

CITY OF CLEVELAND HEIGHTS
BOARD OF ZONING APPEALS
MINUTES OF THE MEETING
APRIL 20, 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

CALL TO ORDER

Ms. Bromley called the regular meeting to order at 7:05 p.m. Mr. Gilliam was absent. The three remaining members are a quorum.

APPROVAL OF THE MINUTES OF THE MARCH 16, 2016 PUBLIC HEARING

Mr. Zych stated that he had given Ms. Gates some minor corrections prior to the minutes prior to the meeting and moved to approve the minutes as corrected.

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

APRIL 20, 2016

CALENDAR NO. 3395

Don Kimble, 2540 Fairmount Blvd., 'AA' single-family district, requests variances to Code Section 1121.12(i)(1) to permit two 69" tall masonry columns, three 45" tall garden gates, and 39" tall fence in front yard (36" maximum height permitted).

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

Ms. Knittel reported the following:

This single family property is located at the corner of Fairmount Boulevard and Ardleigh Drive. It is surrounded by single family homes. The properties along Fairmount Boulevard are zoned 'AA' single-family and those along the side streets are zoned 'A' single-family.

The parcel is 47,025 square feet and is 184 feet at the building line. The property

is an irregular shape and the location of the house results in majority of the open space being located in the front yard. The house was built in 1919 and has over 3,300 square feet of living space.

The applicant is adding an entry court and walkways in the front yard. These new features include two 69" masonry columns, three 45" garden gates and a 39" wood panel fence located in the front yard. Zoning code permits a maximum height of fences to be 36" (3 feet), therefore variances are required.

The applicant cites the scale of the house and size of the property as practical difficulties explaining that columns, gates and fencing of only 36" would not be in keeping with the architectural elements of this house or the scale of the property.

If approved, conditions should include:

1. Approval of the Architectural Board of Review;
2. Receipt of applicable Building Department permits;
3. Complete construction within 18 months of City Council's approval of this resolution; and
4. A requirement to return to the Board of Zoning Appeals for another variance should the property owner consider modifications that would increase the height or length the fence, gates or masonry columns.

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

Alan Carley, Ipoletti Landscaping, 13041 Stafford Rd, Burton, Ohio, came forward. He stated that he wanted to introduce some architectural elements to the outside of the house because it is so massive. He felt that proportionately if he had to stay within the 36 inch height it would be better if nothing was done at all because it would be so far out of scale. All the colors, the stone, everything matches the existing mansion, which was built in 1920.

PUBLIC HEARING OPENED/PUBLIC HEARING CLOSED

Ms. Bromley asked if there were any questions from the Board.

Mr. Zych stated that he had a question for staff, referring to the site plan. He asked what the distance was from the new entrance court to the apex of the curve.

Mr. Carley estimated probably 75 feet to the sidewalk.

Mr. Zych commented that there are some individual lots that are that size.

As there were no further questions or comment from the Board, Ms. Bromley asked for a motion.

Mr. Zych moved to grant variances to Don Kimble, for 2540 Fairmount Blvd., from Code Section 1121.12(i)(1) to permit two 69-inch-tall masonry columns, three-45-inch tall garden gates, and 39-inch-tall fence in the front yard where a 36 inch maximum height would normally be permitted based on the grounds that this is a very unusual property given both its size, the setback of the house, and the large front yard. Finding that the elements are suitable to the dimensions of the house and the yard, and that compliance with the code, strictly speaking, would yield these architectural elements to be almost useless and counter-productive. Finding no evidence of any adverse effect on the neighborhood or surrounding properties and in fact they will enhance the locale. And finding again that given the unusual location at that bend on Fairmount makes the siting of this appropriate. Should this variance be granted conditions should include: 1) Approval of the Architectural Board of Review, which has already occurred; 2) Receipt of applicable Building Department permits; 3) A requirement that the applicant and all subsequent owners of the property return to the Board of Zoning Appeals for another variance should the property owner consider modifications that would increase the height or length the fence, gates or masonry columns; and 4) Complete construction within 18 months of City Council's approval of this resolution.

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

Ms. Bromley reminded the applicant's representative that City Council must review this variance.

CALENDAR NO. 3396

Michael and Sharlene Warner, 2592 Princeton Rd., 'A' single-family district, request a variance to Section 1121.12(a)(1) to rebuild a garage 18" from side property line (36" minimum required.).

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

Ms. Knittel reported the following:

This property is located in an 'A' single-family district and is surrounded by single family homes. This is a code conforming parcel in terms of width at the building line and area of the lot; it is 50' wide and is 8,850 square feet.

The applicant is replacing their current two-car garage and is seeking a variance to rebuild a two-car garage in the same location which is 18" from the side (south) property line and 57' from the rear property line.

The applicants have a concrete driveway that is in good repair and not in need of

replacement. Relocating the garage would result in the need to add an 18" strip of concrete to enable vehicle access to the garage. This narrow concrete would not react to weather in the same way as the balance of the driveway. The smaller area of concrete would be more susceptible to movement or lift. In addition, the applicants have a landscaped area between the current garage and a patio area that would be disturbed if the garage and access drive were moved to the north.

If approved, conditions should include:

1. Approval of the Architectural Board of Review;
2. Receipt of applicable Building Department permits; and
3. Complete construction within 18 months of City Council's approval of this resolution.

John D'Amico, The Great Garage Co., 8550 Wallings Rd., North Royalton, Ohio, stated that the existing garage is only 18 feet wide so the new garage will already add 2 feet into the space to the north. The garage door is right on the edge of that driveway which would require it to be moved over into the yard and creates a need to add an 18 inch strip of concrete, which is never a good thing. The added strip tends to move around because it isn't a part of the overall driveway. The wall on the south side of the garage will have fire rated material on the inside and the outside which is more than the existing garage has. We feel that we are not really changing anything on the property and we are not impacting the neighbors or anything that hasn't been existing already.

PUBLIC HEARING OPENED

Charlene Warner, 2592 Princeton Road, stated her concern as the property owner was if she had to move the garage over it would leave an 18 inch strip of paving on the left side of the garage that leads nowhere and she didn't think that would look very nice. In that case, she probably would not build a new garage at all.

Connie Hoban, 2598 Princeton Road, stated that she was a neighbor on the south side of the applicants. She has lived at this address for 35 years and has known the Warner's for 32 years. The garage has always been exactly where it is and we like it that way. Our shrubs grow right up to the corner of the garage and having an 18 inch gap would really be silly in my opinion. You also have my husband, Richard Hoban's, letter of support.

Ms. Bromley stated that the letter will become a part of the record. There being no further comment from the audience, she closed the public hearing.

PUBLIC HEARING CLOSED

Mr. Zych commented that when we permit a siting close to the property line, we always look at whether there is an ability for a person to get in and maintain that

side, appropriate to the materials being used. This is so we are not putting something new there that given the tightness of space you can't get in without trespassing on the neighbor's property to maintain it.

Mr. D'Amico explained that vinyl siding is being used on that side. Also this is a reverse gable so the gutters are going to be on the front and the back so they can be easily accessed on the applicant's property. The downspouts will be on the north side which is their property side.

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

Mr. Hoen moved to grant the variance to Michael and Sharlene Warner for 2592 Princeton Rd., from Section 1121.12(a)(1) to rebuild a garage 18 inches from the side property line where a 36 inch minimum setback would normally be required based on the finding that there are circumstances warranting the variance. Firstly, the variance is not substantial and the current garage is located exactly on the footprint of where the new garage will go. This is one of those unique situations where if you did nothing you would not need a variance but since you are building a new and better structure a variance is necessary. The character of the neighborhood would not be negatively affected. The garage will enhance the neighborhood being a new garage with drywells and new gutter systems. There is an existing driveway in good repair and the foliage would need to be moved to accommodate the 36 inch gap between the garage wall and the property line. Those special conditions warrant keeping the garage in its current location. If this variance is approved the following conditions should be included: 1) Approval of the Architectural Board of Review; 2) Receipt of applicable Building Department permits; and 3) Complete construction within 18 months of City Council's approval of this resolution.

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

Ms. Bromley reminded the applicant that City Council must review the variance.

OLD BUSINESS

Ms. Knittel reported that the variances approved at last month's meeting were confirmed by City Council.

Mr. Hoen asked if staff had heard from the applicant who was going to build his fence himself but refused to abide by our variances.

Ms. Knittel stated that he has not yet applied to the Architectural Board of Review for their review of his fence structure. We sent him a violation notice which got him in to apply to this Board. Now we need to get him before the ABR.

Ms. Rothenberg stated that the lack of transparency is the issue.

Ms. Knittel stated that there is another fence on Edgehill that is going before the ABR. We'll see what will happen there.

NEW BUSINESS

Ms. Knittel stated that she was talking with a couple of residents who may be able to find a code-conforming solution so the Board will be advised as to whether there will be a meeting next month.

ADJOURNMENT

There being no further business to come before the Board, the regular meeting was adjourned at 7:28 p.m.

Respectfully Submitted,

Gail E. Bromley, Chair

Vesta A. Gates, Secretary