 10' minimum setback is required, and to Code Section 1121.09 (b) to permit garage doors to be visible on the street elevation where it is not permitted based on the finding that the home was built in the 1920's when garages were not the primary focal point of the home, so the original garage was small and unusable for today's vehicles. The new garage will certainly enhance the appearance of the home and will not detract from the appearance of the neighborhood in any way. The variance is not significant in that if this were a detached garage it would be very close to being code conforming because only a 3' setback would be required for a detached garage. Given that there isn't sufficient space for a detached garage nor would the aesthetics look appropriate so the attached garage would be more desirable. We also wouldn't want to force the removal of the tree in the rear because we always like to be sure trees are not removed unnecessarily. Certainly the spirit and intent of the code is being observed here. Though the code requires that no attached garage doors be visible from the front, this particular plan shows that the garage will be set back quite a far distance and the visibility of the doors will not have an adverse effect on the neighborhood. We also saw that one of the neighbors already has a garage similarly situated with doors visible from the street that do not detract from the neighborhood. If these variances are granted conditions should include:

1. Approval of the Architectural Board of Review;
2. Receipt of all applicable Building Department permits;
3. Complete construction within 18 months of City Council's approval of this resolution;
4. A tree preservation plan to be approved by the Planning Director; and
5. A requirement to return to the Board of Zoning Appeals for another variance should the property owner or any successor in interest to the property consider modifications that would increase the garage's height, width or length.

Mr. Zych seconded the motion, commenting that this is one of those situations in which we have an anomaly in the zoning code where we are being forced to consider variances for an attached garage that would not be required for a detached garage. There is favoritism for a less utilitarian setup in properties, especially in this neighborhood and throughout the city with the exception of one district that allows front loading garages for historical reasons. It is not in this Board's purview to affect zoning but I think that it is something that our elected

officials may want to take a look at when they are considering zoning code updates to address other anomalies we run into.

Mr. Wong added that we will call this amendment the 'Richard Alt Amendment.'

There being no further comment from the Board, the motion carried 3-0.

Ms. Bromley reminded the applicant that City Council must also review the variances.

OLD BUSINESS

Ms. Knittel reported that the variance for the front yard fence on Edgehill Road that was approved by the Board in December was confirmed by City Council.

NEW BUSINESS

Ms. Knittel reported that there will be a Master Plan public hearing next Tuesday, February 23rd at the community center at 7:00 p.m.

ADJOURNMENT

There being no further business to come before the Board, the regular meeting was adjourned at 7:23 p.m.

Respectfully Submitted,

Gail E. Bromley, Chair

Vesta A. Gates, Secretary