

CITY OF CLEVELAND HEIGHTS
BOARD OF ZONING APPEALS
MINUTES OF THE MEETING
FEBRUARY 21, 2018

MEMBERS PRESENT: Gail E. Bromley Chair
George A. Gilliam
Liza Wolf
Thomas Zych Vice Chair

MEMBERS ABSENT Benjamin Hoen

STAFF PRESENT: Vesta A. Gates Zoning Administrative Assistant
Kimberly Bolton Assistant Law Director
Karen Knittel City Planner
Elizabeth Rothenberg Assistant Law Director
Richard Wong Planning Director

CALL TO ORDER

Mr. Zych called the regular meeting to order at 7:00 p.m. at which time a quorum of members was present; Mr. Zych, Mr. Gilliam and Ms. Wolf. Ms. Bromley arrived later and Mr. Hoen's absence was excused.

APPROVAL OF THE MINUTES OF THE JANUARY 17, 2018 PUBLIC HEARING

Mr. Gilliam moved to approve the January minutes as written and distributed. Ms. Wolf 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, Mr. Zych stated that these hearings are quasi-judicial in nature 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, following a presentation by City staff, each applicant will present his or her case, stating the practical difficulty on which we are being asked to grant a variance. The Board will then open a public hearing to obtain testimony from any other persons present and 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 and only to the Board. The Board will 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. 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 from the city for an individual not to comply with the portion of the municipal ordinances which is binding upon all others. In making its decision in whether to grant a standard variance, the Board will weigh factors set forth in our Zoning Code in section 1105.07(e)(1). The burden is on the applicant to demonstrate these factors by a preponderance of the evidence and to show that the literal enforcement of the Zoning Code would result in a practical difficulty. Preponderance of the evidence means convincing evidence that is both true and accurate. The applicant must demonstrate circumstances unique to the physical character of his or her property. Personal difficulties, personal hardships, or inconveniences are not relevant to the Board's determination. The Board is the final administrative decision maker for all standard variances.

PUBLIC HEARING

FEBRUARY 21, 2018

CALENDAR NO. 3442:

Jeffrey A. Bradish, 1970 Lee Rd., 'S-2' Mixed-Use District, requests a variance to Code section 1131.08(c)(2) to permit an 8' tall fence in the rear yard (7' max. ht. permitted).

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

Mr. Zych asked that the staff report dated February 15, 2018 be entered into the record if there was no objection.

Ms. Knittel's staff report was as follows:

CONTEXT:

North- across E. Overlook Road is Zagara's Marketplace ('S-2' Mixed-use)
South - across Berkshire Road is an office building (S-2 Mixed-use)
East - across Lee Road are offices, a day car and the Katz Club ('S-2' Mixed-use)
West - adjacent to the rear of the property are single-family homes ('A' Single-family district).

PROJECT: The applicant has purchased the property and intends to operate a canine center with dog day care, boarding, grooming, training and outdoor play area. Initially, the applicant intends to utilize only the rear portion of the building for the canine center. The front portion of the building that is closest to Lee Road will be available for another commercial use to lease. The applicant is seeking a variance to permit a solid 8' tall fence to be constructed adjacent to the rear of the building to provide an outdoor area for large dogs.

FACTS

- 1970 Lee Road encompasses the entire block along Lee Road from East Overlook to Berkshire roads.
- There is an existing nonconforming parking lot north of the building at the corner of Lee Road and E. Overlook Rd.
- There is an access road to Berkshire Rd. and one row of parking along the west property line.
- Along the rear property line, there is a 3' to 4' tall brick wall and with 4' to 23' wide landscaping buffer between 1970 Lee Rd and the single family homes.
- Code sect 1131.06(d)(1) permits commercial building to be 20 ft from rear property line when the parcel abuts an 'A' residential district; the proposed fence is 46.5 ft from rear property line. The code would permit the applicant to expand the building with a maximum height that could be 45 ft tall (max ht, code sect 1131.07)
- Fence regulations require a variance as rear yard is defined as the area behind the building to the rear property line & the maximum fence height in rear yard is 7'. The code considers situations when the fence is located on or close to property line;
- The Architectural Board of Review approved the fence design at their February 6, 2018 meeting.
- The proposed use is conditionally permitted in an S-2 District. The Planning Commission reviewed the conditional use application at the February 14th meeting. The Planning Commission approved the conditional use with the following conditions:
 1. The dogs shall be licensed and shall be controlled in a reasonable manner at all times in accordance with Cleveland Heights Ordinance 505.07, "Animals Not Under Control;"

2. That the use shall not be injurious to the use and enjoyment of other property in the immediate vicinity or create a nuisance for nearby residents and businesses;
3. The applicant shall work with staff to resolve any complaints from neighbors;
4. The use shall have adequate soundproofing, ventilation and odor controls to ensure that any noises and odors associated with the facility's operation are not detectible on neighboring properties;
5. All waste shall be disposed of with adequate frequency and in such a sanitary manner as to avoid odors, vermin or other nuisance conditions or the spread of disease;
6. The facility shall be maintained in a humane, safe and sanitary condition in accordance with accepted veterinary standards to ensure the health, safety and welfare of animals on the premises;
7. Facilities shall be subject to inspection by the Zoning Administrator, the Building Commissioner, or their designated agent(s) upon request during business hours;
8. A fence variance shall be required for construction of 8' tall fence;
9. Landscaping plan and installation timetable shall be approved by Planning Director prior to issuance of Certificate of Business Operation/Occupancy;
10. Staff shall monitor the outdoor play area at all times; and
11. All required construction and installation of the use and approved landscaping shall be completed within 24 months of Planning Commission approval.

If the variance is approved, conditions should include:

1. Receipt of a Fence Permit;
2. Complete construction within 18 months of the effective date of this variance; and
3. A requirement to return to the Board of Zoning Appeals for another variance should the property owner consider modifications that would increase the fence's height or length.

Mr. Zych asked the applicant or representative to come to the microphone.

Jeff Bradish, 1970 Lee Road, who was sworn in, came forward.

Mr. Zych asked Mr. Bradish if all the statements and information in the application dated January 8, 2018 were accurate and true to the best of his knowledge.

Mr. Bradish stated that they were.

Mr. Zych stated that if there was no objection, the application submitted by the applicant will become part of the record. There being no objection, he advised the applicant that he was being given the opportunity to provide any additional facts

to describe the practical difficulty, again noting that the Board's decision is based on factors unique to the property, not any specific use of it.

Mr. Bradish stated that it is all at the rear of the property. The reason we are asking for this is for the safety of the animals at the property and the citizens in the community. It will also buffer any noise from a community standpoint as well. We do not feel another foot in height will affect anything in the rear of the property, whether it be looks or anything else regarding the property.

That being the end of the applicant's presentation, Mr. Zych opened the public hearing.

There being no one who wished to testify in this matter, the public hearing was closed.

Mr. Zych asked for questions from the Board. He asked the applicant to elaborate on why the additional 12 inch height was necessary.

Mr. Bradish explained that the additional height is for safety of the dogs. He would have asked for 10 feet if he thought it was possible. We want to make sure none of the animals can jump over it, although they will be continually supervised the entire time they are outside. If a dog got out, it would be bad publicity for the business. In that case it would also be a danger to the community and a danger to the animal if it ran out into the street. Regarding noise, we have done everything within our power to continually dampen the noise so there is zero affect to the community. The taller the fence, the easier that becomes. He had spoken with soundproofing professionals and was told that taller dogs will be about 4 feet tall. The professionals have stated that you need to double the height of the barrier to assure little or no sound gets out. The 8 foot height is not something we just picked out. It has a specific purpose.

Mr. Zych explained the standard applied is that there is something unique about the property as opposed to the circumstance of any one owner. When we grant a variance it runs with the land which means whoever next occupies that property will have the same right, with or without dogs. With this in mind, he asked the applicant to explain why the 8 foot fence would provide a benefit even if there were another business on that property.

Mr. Bradish stated that it would depend on what type of business is on the site, but if someone is storing or moving things around the rear of the building, the fence will shield the noise from the abutting residential neighborhood, creating a better environment for the community, regardless of what is done within that fenced-in area.

Mr. Zych commented that the Board was generally not in favor of opaque stockade-

type fences, however, the Board understands that this is a different circumstance, not just for privacy or separation. This is necessary for soundproofing. He asked for questions from the Board.

There being no comment or questions from the Board, Mr. Zych asked for a motion.

Ms. Wolf moved to grant Jeffrey A. Bradish, 1970 Lee Rd., a variance to Code section 1131.08(c)(2) to permit an 8' tall fence in the rear yard where a 7' maximum height is permitted based on the finding after reviewing the application and other submissions and hearing the evidence under oath, the Board finds and concludes that because of the location being adjacent to residential homes it will create a safe environment for both the residents and the animals. I also feel that within the business, the dogs need an outdoor area. To permit them to get over the fence would not be good for business and it is something that is necessary for this specific business. A sound barrier is also an important factor being adjacent to a residential neighborhood. If granted, the variance should include the following conditions:

1. Receipt of a Fence Permit;
2. Complete construction within 18 months of the effective date of this variance;
and
3. A requirement to return to the Board of Zoning Appeals for another variance should the property owner consider modifications that would increase the fence's height or length.

Mr. Gilliam seconded the motion with an amendment to state that the essential character of the neighborhood will not be substantially altered as a result of the variance because it is away from residential properties.

The motioner agreed to the amendment and the motion carried 3-0.

CALENDAR NO. 3443:

Taylor Commons Association, 1915 S. Taylor Rd., 'C-2' Local Retail District, requests a variance to Code section 1131.08(c)(1) to permit a 6' tall fence in the front yard (4' max. ht. permitted).

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

Mr. Zych moved to accept the staff report dated February 15, 2018 and Chief Mecklinburg's email dated February 20, 2018 as part of the record if there are no objections. .

Ms. Knittel's staff report was as follows;

CONTEXT:

North: Shell gasoline station and Reilly Painting & contracting (C-2 local retail)
South: Taylor Commons shopping plaza extends to Antisdale Avenue (C-2 local retail)
East: single family homes (A single family)
West: across South Taylor Road, local retail (c-2 local retail)

PROJECT:

The applicant is seeking a variance to install a six-foot tall solid fence along the north property line. They propose that the six-foot tall fence would be 32 feet long and then change to a code conforming four-foot fence for the 16 foot segment closest to South Taylor road. This fence would replace the pipe fence that exists between Taylor Commons and the Shell gas station.

FACTS:

- The shopping center has a non-code conforming parking lot located in front of the commercial building.
- There is a grade change between Taylor Commons and the Shell gas station. The gas station is approximately two feet lower than the Taylor Commons property.
- The Shell gas station building is closer to South Taylor Road than the Taylor Commons or Reilly Painting buildings.
- The applicant has met with the Police Chief and has discussed a number of strategies that could be implemented at this shopping center to assist with security. The Chief has sent an email, a copy of which has been placed at each seat of the Board, stating that she is in support of the applicant's proposal.
- Zoning Code Section 1131.08 (c)(1) states that in a commercial district the maximum height of a fence in a front yard is 4 feet; therefore a variance is required.

If the variance is approved, conditions should include:

1. Approval of the Architectural Board of Review;
2. Removal of the current pipe fence;
3. Approval of a landscape plan by the Planning Director;
4. Receipt of a Fence Permit;
5. Complete construction within 6 months of the effective date of this variance; and
6. A requirement to return to the Board of Zoning Appeals for another variance should the property owner consider modifications that would increase the fence's height or length.

That being the end of the staff report, Mr. Zych asked the applicant to come to the microphone.

Mark Oblak, 11590 Pine Tree Place, Strongsville, Ohio, who had been sworn in,

came to the microphone.

Mr. Zych asked the applicant to affirm that he had submitted an application for the Board's consideration and to the best of his knowledge everything contained in that application was true and correct.

He answered affirmatively.

Mr. Zych asked that, without objection, the application dated December 11, 2017 submitted by the applicant become a part of the public record. He then asked the applicant to explain anything else he would like the Board to know particularly regarding the practical difficulty requiring this variance.

Mr. Oblak clarified that the pipe railing shown in staff's slide separating Taylor Commons from the gas station is not on Taylor Commons property. It belonged to the Shell gas station property. Regarding this proposal, he stated the biggest issue is keeping people from cutting across the property. All hours of the day and night people are congregating, so we just felt a 4 foot tall fence would be enough to discourage this and the fence will still be back far enough from Taylor Road to comply with the 50 foot setback requirement.

Mr. Zych opened the public hearing.

Kathleen Ostiokis, Paran Management, 2720 Van Aken Blvd. who had been sworn in, explained that Paran is the managing agent for Taylor Commons. We met with the Police Chief and all the commercial tenants to discuss the security issues at the shopping center. People do congregate over there and if there is a theft from one of the stores, that's where they run to escape. Everyone agreed that it would be difficult for someone to climb over a 6 foot tall fence. They will now have to go to the sidewalk and then go down the street. The fence will be a deterrent.

There being no one else who wished to testify, the public hearing was closed.

Mr. Zych asked for questions or comment from the Board.

Ms. Wolf asked the applicant if he knew the height of the PVC piping fence on the gas station property.

Mr. Oblak estimated 18 to 20 inches tall.

Mr. Zych added that the existing PVC fence would not stop anyone moving from one parcel to another. He asked if a survey had been done to determine that the fence will be on the applicant's property

Ms. Wolf noted that a land title survey was included with the application.

Mr. Zych recommended that a condition of the variance should be that the fence be on the applicant's property.

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

Mr. Gilliam moved to grant a variance to Taylor Commons Association, 1915 South Taylor Road to permit a 6 foot tall fence in the front yard where a 4 foot maximum height is permitted. After reviewing the application and other submissions, hearing the evidence under oath, the Board finds and concludes that there is a security problem here and security can be enhanced by a tall fence rather than the little piece of piping that is there now. Currently they are unable to control the flow of people and security around that small area. If the variance is approved, conditions should include:

1. Approval of the Architectural Board of Review;
2. Removal of the current pipe fence;
3. Approval of a landscape plan by the Planning Director;
4. Receipt of a Fence Permit;
5. Complete construction within 6 months of the effective date of this variance;
6. A requirement to return to the Board of Zoning Appeals for another variance should the property owner consider modifications that would increase the fence's height or length and
7. Assure that all parts of the fence are on the applicant's property.

Ms. Wolf seconded the motion.

Mr. Zych recommended elimination of the condition that the pipe fence be removed because the fence is on someone else's property.

The motioner and seconder agreed to the amendment.

Ms. Rothenberg asked for clarification of which of the factors the motion applied.

Mr. Gilliam stated that this motion applies to special conditions or circumstances exist which are peculiar to the land involved which are not generally applicable to other land in the same zoning district. I think this is brought out by the fact that this has become a hangout area and this will control the flow of people that want to hang out.

Ms. Wolf recommended an amendment to state that it would also affect a reasonable return and the safety of the property and the business, and has a large effect on how the property operates. As far as safety is concerned, I don't think a 4 foot tall fence would be sufficient to deter loitering and people cutting through the property.

The motioner agreed to the amendment and the motion carried 3-0.

CALENDAR NO. 3444:

WXZ Residential Group/CC LCC, 2350 Overlook Rd., 'MF3' Multi-family District, requests variances to Code sections:

- 1) 1123.07(a) to permit a front setback of 18' 9.5" to 35' (30' min. setback req'd);
- 2) 1123.12(a)(2) to permit a driveway setback of 0' (10' min. setback req'd);
- 3) 1123.07(c) to permit rear setback of 12'3" to 20'6" property line (25' min. setback req'd);
- 4) 1123.07(b)(2) to permit Type C unit to have setback from east property line of 10' (25' min. setback req'd);
- 5) 1123.08 to permit 25' as minimum distance between bldgs. A/B and D (42'6" min distance req'd);
- 6) 1123.08 to permit 24' as minimum distance between bldgs. C and D (60' min. distance req'd);
- 7) 1123.07(b)(1) to permit west property line setbacks of 0' at A/B bldg., 2' at D bldg., and 1'9" at C bldg. (15' min setbacks req'd); and
- 8) 1161.03(4) to permit 17 surface parking spaces for 14 apts. (min.14 surface spaces with 7 enclosed spaces req'd).

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

Mr. Zych explained that in this case it would be helpful to the Board to get a general idea of the project from the applicant or the representative, then we will hear the staff report.

Dave Swindell, WXZ Residential Group, 22720 Fairview Center Drive, Fairview Park, OH, who had been sworn in, came to the microphone. He stated that WXZ is a Cleveland based development and construction company, in business over 25 years. It is a very diverse company that specializes in commercial and retail development. We also specialize in multi-family apartment housing and the sale of apartments. We began talking to the College Club about 2-1/2 years ago as their operations were winding down. It culminated in us acquiring the property last September. We love the site and the existing buildings. We think it's a great location for what we are proposing. Our development goals are to preserve the existing carriage house and manor house for historical preservation. We want to convert those structures to 14 apartment houses. We are also proposing 13 new townhouses next door to them. We have tried to take into account the context and scale of the neighborhood and other buildings in the neighborhood. We believe we have developed a very nice plan that allows us to fit in and be compatible with the neighborhood and existing structures.

Mr. Zych explained that now the Board would hear the staff report.

Ms. Knittel's staff report was as follows;

CONTEXT:

North: across Overlook Road is a natural landscape strip (A Single-Family) and then Edgehill Road and the Turkey Ridge development site (MF1 Multiple-Family)

South: single family homes (zoned A Single-Family)

East: single family house (zoned A Single Family)

West: Waldorf Tower Apartments (zoned MF3 Multiple-Family)

PROJECT

The development project will redevelop the historic College Club house and carriage house to create 14 apartments and will have 13 newly constructed townhomes located on what is now a parking lot.

FACTS

- While the development site is located in a MF3 Multiple-Family district it abuts single family homes located in an A Single-Family district along both parcel line to the east and the parcel line to the south.
- The Master Plan Future Land Use Map shows this area as being an attached or multi-family land use category.
- The former College Club, also known as the Alexander House and carriage house became listed as a Cleveland Heights Landmark due to its historic and architectural significance.
- The house and carriage house are also contributing structures to the Euclid Heights Historic District which was listed on the National Register of Historic Places in 2012.
- The Cleveland Heights' Turkey Ridge Community Reinvestment Area (CRA) was developed with rules to encourage new housing development while safeguarding buildings that are contributing structures to the Euclid Heights Historic District.
- The site was one parcel. The parcel was divided into 2 parcels to improve the chances of the renovation of the Alexander House and carriage house receiving historic tax credit. Ohio Historic tax credits were awarded and Federal Historic Tax Credits are under review.
- The development including the renovated College Club and the new construction housing is designed to function as one development as is

evident by the shared common driveway, shared outdoor space and common area within the former College Club that will be available to all residing within the development.

- The Cleveland Heights Landmark Commission and Architectural Board of Review have reviewed and approved the development plan.
- A neighborhood meeting was held, overall neighbors were pleased with the proposal.
Requests were made to enhance landscaping to block vehicle lights entering and exiting the driveway.
- 1123.03 Principal Uses permitted include townhouses, multiple-family dwellings, cluster development & surface parking which is what is proposed.
- 1123.06(a) requires minimum land area of 750 sq. ft. per dwelling unit. The project has 2,463 sq. ft. per dwelling unit on College Club parcel and 3,111 sq. ft. per dwelling unit on the parking lot parcel. Based on this regulation, a code-conforming development could have 45 dwelling units on the College Club parcel and 53 dwelling units on the former parking lot parcel. The development has 14 dwelling units on the College Club parcel and 13 dwelling units on the former parking lot parcel.
- 1123.06(b) requires a minimum development area of 20,000 sq. ft. Each parcel exceeds this minimum; the College Club parcel is 34,494 and the former parking lot parcel is 40,454
- 1123.06 (c) states that the maximum dwelling unit per acre is 58 units. It is proposed that the College Club parcel will have 14 units which results in a density of 16 dwelling units per acre and it is proposed that the parking lot parcel will have 13 units that results in a density of 14 units per acre.
- 1123.07(a) requires the principal structure to have a minimum front yard of 30'. The front yard setback of the development varies from 18 ft. 9.5 inches to 35 ft. **Variance Required**
- 1123.07(b)(2) requires the principal structure abutting an A district to have a minimum side yard of 25 ft. The side yard setback of the development is 10 ft. from Unit Type C to the east property line shared with 2368 Overlook Rd. **Variance Required**
- 1123.07(b)(1) requires a principal structure abutting a MF district to have a minimum side yard of 15 ft. The development has side yards of 0 feet at building A and B; a side yard of 2 feet at building D and 1 ft. 9 inches at building C along the property line shared with the former College Club. **Variance Required**

- 1123.07(c) requires a rear yard setback of 25 feet. The development's rear yard varies from 12 feet 3 inches to 20 feet 6 inches **Variance Required**
- 1123.08 Building arrangement and spacing of multiple buildings on a lot requires that there be a minimum spacing between the buildings facing each other based upon the height and length of the buildings. **Variances Required**
 - The A/B building is the shorter of the two buildings and is 34'6" high and the length of the building is 48'. When a the shorter building is greater than 40 feet long, the code requires the distance between buildings to be increased by 1 foot for each foot of wall length over 40 feet. Therefore an additional 8' of distance between the buildings is to be added to the A/B building height of 34'6" results in the minimum spacing distance required of 42'6". The applicant is seeking a variance to permit 25 ft. as the minimum distance between buildings A/B and D is required.
 - The C building is 30'4" high and the D building is 88'6" long, resulting in the required maximum spacing of 60'. The applicant seeks a variance to permit a minimum distance of 24' between buildings C and D is required as the maximum distance of 60' is required between the C building and the D building.
 - The intent of this code section is to prevent a canyon effect between two tall multi-story buildings. The proposed site plan does not result in a canyon effect.
- 1123.11 height regulations in the MF3 district states that the building height is limited by a maximum floor ratio which shall not exceed one and one-half (1.5) building floor area to zoning lot area. The parcel where the new construction will occur is 40,454 square feet so the total floor area permitted is 60,681 square feet. The code permits the square footage to be spread across the parcel taking into consideration the required yard setbacks or to be stacked into a multi-story structure. The applicant is proposing 30,937 square footage of new construction which is 29,744 square footage less than what could be developed.
- 1123.12 (a)(1) requires circulation drives abutting an A single family district is to be a minimum of 10' from side yard. The applicant is requesting a 0' setback. **Variance Required**
- The applicant owns the single family property abutting the development site, 2368 Overlook Rd.
- 1161.03(4) requires apartments to have a minimum of 1 parking space per

unit with .5 parking spaces being enclosed. The Development has 14 units and therefore, the code requires a total of 14 spaces with 7 enclosed. There are 17 surface parking spaces. **Variance required**

If the variances are approved, conditions should include:

1. Planning Commission approval of new construction lot resubdivision;
2. Approval of a landscape and drainage plan by the Planning Director prior to building permits being issued;
3. Receipt of a Building Permit; and
4. Complete construction within 36 months of the effective date of this variance.

Mr. Zych stated that, without objection, he would like to make the staff report dated February 21, 2018 as part of the record. He also noted that previously the variances were limited to 18 months for construction, but now we are free to allow as long as 36 months.

Ms. Rothenberg stated that was correct. You only need to specify.

Mr. Zych asked the applicant to come back to the microphone and continue his presentation. He then asked the applicant if he had submitted an application for the Board's consideration and to the best of his knowledge, was the content true and accurate.

Mr. Swindell answered affirmatively.

Mr. Zych stated that, without objection, the application dated January 11, 2018 will become a part of the record. He told the applicant that it would be helpful as we get a picture of why the variances are necessary, if you go through each variance explaining what adherence to the strict letter of the code would do to the project, its viability and design, and what considerations were taken into account so we can be sure that the granting of the variance is justified.

Paul Glowacki, DIMIT Architects, 1831 W. 45th Street, Cleveland OH, had been sworn in. He stated they had been working with WXZ for quite some time on this site plan and development of the architecture. We've worked on several varieties of the site plan from different densities to the current plan. We really believe this plan is in the spirit of the zoning code. Though we are asking for these variances we believe the variances are necessary to create a piece of architecture and site plan that is more respectful of the surrounding properties and what the zoning is surrounding much of the site. He referred to an aerial of the site, stating boxed out in black is the actual site and notably to the west the Waldorf Towers is a good example of density that could be proposed for this site. We looked very briefly at the maximum density allowed on the site that would maintain the setbacks. We could do a 10 story, 50 unit apartment building there, something similar to Waldorf

Towers but we did not feel it would fit in with the character of the rest of the neighborhood. You notice to the west and south there are single family homes, with larger yards and more grand front lawns and a density that WXZ thought would be more appropriate for this site. The two major things we were looking at in the site planning were maintaining the existing historic home and creating something that would be responsive to that architecture, that density and the density of the surrounding sites. Also, to the north of this site is Overlook Road, then Edgehill Road slopes downward creating a very open nature to the site. Edgehill goes down into Little Italy allowing amazing views from the site. It creates a bit of a different aesthetic to the front nature of these new homes versus what happens with the homes along Overlook Road. Looking at views of neighboring properties along Overlook Road, then Edgehill Road sloping down, you will notice a lot of trees and large setbacks. There is a variety of architecture, then Waldorf Towers. On Derbyshire there is a similar project where they renovated a historic building and constructed new townhomes as well. He then showed different images of the existing College Club building, pointing out a double gable element that was brought into the architecture of the new buildings. He also indicated a one story addition that will be removed as it is not historic in nature, which will take the structure back to the existing architecture. In the carriage house it is proposed to create 4 apartments, 2 up and 2 down. The parking lot to the west of the carriage house will be maintained. He pointed out that to the south of the site the carriage house is built right up to the property line so there is already an existing condition of 0' setbacks. The site is accessed from a driveway along the east property line which is one of the variances requested. We are using the driveway to create space between the townhomes and the adjacent residential neighbors. If we had to set the driveway back another 10 feet we would end up losing 3 to 4 townhomes which would really affect the project's viability. He pointed out that most of the variances requested were based on density. Trying to do a less dense project, spread out, rather than built up. We feel this is more in the nature of Cleveland Heights throughout the city but especially on this site. The variances for setbacks on and around the property and in between the buildings really just speak to the density of the project to make it viable to only do 13 units compared to 50 or 60 that would be permitted, while maintaining the existing historic College Club building. Obviously there are some conditions such as the 0' setback of the carriage house and some of the setbacks for the existing mansion. We did look at the possibility of doing some garages along that portion of the site but unfortunately it really affects the historic nature of the coach house and the density behind it. With the tenancy of the historic College Club being rental, demography looking at nurses, doctors and maybe teachers in the University Circle area, we consider that a parking lot works best in that area. We will also be encouraging more bicycle usage and will have covered bicycle storage inside the property. We are trying to limit as much vehicle usage as possible. All the townhomes have 2-car garages so that portion of the site would meet the zoning requirements. Showing a floor plan of the first floor of the historic mansion, he indicated the portion that will be demolished and replaced by a porch.

He stated that WXZ has received tax credits for this property and there is a belief that this building is the gem of the site and we want to maintain it. Inside, the large living room will be left as public space for the tenants of the apartments but will also have the possibility of being rented out or used by any of the tenants or townhome owners. We are making an effort to have the whole site work as one, making it so the living room and porch interact with the townhomes. Please note in the drawings how the townhomes drop from 3-story to 2-story townhomes in an effort to bring the scale of the townhomes closer to the nature of the surrounding properties. Even though we do have some encroachment on the front yard setback there is a lot of variation in the massing of the building where it is not continuously encroaching the 30 foot setback. We are trying to create an overall feeling that is similar to the College Club and also that the townhomes have their own distinct nature while respecting the large, green front yards seen throughout Cleveland Heights, notably in front of the College Club. We are respecting this large green lawn space that we would like to keep both for the historic preservation and the townhomes on the site. The rear yard setback encroachment is created in a similar way to the Overlook frontage where we are trying to create a site that has open space, front yard space, open green space throughout the site and not quite as dense. It will all be nicely landscaped. The concept is to not be right on the lot line but to open up towards the required setbacks for which the variances for the side and rear yard setbacks are required. Regarding the common space in between the new townhomes and the College Club building, we envision as a nice, open public area where the tenants in the apartments can sit, along with the townhome owners. The 3 story townhomes are on the inside of the site while the 2-story townhomes are out toward the edges of the site. The more traditional nature of architecture is toward the edges of the site. We do think that this is meeting the intent of the zoning code. While asking for these variances, we don't think they are significant in nature and that the resulting product is actually much better than what could be done as allowed by the zoning code.

Ms. Bromley arrived from the airport at 8:07. Mr. Zych explained that since she had not been present for the entire presentation she would not be participating in the decision making for this case. He then asked for questions from the Board.

Ms. Wolf asked the applicant to indicate on the plan where the parking for the townhomes would be.

Mr. Glowacki indicated on the site plan that the 8 unit townhome structure is accessed off the courtyard and the garage is immediately to the left off the drive aisle. We are trying to tuck the garages from being seen from the street.

Mr. Zych asked for confirmation of his understanding that if the setbacks are all adhered to, you would lose a substantial number of units making it a non-viable project or you could have a tall, dense structure not in keeping with the historic district. Is that correct?

Mr. Glowacki stated that was correct.

There being no further questions from the Board, Mr. Zych opened the public hearing.

Richard Bozic, 2405 Edgehill Road, had been sworn in. He stated that he lived a short distance from this site and he walked by these beautiful homes almost every day. Many times during a walk I am stopped by someone asking how to get to the College Club, explaining they are here for a wedding or anniversary. He had always admired the grey-shingled house and how a privacy screen was created from the busy intersection. He recalled being in the area when those trees were planted. This site and this area of Cleveland Heights has a lot of character and it deserves to be protected as much as possible. He was not against developing this property because it is a way of preserving some of it but there are also parts of the new development that I think alter the fabric of the neighborhood, and I'm not sure it needs to be that way. There are a lot of units being squeezed onto this site and there is the density question of whether you go up or you go out, and there a lot of zoning variances being requested. For me it was a red flag of concern when I looked at the plan. Why is it difficult to make a plan that works within the zoning code or at least most of the code. The site is basically flat. It doesn't have an odd shape. There are no hills or lakes or boulders in the way to make it difficult to build on. I can see a number of ways to make it work that might not create the hardships on the surrounding properties. The plan may have to change a little and some of the units may have to change a little but I think there are other options. Please note that the difficulties are being caused by the design, not by the site. The required front setback I think is really important in this area. Bringing the building so close to the sidewalk creates an odd relationship between the public and the private owner. I think the condos on Derbyshire that were mentioned earlier, in the old Lutheran Church, are a good example. They are really crammed into that site and you can actually watch television from the sidewalk as you walk down the street. That is not the character of this area. This area isn't as urban as that church site. It is a residential neighborhood. The group of new homes that will be projecting towards the sidewalk really is out of character with this area. For me they will look out of place. They almost will look like a mistake. They should remain close to the required setback. The developer now owns the shingled house so there is no one here to say "Hey, what about me?". I will be that person tonight and say this is a 0' setback and at some point that house is not going to be empty. Someone will be living there and they will have to deal with that closeness to their home. At the back of the property, the new units create a wall that is very close to that back property line. One of the homes has an outdoor pool which will lose a lot of its privacy. I think there is going to be some landscaping installed but for all intent and purpose, I think their privacy is gone. I haven't studied all the inner zoning requirements between the buildings but I trust that the fire department and the building department will review that.

Our zoning regulations have been developed over many years and sometimes they may seem not to make sense but they have been created with a lot of thought and concern. They exist to protect us and to help maintain the character and the history of our community and I believe they should be respected. I believe that the city wants this project to move forward but I also believe that it needs some refinement. I propose that the Board ask the design team to go back to the drawing board and search for those refinements. Thank you.

Mark Hoffman, 2432 Edgehill Road, had been sworn in. He stated that his house was 5 houses away from the subject property. His is a 4 generation Cleveland Heights family. He had been past chairman of the Community Improvement Awards and had thrown family parties at the College Club. He taught his kids to ride bikes at the College Club. I live close enough that at my kids Bar Mitzvah, when the bartender said we were out of vodka, I ran home and grabbed a couple of bottles and didn't miss a dance. I know the area and the property. I am also a practicing attorney, representing developers, owners and neighbors, and government. I was one of the attorneys that brought the Emily Program residential treatment center to the block which is the first house on the other side of the apartment house there. I am thrilled that we have a developer that wants to preserve the mansion and the carriage house. My objection is in the urban packet part and the setbacks. When we talk about density, in my opinion, we are always talking about return on investment. We talk about building 6 stories or 8 stories but we don't have a place to park the cars. Not having a setback of 30 feet in front is very significant. The variance requested is almost a 40 per cent change, which is not a variance but a rezoning, in my opinion. The other setback variances are also significant but I believe, as Mr. Bozic, who is an architect said, that the project could be redone or reworked by the architect. We could see English basements which would add more density. We could compare this to the Mornington Lane condominiums where they saved the old buildings. There is a lot of greenspace and there is a significant setback there. On Cedar Glynn next door to the fire station, the condos are set back from the street. In this case, you have an almost 40 per cent setback from the street and a 10 foot to 0 foot setback on the side and other significant setbacks. It doesn't have to be that way. The Board must decide what is the practical difficulty and maximizing a return on investment is not a practical difficulty. As the Board and as your counsel knows, this is the law in Ohio. Keeping the look and feel of the neighborhood is what attracts people. Mr. Bozic and I, along with Mr. Wong have proposed with private planning to build a park. Referring to the site plan, he pointed out a space that would not be a part of this development. He stated that with our own time and resources, there is enough space to create a Turkey Ridge park. We are working on that with Mr. Bozic's design and my input and we are looking at other things to bring to the city to make a park here. The city did entertain a plan for this site which had buildings as much as 100 feet above grade so I'm not sure how long there will be a view from these buildings even if this is only 2 or 3 stories tall. I don't think it will be built as other people have tried to build on that site over the years. The character of the

neighborhood requires that we keep the integrity of the zoning. People rely on the integrity of the zoning. That's why people come to Cleveland Heights. I would encourage you to ask this developer to keep going. They have a great start here but should rework the plan. The Board should not grant the variances, especially the setback variances and should rely on the ordinances. Thank you.

There being no one else from the audience who wished to testify, Mr. Zych closed the public hearing. He asked the applicant and representative to return to the microphone and feel free to respond to what was said and remember that all comments are to be directed to the Board.

Mr. Glowacki stated his belief that they had made the argument about the density of the project. One of the items to note is that there is a difference from this site compared to other sites of comparable nature which is the openness on the north portion of the site with Edgehill sloping down. We do feel that the setback requirement on the front of those townhomes is a slightly different case in this project specifically. Having that open nature really gives you an additional setback feel as you are working your way to the north of the site. I think there are some characteristics of the site that do create some hardships that are a little different from a typical site.

Mr. Swindell stated that we did study the density issue. As developers the first thing to consider is how do we maximize density. We went through a lot of evolution for that when we first looked at the project 2-1/2 years ago. We had input from a lot of architects who had studied this site and most of those were high density apartment projects. We decided that did not make sense for this site along with the preservation of the existing buildings. As to the layout, we probably went through 20 to 30 scenarios, considering the way we placed the garages, where we placed the buildings on the site while being mindful of the surrounding properties. In this day and age, we have to create a product that is marketable, which certainly drives design. By doing first floor master units and stretching those buildings out, it is putting pressure on the boundaries of the site. As noted before, there a lot of examples of variance that already exist on this site. The carriage house and its south boundary with Waldorf Towers. There are already 3 variances on the site as it currently exists.

Ms. Wolf asked to see the slide showing the location of all the variances on the site.

Mr. Zych stated that he lived on Edgehill Road, on the other side of Euclid Heights Boulevard, and this site is within a walking zone for him. While he didn't walk a dog he sometime walked a cigar around there. Questions have been made about the walking nature of this area and you have given us a description of the project but it would help us out for you to describe how, if the variances were granted, the walking patterns would or would not be adversely affected.

Mr. Glowacki stated that from a public realm, we don't feel it would be affected. The sidewalk on Overlook Road remains as it is. If anything there may be a safety issue from having more residents on the site versus just a parking lot as now. The nature of those 4 townhome on Overlook, there have a lot of variety in the façade both in height and depth creates a character that will be very attractive to look upon. It will be beautifully landscaped. We do feel that addressing that main greenspace in front of the College Club is really the intrinsic nature of that site. It is currently a beautiful manicured lawn and the rest of it is an asphalt parking lot, nothing very attractive. That will be alleviated by the new site plan. Additionally, throughout the site we have created internally a walkable zone that we think will be very nice in character. Essentially, all around the site there are these meandering paths that connect the townhomes and apartments. Also to the neighborhood. As Cleveland Heights is a walkable city, we assume these residents are going to walk down to Little Italy and walk around the corner to walk their dogs.

There being no other comment from the Board, Mr. Zych stated that he was prepared with a motion but he wanted to make a few framing points. He explained that we are a Board of limited jurisdiction and are tasked by the law to respond to applicants applications as they are put to us. We have a couple of options; we can grant, we can deny, or we can continue. We are not the Architectural Board of Review. I for one do not pretend to have the skill or ability to tell someone how to design a project. My son is an architect, I am not. We are not the Planning Commission. We don't make planning decisions. We have not been endowed with those powers. We have a very specific but limited task. It is on those grounds that we have to address the variances as presented to us, based on the factors that the City Council has laid down in its newly revised zoning code. With that in mind he made the following motion.

Mr. Zych moved to grant WXZ Residential Group/CC LCC, 2350 Overlook Rd., variances to Code sections:

- 1) 1123.07(a) to permit a front setback of 18' 9.5" to 35' (30' min. setback req'd);
- 2) 1123.12(a)(2) to permit a driveway setback of 0' (10'min. setback req'd);
- 3) 1123.07(c) to permit rear setback of 12'3" to 20'6" property line (25' min. setback req'd);
- 4) 1123.07(b)(2) to permit Type C unit to have setback from east property line of 10' (25' min. setback req'd);
- 5) 1123.08 to permit 25' as minimum distance between bldgs. A/B and D (42'6" min distance req'd);
- 6) 1123.08 to permit 24' as minimum distance between bldgs. C and D (60' min. distance req'd); and
- 7) 1123.07(b)(1) to permit west property line setbacks of 0' at A/B bldg., 2' at D bldg., and 1'9" at C bldg. (15' min setbacks req'd);
- 8) 1161.03(4) to permit 17 surface parking spaces for 14 apts. (min.14 surface spaces with 7 enclosed spaces req'd).

Reviewing the application and other submissions, hearing the evidence under oath, the Board finds and concludes this is located in an historic district and the buildings being preserved are a recognized landmark. That being the case the Board finds that the project preserves and is consistent with, the fundamental historic nature of the property and protecting those elements of the property that are necessary to the fitness for a historic district and maintenance of its landmark character. Noting that in fact the historic nature is being enhanced because the non-historic portion of one of the structures is being removed. With regard to density, as a matter of code, we do not determine what is or is not desired density. We note that there are conforming uses that would fully exploit the density prerogative that would much more severely damage the historic nature, character, and be out of keeping with what the property is there for and its presence in the community. That the project we find will be developed well within and under the height requirement that otherwise could be exploited. That it is well within the density requirements, both in number of units, occupancy, and spacing, well below what the applicant could have done in a way that would do more violence to the historic nature. The use is permitted by our zoning code and we find the landscaping will be added to minimize sound and light intrusion. The record will show we fully recognize the significance of these variances. With regard to the setbacks, I will note that the economic viability is a factor we are to consider when granting or denying variances and there is evidence in the record that strictly enforcing the required setbacks, which are 5 of the variances, would adversely affect the economic viability of the project which is something we are to consider given the nature and the fact that it is an irregularly shaped parcel. Again, understanding that adhering to those setbacks will require a greater infringement on the historical nature. The applicant has noted that what they are replacing is what is already there and that is a flat-surface parking lot, one of the lowest and worst uses we can have in these neighborhoods. With regard to the minimum distance between buildings, which are variances 5 and 6, the record shows that the central purpose of those distances is maintained, that there is accessibility between those buildings, that cars and pedestrians can get between them, there is sufficient spacing for other code purposes and therefore those differences are not substantial and are justified by the property. With regard to the parking, we note that the number of surface parking provided exceeds the minimum. The variance is that 7 of them will not be covered but the finding is that closing those 7 spaces will give no benefit to the neighborhood or to the development and in fact would be adverse to the historic nature of the adjacent buildings. If the variances are granted, they should include the following conditions:

1. Planning Commission approval of new construction lot resubdivision;

Mr. Zych pointed out that one of the setbacks is between two artificially separated properties but it is really one unit, so that variance is insignificant.

2. Approval of a landscape and drainage plan by the Planning Director prior to building permits being issued;

3. Receipt of a Building Permit;
4. The variances are contingent upon the historic College Club house and carriage house being preserved and upon the site being developed as shown on the site plans dated January 18, 2018; and
5. Complete construction within 36 months of the effective date of this variance.

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

Mr. Zych explained that the following are 3 requests by GMC Cleveland LLC. These are 3 separate parcels and 3 separate matters and we will have to treat them as 3 separate cases. I think in the first presentation there are things we can do in general without having to force people to repeat themselves verbatim, and we can incorporate as we go forward. He also noted that Ms. Bromley will participate in the next 3 cases.

CALENDAR NO. 3439:

GMC Cleveland, LLC, 3077 Mayfield Rd., 'C-1' Office District requests variances to Code section 1163 to permit six 15 sq. ft. identification signs (90 sq. ft. total) to be located 20' above grade in addition to current signage (freestanding signs are not permitted).

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

Mr. Zych stated that, without objection, the staff report dated February 14, 2018, will become part of the record.

Ms. Knittel's staff report was as follows:

CONTEXT

3077 Mayfield Road is located at the west corner of a triangular block surrounded by Monticello Boulevard, Lee Boulevard, and Mayfield Road. The Rockefeller Pointe Building, the Medusa Building and one-story structure share this "C-1" Office District block.

West across Monticello Boulevard is the Community Center and Forest Hill Park (Park District)

South across Mayfield Road is a car wash and Family Dollar Store. (C-2 Local Retail)
East adjacent to this site is the Rockefeller Pointe building.

RELEVANT CASE HISTORY

Cal. No. 2099 variance granted to erect 15½ foot high pole sign at the corner (May 1989) of Mayfield Rd. and Monticello Blvd. and to permit a 19 square

foot wall sign on the west side of building (max signage was 25 square foot sign attached to building).

Cal. No. 2521 variance granted to permit two building signs each on Mayfield Road and
(Dec. 1994) Monticello Boulevard, 34 sq. ft. and 30 sq. ft. on each frontage, and a
30 sq. ft. sign above the rear entry from the parking lot.

Cal. No. 3387 a use variance was granted to permit auto-oriented, retail and office
(Nov. 2015) uses and (retail auto-oriented uses not permitted).

PROJECT

Motorcars desires to improve all of their properties along Mayfield Road with similar features to enable the public to quickly identify the property as being a Motorcars business. The applicant has installed 6 flag poles and would like to display the flags that are used on their logo. Each flag will be 3 feet by 5 feet, totaling 15 square feet.

FACTS

- Section 1103(a)(106) states that 'sign' means any identification, description, illustration or devise which is affixed to or integrated into a building, structure or land, or otherwise situated on a lot and which is intended to direct or attract attention to, or announce or promote a product, place, activity, person, institution or business by means of letters, words, designs, colors, symbols, flags, banners, fixtures, images or illuminations
- Motorcars utilizes the flags they intend to fly as part of their commercial identity and therefore the flags constitute a three dimensional expression of the Motorcars logo and therefore the flags, poles and base are treated as a freestanding sign under the Zoning Code.
- The Architectural Board of Review approved the installation of the flag poles as shown on the drawings provided to BZA.
- The flags are currently flown at the Motorcars Honda property; these were approved prior to the current zoning regulations.
- The Motorcars Collision Center currently has 124.84 square feet of signage.

If approved, conditions should include:

1. Variance is not transferable and will no longer be in effect should Motorcars no longer own or operate a Motorcars business at this location;
2. This variance does not permit any other flags or banners to be flown from these flag poles, only the flags depicted on the application;
3. Approval of a landscape plan by the Planning Director;
4. Receipt of a sign permit; and

5. Complete Construction within 12 months of the effective date of this variance.

Mr. Zych asked the applicant or his representative to come to the microphone.

Alan Rapoport, 1567 Compton Road, attorney for GMC Cleveland LLC, had been sworn in.

Mr. Zych asked the applicant's representative if the application dated October 11, 2017 submitted for the applicant was true and accurate to the best of his knowledge.

Mr. Rapoport answered affirmatively.

Mr. Zych stated, without objection, we will make the application a part of the record.

Mr. Rapoport stated that Ms. Knittel has accurately summarized the general situation and he wanted to add some additional factors. Motorcars as an entity operates a number of business such as Motorcars Honda and Motorcars Toyota, and Rainforest Car Wash. Also Daylight Doughnuts and the Collision Center, which operate out of the same building. A number of these business operate under separate and independent names but are part of the same general group of businesses. Hence the desire to establish what was referred to as a campus type of look with more cohesion so it is clear they are all operating under the same umbrella. At this site we are only asking for a variance with respect to the flags. A previous variance with respect to the monument sign has already been granted. The practical difficulty adheres to the fact that this particular site is considerably removed from the rest of the campus. The Recreation Center and the park are between them. In order to establish the identity of this larger operation as part of the campus, we feel the flags will be very helpful for that purpose. As noted by Ms. Knittel, it is not without precedent. It has already been done at the Honda site and is what we will subsequently propose to do at two other sites in order to unify the entire campus. Thank you.

Mr. Zych stated that we have been told that dealerships are being pushed by the manufacturers towards highways. Is this effort in keeping with maintaining the viability and desirability of Motorcars as a Cleveland Heights location.

Mr. Rapoport stated that it was. Motorcars as a group is the third largest private landowner in Cleveland Heights, the other two being Severance Center and properties owned by the Illuminating Company. This is according to the city's financial report. It is clear from development over time that Motorcars has made and continues to make a substantial investment in expanding its operation. The Board may recall the old Madusa building has also been acquired by GMC. I think

that the investment that has been made and continues to be made belies the need to relocate on a freeway. They have anchored themselves to the community. Creating this identity is, in our opinion, part of the long term commitment to being an operation in Cleveland Heights. Mr. Rapoport then introduced Chuck Gile, President of GMC, who was in the audience.

Chuck Gile, 2953 Mayfield Road, stated that he was approached by the city about 6 years ago with a suggestion to put together an idea of a look for Motorcars going down Mayfield Road to tie everything together. At the time he didn't want to spend the money. Then he began to look at Mayfield Road and observed things like, the Dollar store, the carwash next to it, and the appearance of some of the buildings and thought, it's looking shabby. Then he thought, we can do something to make it look more special, so things look the same and there is some continuity to it. That's where the idea of the campus began.

There being no one else who wished to testify, Mr. Zych closed the public hearing.

No further questions from the Board, Mr. Zych called for a motion.

Ms. Bromley moved to grant GMC Cleveland, LLC, 3077 Mayfield Rd., a variance to permit six 15 sq. ft. identification signs (90 sq. ft. total) to be located 20 feet above grade in addition to current signage where freestanding signs are not permitted finding that the intent is to create a unifying campus feeling and if the variance is approved conditions should include:

1. Variance is not transferable and will no longer be in effect should Motorcars no longer own or operate a Motorcars business at this location;
2. This variance does not permit any other flags or banners to be flown from these flag poles, only the flags depicted on the application;
3. Approval of a landscape plan by the Planning Director;
4. Receipt of a sign permit; and
5. Complete Construction within 12 months of the effective date of this variance.

Mr. Gilliam seconded the motion which carried 4-0.

CALENDAR NO. 3437:

GMC Cleveland, LLC, 2916 Mayfield Rd., 'C-3' General Commercial District, requests variances to Code section 1163 to permit 2-sided freestanding identification sign to be 6' tall with 24.97 sq. ft. signage on each side and six 15 sq. ft. identification signs (90 sq. ft. total) to be located 20' above grade in addition to current signage (freestanding signs are not permitted).

Mr. Zych stated that, without objection, the staff report dated February 14, 2018, is part of the record

Ms. Knittel's staff report was as follows:

North: across Mayfield Rd. is local retail (C2 Local Retail district)

South: on Middlehurst Rd. are apartment buildings (MF2 Multiple-Family district)

East: across Middlehurst Rd. is the former Motorcars body shop (S2 Mixed Use district)

West: adjacent to Freedom Motors are apartment buildings (MF2 Multiple-Family district)

PROJECT

Motorcars desires to improve all of their properties along Mayfield Road with similar features to enable the public to quickly identify the property as being a Motorcars business. The applicant has installed 6 flag poles and would like to display the flags that are used on their logo. Each flag will be 3 feet by 5 feet, totaling 15 square feet.

Also, the applicant proposes to install a new electronic messaging sign that will be 5'9" tall and have a sign area that is 24.97 square feet.

FACTS

- Section 1103(a)(106) states that 'sign' means any identification, description, illustration or devise which is affixed to or integrated into a building, structure or land, or otherwise situated on a lot and which is intended to direct or attract attention to, or announce or promote a product, place, activity, person, institution or business by means of letters, words, designs, colors, symbols, flags, banners, fixtures, images or illuminations
- Motorcars utilizes the flags they intend to fly as part of their commercial identity and therefore the flags constitute a three dimensional expression of the Motorcars logo and therefore the flags, poles and base are treated as a freestanding sign under the Zoning Code.
- The Architectural Board of Review approved the installation of the flag poles as shown on the drawings provided to BZA.
- The flags are currently flown at the Motorcars Honda property; these were approved prior to the current zoning regulations.
- Rainforest Car Wash currently has 72 square feet of commercial identification signage.
- The Rainforest building is 69 lineal feet along Mayfield Road and 20 lineal feet facing Middlehurst Road.
- The Rainforest building is setback approximately 74.5 feet from the Mayfield

Road right-of-way.

- The Freedom Motors building is setback approximately 111.5 feet from the Mayfield Road right-of-way.
- The Maycourt apartment buildings to the west of this site is not exactly parallel to Mayfield Road. The setback of the east building is approximately 29 feet from the Mayfield Road right-of-way at the east corner and approximately 23 feet from the Mayfield Road right-of-way at the west corner. The setback of the west building is approximately 19 feet from the Mayfield Road right-of-way at the east corner and approximately 14 feet from the Mayfield Road right-of-way at the west corner.
- The Architectural Board of Review reviewed and approved the electronic messaging center at its Feb. 6th meeting.

If approved, conditions should include:

1. Variance for the 6 signs that are flags is not transferable and will no longer be in effect should Motorcars no longer own or operate a Motorcars business at this location;
2. This variance does not permit any other flags or banners to be flown from these flag poles, only those depicted on the application;
3. The freestanding sign variance will no longer be in effect should the Planning Director determine that the visibility factors for this site have changed;
4. Approval of a landscape plan by the Planning Director;
5. Receipt of a sign permit; and
6. Complete construction within 12 months of the effective date of this variance.

Alan Rapoport, 1567 Compton Road, attorney for GMC Cleveland LLC, had been sworn in.

Mr. Zych stated that an application for this variance was submitted dated October 11, 2017. He asked Mr. Rapoport if, to the best of his knowledge, the facts stated are true and accurate.

Mr. Rapoport stated that it was.

Mr. Zych stated that, without objection, we will enter the application into the record.

Mr. Rapoport stated as mentioned in the last request the flags are an effort to achieve uniformity. Particularly in a case such as this where there are two operations on one site, Rainforest and Freedom Motors, that don't specifically have the Motorcars name attached to them. The flags will show they are part of the

general campus. Also there is the distance from the other campus operations that is a practical difficulty. Ms. Knittel mentioned the grade of Mayfield Road. When coming up from Coventry you cannot see this building until you are almost past it. Your view is blocked by the apartment building so signage on the building is not readily identifiable. The other sign would be the only sign directing people to come into the carwash from Middlehurst Road. At one point in time this site was 2 parcels, but eventually they were joined into 1 parcel. Since there are 2 separate operations are on this parcel, 2 signs are needed. As was mentioned by Ms. Knittel, there is also a slope from the street up to the buildings, so the normal rules about signage on buildings don't apply here as far as easy visibility from a passing vehicle. Also there is a large area of parking that exists between the buildings and Mayfield Road which is not the normal situation in commercial districts and is a unique feature of this property. Again, the signage rules that normally apply don't work as well at this location. The buildings are small relative to the size of the entire site. This is common in auto-use type situations. It's rare to have a commercial site surrounded by this much parking. Signage per city code is computed on the basis of the lineal footage of the building. So given the uniqueness of this site it's a hardship to apply the literal rules of signage when you have this kind of location with respect vehicular traffic in particular. He further stated that monument signs have become quite common. The city has one at the recreation center. There are a number of monument signs up and down Mayfield Road. We had a very meaningful discussion with the ABR about design. This is also part of trying to achieve some kind of uniformity up and down Mayfield. For all these reasons we feel that the practical difficulty test is met because of the uniqueness of this site. Thank you.

Ms. Bromley asked what were the hours in which the electronic sign would be operating.

Mr. Rapoport stated that he assumed 24 hours. There was discussion with the ABR about certain issues, such as cycling of the signs, how much time there would be between cycles, about dimming at night to make it less intrusive. We've tried to address all these issues to make it fit it better.

There being no one from the audience who wished to testify, therefore the public hearing was closed. Mr. Zych asked for a motion.

Ms. Bromley moved to grant GMC Cleveland, LLC, 2916 Mayfield Rd., variances to permit 2-sided freestanding identification sign to be 6' tall with 24.97 sq. ft. signage on each side and six 15 sq. ft. identification signs (90 sq. ft. total) to be located 20' above grade in addition to current signage where freestanding signs are not permitted based upon the finding that the unique features of the parcel of land and grading are factors to be considered so the flags can be visible. If the variance is approved conditions should include:

1. Variance for the 6 signs that are flags is not transferable and will no longer be in effect should Motorcars no longer own or operate a Motorcars business at this location;
2. This variance does not permit any other flags or banners to be flown from these flag poles, only those depicted on the application;
3. The freestanding sign variance will no longer be in effect should the Planning Director determine that the visibility factors for this site have changed;
4. Approval of a landscape plan by the Planning Director;
5. Receipt of a sign permit; and
6. Complete construction within 12 months of the effective date of this variance.

Ms. Wolf seconded the motion which carried 4-0.

CALENDAR NO. 3440:

GMC Cleveland, LLC, 2950 Mayfield Rd., 'S-2' Mixed-Use District requests variances to Code section 1163 to permit 2-sided identification sign to be 6' tall with 24.97 sq. ft. signage on each side and six 15 sq. ft. (90 sq. ft.) identification signs to be located 20' above grade in addition to current signage (freestanding signs are not permitted).

Mr. Zych stated without objection we will enter the staff report dated February 14, 2018 into the record. The record will also note the presentations of the general conditions in the last two cases will apply here as well and will be incorporated.

Ms. Knittel's staff report was as follows:

North: across Mayfield Road is Motorcars Honda (C3 General Commercial district)

South: single family homes (A Single Family district)

East: across Superior Road is Walgreens (C3 General Commercial) with single family homes (A Single Family district) located as you go south on Superior Rd

West: the former Motorcars body shop is located adjacent to Toyota S-2 Mixed-Use, across Middlehurst is the Rainforest Car wash (C3 General Commercial)

PROJECT

Motorcars desires to improve all of their properties along Mayfield Road with similar features to enable the public to quickly identify the property as being a Motorcars business. The applicant has installed 6 flag poles and would like to display the flags that are used on their logo. Each flag will be 3 feet by 5 feet, totaling 15 square feet.

Also, the applicant proposes to install a new electronic messaging sign that will be

5'9" tall and have a sign area that is 24.97 square feet.

FACTS

- Section 1103(a)(106) states that 'sign' means any identification, description, illustration or devise which is affixed to or integrated into a building, structure or land, or otherwise situated on a lot and which is intended to direct or attract attention to, or announce or promote a product, place, activity, person, institution or business by means of letters, words, designs, colors, symbols, flags, banners, fixtures, images or illuminations
- Motorcars utilizes the flags they intend to fly as part of their commercial identity and therefore the flags constitute a three dimensional expression of the Motorcars logo and therefore the flags, poles and base are treated as a freestanding sign under the Zoning Code.
- The Architectural Board of Review approved the installation of the flag poles as shown on the drawings provided to BZA.
- The flags are currently flown at the Motorcars Honda property; these were approved prior to the current zoning regulations.
- The signage regulation is based on the lineal feet of a commercial building. The signage regulations do not take into consideration auto oriented businesses where additional parcel area is required for inventory.
- The building frontage is 324 lineal feet, code permits a maximum of 150 square feet.
- Current commercial identification signage for Motorcar Toyota is 329.08 square feet.
- A code conforming commercial parcel is required to have a minimum width at the building line of 70 feet and a minimum of 10,000 square feet in development area.
The Motorcars Toyota parcel is 552 lineal feet and is 221,164 square feet in area.
- The Toyota building is not exactly parallel to Mayfield Road. The east corner of the building is approximately 191 feet from the Mayfield right-of-way and the west corner of the building is approximately 160 feet from the Mayfield right-of-way.
- The former body shop building at the corner of Middlehurst and Mayfield Road is approximately 8 feet from the Mayfield right-of way.

- To the east of the Toyota building across Superior Road, the Walgreens building is approximately 91 feet from the Mayfield Road right-of-way.
- The Architectural Board of Appeals reviewed and approved the electronic message center at its Feb. 6th meeting.

If approved, conditions should include:

1. Variance for the 6 signs that are flags is not transferable and will no longer be in effect should Motorcars no longer own or operate a Motorcars business at this location;
2. This variance does not permit any other flags or banners to be flown from these flag poles, only the flags depicted on the application.
3. The freestanding sign variance will no longer be in effect should the Planning Director determine that the visibility factors for this site have changed;
4. Approval of a landscape plan by the Planning Director;
5. Receipt of a Sign Permit; and
6. Complete construction within 12 months of the effective date of this variance.

That being the end of staff's report, Mr. Zych stated that the Board had received an application dated December 12, 2017. He asked Mr. Rapoport to confirm that to best of his knowledge all the statements in that application are true and accurate.

Mr. Rapoport answered affirmatively. He further stated that many factors he would point out about this particular site are similar to the one that was just discussed. As Ms. Knittel stated the view of the building is obscured by the body shop building if you are driving along Mayfield Road, and the setback of the building from the street with a substantial amount of parking in front of it. These are reasons why a monument type of sign becomes a necessary feature for identifying purposes and again, we are trying to achieve a certain amount of consistency. I assume the Planning Department will assist us with the landscaping plans that will be adopted at the different sites. This will also help establish the visual consistency of the campus look that we are trying to achieve. Regarding the flags, these are distant from the other flags at the other sites which is a practical difficulty by virtue of the nature of the property itself. Thank you.

There being no further questions from the Board, Mr. Zych opened the public hearing. There being no one from the audience who wished to testify, the public hearing was closed.

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

Ms. Bromley moved to grant GMC Cleveland, LLC, 2950 Mayfield Rd., a variances to Code section 1163 to permit a 2-sided identification sign to be 6' tall with 24.97 sq.

ft. signage on each side and six 15 sq. ft. (90 sq. ft.) identification signs to be located 20 feet above grade in addition to current signage where freestanding signs are not permitted, there is a visibility factor due to the body shop on that site and the intent is to have a more unifying, consistent appearance to the campus. If the variance is approved conditions should include:

1. Variance for the 6 signs that are flags is not transferable and will no longer be in effect should Motorcars no longer own or operate a Motorcars business at this location;
2. This variance does not permit any other flags or banners to be flown from these flag poles, only those depicted on the application;
3. The freestanding sign variance will no longer be in effect should the Planning Director determine that the visibility factors for this site have changed;
4. Approval of a landscape plan by the Planning Director;
5. Receipt of a sign permit; and
6. Complete construction within 12 months of the effective date of this variance.

Mr. Gilliam seconded the motion which carried 4-0.

Mr. Zych stated that he wanted to commend staff for not only helping the Board through the new procedures, but also through a very difficult set of cases made easy.

Ms. Bromley stated that she would like to thank Mr. Zych for helping her with her extenuating circumstances this evening.

Mr. Zych stated that we've all had to travel and we know what that is like.

OLD BUSINESS

Ms. Knittel reported that City Council approved the last variance granted by the Board which was the temporary sign at the May-Lee Building.

NEW BUSINESS

None.

ADJOURNMENT

There being no further business to come before the Board, the regular meeting was adjourned at 9:14 p.m.

Respectfully Submitted,



Gail E. Bromley, Chair



Vesta A. Gates, Secretary