

CITY OF CLEVELAND HEIGHTS  
BOARD OF ZONING APPEALS  
MINUTES OF THE MEETING  
JANUARY 18, 2017

MEMBERS PRESENT:	Gail E. Bromley	Chair
	George A. Gilliam	
	Benjamin Hoen	
	Liza Wolf	
	Thomas Zych	Vice Chair
STAFF PRESENT:	Vesta A. Gates	Zoning Administrative Assistant
	Karen Knittel	City Planner
	Elizabeth Rothenberg	Assistant Law Director
	Richard Wong	Planning Director

CALL TO ORDER

Ms. Bromley called the regular meeting to order at 7:00 p.m. at which time all members were present.

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

JANUARY 18, 2017

CALENDAR NO. 3412

Cleveland Heights-University Heights City School District, Heights High School, 13263 Cedar Rd., S2 Mixed Use District, requests a variance to Code Section 1123.12(e) to permit an 8' tall chain link fence with a 20-foot tall fence along the section of the baseball field parallel to Goodnor Rd. (3 foot maximum height permitted).

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

The property is zoned S2 Mixed Use district. The High School and the use of school property for athletic fields is a conditionally permitted use in the S2 District. The High School campus encompasses an entire city block resulting in the site having four (4) front yards. The zoning regulations for fencing is written for residential and commercial properties and does not address the particular needs of fencing an athletic field.

In 2013, a variance was granted to permit 6' to 8' fencing around the High School softball field located at the corner of Washington Blvd. and Goodnor Rd. (Cal. No. 3305). The High School rehabilitation plan has been reviewed and received a conditional use permit from the Planning Commission in 2015.

The baseball field is in the same location as it was prior to the High School Renovation at the corner of Goodnor Rd. and Cedar Rd. The field has been enclosed by a chain link fence. While the baseball field remains in the same location as it has been since 1925, the field's orientation has been moved so that left field is adjacent to Goodnor Road. The applicant is seeking a height variance to permit the fence be 8' tall with a section of the fence to be 20' tall as shown on the site plan. The High School site plan including this proposed fencing was reviewed and approved by the Architectural Board of Review in September 2016.

If approved, conditions may include:

1. Receipt of appropriate Building Permit; and
2. Complete construction within 18 months of City Council's approval of this resolution.

Ms. Bromley asked the applicant's representative to come to the microphone.

John Orsini, 191 Glenview Road, Canfield, Ohio, VSHM Architects, had been sworn in. He stated that one of the main reasons additional fence height is required is because of the amount of land that is allocated for the baseball field. Even if the orientation of the field was relocated the fence would still be required because of the shortened left field line. It's a matter of trying to keep the balls off the street.

Ms. Knittel asked the Chair if the Board needed the applicant to review his statement of practical difficulty.

Ms. Bromley asked the applicant if he could establish the practical difficulty so it will be on the record.

Mr. Orsini read the following practical difficulty:

- A. The site is currently zoned has four front yards and four side yards. It is conditionally permitted as a school and is located within a residential area and therefore includes the use of athletic fields on the site. The high fence is needed for protection of the street, pedestrians and neighboring homes.
- B. Cleveland Heights High School would not be able to utilize the baseball field for its intended and previous historic use.
- C. Prior to the renovations of the high school, the use of this corner of the site has previously been a baseball field. The requested variance includes limited fencing and only occurs where required.
- D. The current proposed use of this area of the site as a baseball field is not being modified. The baseball field has been located in this position since the high school was constructed in 1925.
- E. The use would not adversely affect the delivery of governmental services.
- F. This is a conditionally permitted use as a school and is located within a residential area and therefore includes the use of athletic fields on this site.
- G. The current use is not modified. This is an improvement to the conditionally permitted use. Prior to construction, this was a baseball field.
- H. This is a single family residential district. Fencing regulations are designed for a residential district and not for the conditionally permitted use as a school.
- I. It is conditionally permitted as a school and is located within a residential area and therefore includes the use of athletic fields on the site. It is within the current fabric of the city.
- J. The special condition for use as a high school baseball field will not confer any special privilege denied to other lands, structures, or buildings in the same district.

#### PUBLIC HEARING OPENED/PUBLIC HEARING CLOSED

There being no one from the public who wished to speak, Ms. Bromley asked for questions from the Board.

Mr. Zych asked the applicant what was the distance down the line in left field.

Mr. Orsini stated that he was fairly sure it was about 270 feet.

Mr. Zych asked Mr. Orsini if he could briefly explain why the higher fencing was stopping where it is.

Mr. Orsini stated that it was based on what the design team thought was applicable to this particular site because of the length of the field. Our consultants who have

done a number of fields for similar high schools have done this before. As we know some high schools are located within sites that don't necessarily allow for the actual sizes that are required.

Mr. Zych stated that apparently the judgement of the professionals is that given the distance from home plate to the various locations along Goodnor Road, that the higher fencing will be sufficient to protect the street.

Mr. Orsini answered affirmatively.

Mr. Zych moved to grant Cleveland Heights-University Heights City School District, Heights High School, 13263 Cedar Rd., a variance to Code Section 1123.12(e) to permit an 8-foot tall chain link fence with a 20-foot tall fence along the section of the baseball field parallel to Goodnor Rd. where a 3 foot maximum height is permitted on the grounds that this is a unique parcel and the only public high school in Cleveland Heights and the that it has received a conditional use permit to have not only the academic structure but the athletic fields as well. Those approved uses include a baseball field that can result in people hitting a baseball some distances and during the normal course of a game balls could land on Goodnor Road or even across the street affecting traffic, cars, pedestrians, and neighboring properties. This is a textbook case of a practical difficulty unique to and related to the appropriate use of this property. Further noting that the code's fence regulations, while generally appropriate, do not take into account a conditional use of this type. The variance is not a special favor nor is it a precedent for similar non-conforming uses that would not be as appropriate and incorporate all of the reasons stated by the applicant's representative and testimony. If the variance is granted conditions should include: 1) Receipt of appropriate Building Permit; and 2) Complete construction within 18 months of City Council's approval of this resolution.

Mr. Hoen seconded the motion which carried 5-0.

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

#### OLD BUSINESS

Mr. Zych stat that some time ago in 2016, the Board approved and Council confirmed the construction of a non-conforming basketball court on Coventry and Edgehill Roads. Having visited the site, looking at poles with the netting and the distance of the court to the street, I was a little concerned as to whether or not all the things that were taken into account and approved were embodied in that design. This is a request that if staff happens to be in that area, please take a look at it and report back at a future meeting so the Board gets a sense of the impact of that decision on that particular property on that busy street.

Ms. Knittel stated that staff could absolutely do that.

Ms. Bromley asked about the Edgehill and Washington Boulevard fence. She understood that there had been some mitigating circumstances.

Ms. Knittel agreed stating that the husband who owned the property had passed away. Staff can now follow up with the widow.

Mr. Zych commented that he had passed the house on Monday and the fence was still there.

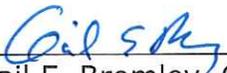
#### NEW BUSINESS

Ms. Knittel reported that the variances approved by the Board last month were confirmed by City Council.

#### ADJOURNMENT

There being no further business to come before the Board, the regular meeting was adjourned at 7:18 p.m.

Respectfully Submitted,

  
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Gail E. Bromley, Chair

  
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Vesta A. Gates, Secretary