

CITY OF CLEVELAND HEIGHTS
BOARD OF ZONING APPEALS
MINUTES OF THE MEETING
APRIL 18, 2018

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

CALL TO ORDER

Mr. Zych called the regular meeting to order at 7:00 p.m. at which time all members were present except Ms. Bromley, whose absence was excused.

APPROVAL OF THE MINUTES OF THE MARCH 21, 2018 PUBLIC HEARING

Mr. Zych stated that he had given Ms. Gates a couple of minor corrections prior to the meeting. He asked for a motion to accept the minutes as amended.

Mr. Gilliam moved to approve the minutes as amended. Ms. Wolf seconded the motion which carried 4-0.

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

Mr. Zych explained that the purpose and procedures for tonight's meeting are stated for all in attendance. He 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, City staff will make a presentation and then each applicant will present his or her case stating practical difficulty for which we are being asked to grant a variance. The Board then will open a public hearing to obtain testimony from any other persons 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. The Board may 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 by motion. The formal nature of these proceedings is necessary because each applicant is asking for an extraordinary remedy called a variance. A variance is formal permission by the City for an individual to not comply with a portion of the municipal Zoning Ordinances which is binding to all others.

In making its decision of whether to grant a standard variance, the Board will weigh factors set forth in the Zoning Code in Section 1115.07(e)(1). The burden is upon the applicant to demonstrate by a preponderance of the evidence that the literal enforcement of the Zoning Code would result in a practical difficulty. Preponderance of evidence means the applicant proved his or her position is more likely than not to be true. The applicant must demonstrate circumstances unique to the physical character of his or her property. Personal difficulties, personal hardships or inconvenience are not relevant to the Board's determination.

The Board is the final administrative decision maker for all standard variances.

PUBLIC HEARING

APRIL 18, 2018

CALENDAR NO. 3451:

Kristen and Mark Gallagher, 2612 Wellington Rd., 'A' Single-family District, requests a variance to Code Section 1121.12(g), to rebuild a garage with a height of 15'8" (15' max. permitted).

Members of the public who indicated that they wanted to speak were sworn in by Ms. Rothenberg.

Mr. Zych stated that if there were no objections, the staff report dated April 9, 2018 shall be entered into the record. Hearing no objections, it was so entered as part of the record.

Ms. Knittel's staff report was as follows:

Context:

North – single family houses, zoned A Single-family

South – single family houses, zoned A Single-family

East – across Wellington Road are single family houses, zoned A Single-family

West- single family houses, zoned A Single-family

Project: Applicants would like to reconstruct a garage to match the original garage that was on the property until a December 24, 2017 fire destroyed it.

Facts:

- The house and garage were built in 1915.
- The parcel width and area exceed the minimum 'A' Single Family Code requirements for width and area. 2612 Wellington is 115 feet wide and has 29,321 square feet. Code requires a parcel to be a minimum of 50 feet wide and 7,500 square feet.
- The proposed garage is the same size and height and will be in the same location as the original garage.
- The garage is 600 square feet (24' by 25'). On this parcel a garage could be 1200 square feet, the maximum permitted. Code section 1121.12(e) permits a garage to be 500 square feet with one additional square foot for each 15 square feet of lot area over 6,000 up to a maximum of 1,200 square feet.

If approved, conditions should include:

1. Approval of the Architectural Board of Review;
2. Receipt of a Building Permit; and
3. Complete construction within 18 months of the effective date of this variance.

Please note that the applicant has received approval at the April 13, 2018 meeting of the Architectural Board of review.

Ms. Knittel stated that the applicant is present and prepared to give a brief review of their project and their statement of practical difficulty.

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

Mark Gallagher, 2612 Wellington Road came forward.

Mr. Zych stated that the applicant submitted an application dated March 14, 2018 and confirmed that to the best of his knowledge the content was true and correct. He asked that the application become part of the record, and hearing no objection, it was so entered.

Mr. Gallagher reiterated that he proposed to rebuild the garage to match what had been there. Nothing more, nothing less. The code allows a height of 15 feet. In

order to rebuild the garage as shown in the picture, another 8 inches is necessary and that is the variance we are seeking.

As the applicant had nothing further to add, Mr. Zych opened the public hearing.

Alfred Lobo, 2655 Euclid Heights Boulevard, stated that he had heard the facts as had been laid out and he had a simple question. It appeared to him that the argument was about an 8 inch variance in height. He asked if that was correct.

Mr. Zych stated that the code permits a height of 15 feet and the applicant proposes a height of 15 feet 8 inches.

Mr. Lobo asked if there was anything in the code that says a 15 foot height is critical and if not, why is 8 inches so critical.

Mr. Zych explained that the zoning code embodies certain judgements that are made as to what is generally appropriate about a variety of configurations and uses of properties. The purpose of this body is to handle applications and to respond where someone is seeking to vary and, as in this case, propose a height slightly in excess of 15 feet. We analyze it under our procedures and under the standards and render a decision based upon the evidence. We don't look to what is critical or not critical. We make judgements based upon the facts presented to us as to what the appropriate determination and application of what our zoning code is.

Mr. Lobo stated that he was still at a total loss because he did not understand the basis upon which these judgements are made. I for one am in no position to make any judgements at all except that I do know that unless there is something critical about 15 feet, in my book, 8 inches is less than 1 percent of 15 feet and in most rational worlds, unless there is a critical reason for that variance, it is usually overlooked. I question again upon what basis is this judgement to be made, either that or I can't make any judgement at all.

Mr. Zych further explained that there are 7 factors laid out in code section 1115.07(e)(1). Those are the factors that guide our decisions. We look at them for every single case and we are mindful of them and that is the basis for the decision.

Mr. Lobo stated that it was a lot for him to digest in a short time but he still didn't see anything written in red showing its criticality.

Mr. Zych stated that the substantiality of the variance is a factor that we take into account. Thank you sir.

There being no one else who wished to testify in this matter, the public hearing was closed. Mr. Zych asked the applicant to come back to the podium.

Rob Woodbridge, 1265 Inglewood Drive, contractor building the garage, stated that we are rebuilding with the same pitch of the roof and the same dimensions of the garage that were existing. That is the reason for the variance unless there is going

to be a change to the style. Eight inches from the mid-point of the roof will not be visually noticeable at all.

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

Mr. Hoen moved to grant the variance for Kristen and Mark Gallagher, 2612 Wellington Rd., to Code Section 1121.12(g), to rebuild a garage with a height of 15'8" where a 15' maximum height is normally permitted, after reviewing the application and the other submissions, hearing the evidence under oath, I find that special conditions and circumstances exist. First and foremost this is essentially a restoration of an original structure. This is one of those unique circumstances where, had this fire not happened, no variance would be necessary to maintain the original garage from 1915 that had a 15'8" height. Therefore the special circumstance is that they are replacing what was originally there. The variance is insubstantial being 8 inches over the 15 foot allowable height. The essential character of the neighborhood will be maintained and will certainly not be altered given that they are building an almost identical structure where the prior garage existed. If approved conditions include:

1. Approval of the Architectural Board of Review;
2. Receipt of a Building Permit; and
3. Complete construction within 18 months of the effective date of this variance.

Mr. Gilliam seconded the motion which carried 4-0. The variance was granted.

CALENDAR NO. 3452:

John and Anya Rudd, 2178 Harcourt Dr., 'AA' Single-family District, requests variances to Code Section 1121.12(i)(1) to permit a 6' tall ornamental aluminum fence in the front yard (4' max. permitted) and Code section 1121.12(h)(3) to permit a 200 sq. ft. Koi pond with no fence enclosure (6' fence req'd.).

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

Mr. Zych asked that the staff report dated April 9, 2018 be entered into the record. Hearing no objection, it was so entered.

Mr. Zych commented that the Board may be particularly interested in understanding the interplay of a pond with the pool fencing requirements.

Ms. Knittel noted that the 6 foot front yard fence variance for the swimming pool was no longer needed. The applicants have found a code-conforming solution which will be explained further into the staff report.

Context

This triangular shaped parcel is located where Harcourt meets Cedar Glen Parkway.

North – across Cedar Glen Parkway is zoned MF3 Multiple-family

South- single family houses, zoned AA Single-family

East- across Harcourt are single family houses, zoned AA Single-family

West- to the rear of the property is zoned MF3 and across Cedar Glen Parkway is zoned MF3 Multiple-family

Project

Referring to the site plan Ms. Knittel indicated how the applicants propose to erect 6' tall panels between the posts of the pergola with a self-latching gate which will enclose the pool. This is in the side yard for which a height variance is not necessary. Also, the applicant would like to install a 200 square foot Koi pond without a fence enclosure. The project also includes rebuilding the pergola which is code-conforming and does not require a variance.

History

- The applicants purchased the property in October 2016 and have been renovating the house and grounds.
- In March 2017 a variance was granted to permit a 6' tall fence in a portion of the front yard closest to 2035 Chestnut Hill and to permit a 5' tall fence in the front yard.
At that time the maximum height permitted in a front yard was 3 feet. (Cal. No. 3415a)
- In March 2017, a variance was granted to permit a parking pad in the front yard. (Cal. No. 3415(b))
- In May 2017, a variance was granted to permit a 8'6" tall fence in a portion of the rear yard. Maximum height permitted is 7'. (Cal. No. 3424)

Fact

- The house was built in 1915
- The property is an unusual shape being almost a triangle.
- The property is larger than what code requires as it is 545 feet wide and has 72,912 square feet. Code requires a minimum width of 100 feet and a minimum lot area of 15,000 square feet.
- The unusual shape of this property along the curved Harcourt Drive results in a significant portion of the property as being defined as front yard by the zoning code.
- The rear of the property is the steep hillside that extend down to Cedar Glen Parkway.
- Code section 1121.12(h) require swimming pools to be subject to the following regulations:
-The term "swimming pool", as used in this section, means any water pool having more than 100 square feet of water surface, which is capable of containing in excess of two feet of water at its deepest point, located out-of-doors on private property. All other pools are 'ornamental pools' and need not comply with the following standards.

-Every swimming pool shall be completely enclosed by a wall or fence of sturdy construction not less than six feet in height, so constructed as not to permit access to such pool except by means of a necessary gate which shall be self-closing and self-latching construction and operation

If approved, conditions should include:

1. Approval of the Architectural Board of Review;
2. Receipt of a fence permit; and
3. Complete construction within 18 months of the effective date of this variance.

There being no further question or comment from the Board, Mr. Zych asked the applicant to come to the podium. He commented that it would be helpful for him visually if staff could indicate points of access to the Koi pond/pool and where there is existing fencing.

Referring to the site plan, Ms. Knittel pointed out the 7' fence at the rear of the property, an existing 6'6" tall fence along the property line shared with the neighbor, then another 6' tall fence which leads to a 5' tall fence for which the applicants have received a variance. Then a 3' tall fence in front of the house. There is a formal garden and some steps along the side of the house to where the Koi pond is. There is a very steep slope behind the house, along Cedar Glen Parkway and there is a 7' tall fence leading up to the house. She pointed out that there is no way of accessing the Koi pond without crossing a fence.

Allen Guenthner, Exscape Designs, 11231 Hampton Bay Lane, Painsville, OH, and David Thorn, designer on the project, 15172 Hemlock Point Road, Chagrin Falls, OH, represented the applicants.

Mr. Guenthner stated that the pond area is located right at the base of the hillside. We deal with two separate slopes on the property. The first slope dividing the front and side yard and there is an approximate 18 foot drop down to the lower woodland garden level and then about a 40 foot drop from the back yard down to Cedar Glen Parkway. We are proposing to replicate a pond design feature that was originally on the property. The gardens were originally designed by Ellen Biddle Shipman and we are doing our best using photos received from the homeowners and conversations had with the son of the previous owner to bring this property back to what it originally was. We have painted the water feature on the ground with the homeowners to give them a sense of scale in the area as well and to make sure it is scale appropriate on this large of a site and not to feel dwarfed in a small pond that just collects water. As far as access goes, in front of the house there is a 3' tall ornamental that replicates the original design of the house. There are 2 gates and there is a 48" tall aluminum fence that closely matches the 3' tall fence that extends around to the side of the property. The existing neighbors' fence is 6'6" and extends approximately 400 linear feet and we have installed a 7' tall cedar fence that parallels Cedar Glen Parkway. The only way you could access the pond is if you were invited onto the property. We don't see it as an attractive nuisance. No one can see this or know it is there without being on the property itself.

Mr. Thorn stated that as the designer, his goal has been to painstakingly study the architecture of the home from every detail. If the Board has not visited the property, you should, just to see the stone detail he is working with now. He was working with some of the best craftsmen in the country to replicate an amazing landscape for the city and the homeowner for many decades to come. Everything that we've done has been carefully thought out. The scale of the pond is scale appropriate for the setting. There is going to be a secret woodland garden, very reminiscent of the Stan Huitt Japanese gardens. Having to install a 6 foot tall fence in this scenery would just destroy the whole composition of the design. Looking down on the space from the deck area in the back there is a view of the garden and it would be a very odd thing to have a 6' tall fence circling the pond.

Mr. Zych stated that the applicants have submitted an application dated March 21 2018. To the best of your knowledge is the content of that application true and accurate?

The applicant's representatives answered affirmatively.

Mr. Zych stated that hearing no objection, the application will become part of the record.

PUBLIC HEARING OPENED/PUBLIC HEARING CLOSED

Mr. Zych asked for questions from the Board.

Mr. Hoen stated that as he interpreted this zoning regulation, it has been set out how the whole property is enclosed so that it is protected from those outside the fence, he also believed the regulation is to protect those who are inside the fence, maybe to prevent small children from accidentally getting into the area when they are not supervised. He asked the applicants to speak to why this wouldn't present any danger to people inside the fence. He also asked if the applicants were aware of any other variances that were granted for ponds like this.

Ms. Knittel stated that in answer to the second question, she was not aware of any other variances for ponds like this, but as far as swimming pool fencing, it is permissible to by code to install the fencing around the perimeter of the property. It does not have to only enclose the actual water feature.

Mr. Hoen pointed out that it doesn't actually say that in the code.

Ms. Rothenberg stated that it is a standard practice.

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

Ms. Wolf moved to grant a variance to John and Anya Rudd, 2178 Harcourt Dr., to Code section 1121.12(h)(3) to permit a 200 sq. ft. Koi pond with no fence enclosure where a 6' tall fence is required, after reviewing the application and other submissions, hearing the evidence under oath, the Board finds and concludes special circumstances do exist due to the steepness of the lot and the lack of access

of the public to the yard and the pond that will prevent anyone from coming onto the property and accessing that pond. This will not affect the character of the neighborhood since the public will not even be able to view it, but I do think it will be beautiful. The variance will not adversely affect any delivery of government services and is mindful of the spirit and intent behind the zoning. I think we kind of have the whole property enclosed which is what the intention is to enclose the entire pond from the public. If granted conditions include: Complete construction within 18 months of the effective date of this variance.

Mr. Hoen seconded the motion.

Mr. Zych recalled previous pool variances and how the Board carefully considered the safety issue which is what this is all about, hence the questions about the access which drives the Board's decision. So the record indicates we very carefully looked through that point.

There being no further comment from the Board, the motion carried 4-0. The variance was granted.

CALENDAR NO. 3454:

Brent and Katrina Hicks, 2654 Derbyshire Rd., 'A' Single-family District, requests variance to Code Section 1121.12(i)(1) to permit 6' tall fence in corner side yd. parallel to Overlook Lane (4' max. permitted).

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

Mr. Zych asked if the staff report dated April 9, 2018 be entered into the record if there was no objection. Hearing no objection the staff report was so entered.

Ms. Knittel's staff report was as follows:

Context

North- across Derbyshire Road are single family homes, 'A' Single-family district

South- single family homes, A Single-family district

East- single family homes, A Single-family district

West-across Overlook Lane is Cedar Hill Baptist Church parking lot and play area, 'A' Single-family district

Project

The applicants would like to replace an existing 6' tall fence along Overlook Lane. There were no records of prior variances or fence permits and therefore, this variance request is being made.

Facts

- This is a code conforming parcel as it 67 feet wide and has 11,952 square feet.

- 2654 Derbyshire is located at the corner of Derbyshire Road and Overlook Lane.
- Overlook Lane is a one-way street with traffic traveling north from Cedar Road to Derbyshire Road.
- Mature plants that had been along Overlook Lane were removed by the City.
- The adjacent house to the south 12655 Cedar has a setback that meets the Overlook Lane Pavement.
- The proposed 6' fence will be located where the current 6' fence is located.
- The 6' fence is located further from the Overlook Lane right-of-way than is the 12655 Cedar Road house.
- Due to this being a corner property, the rear yard along Overlook Lane is considered to be a corner side yard.
- Code section 1121.12(i)(1) states that a fence located in the front or corner side yard shall have a maximum height of 4 feet.

If approved, conditions should include:

1. Receipt of a fence permit; and
2. Complete construction within 18 months of the effective date of this variance.

Mr. Zych commented that in this neighborhood there are two lanes: Overlook Lane and Mornington Lane. Having done my cigar stroll up and down both of those lanes I am familiar with the properties and the unusual configuration either of which have a house or fence or wall dead up against the lane. Is my recollection correct?

Ms. Knittel stated that was correct.

Mr. Zych asked the applicants to come to the microphone.

Brent Hicks, 2654 Derbyshire Rd., came forward.

Mr. Zych stated that the Board has an application dated March 29, 2018. To the best of your knowledge are all the facts true and correct?

Mr. Hicks answered affirmatively.

Mr. Zych asked that the application be entered into the record. Hearing no objection, it was so entered.

Mr. Hicks stated that the shrubbery and trees that were on our property were chopped down by the Forestry Department, otherwise he wouldn't be here. We really loved it the way it was. Now, without this barrier, there is no security or privacy especially. Sitting in the back yard we are only a couple of feet away from passing pedestrians and there is no sound buffer.

PUBLIC HEARING OPENED

Dorothy Bier, 2672 Derbyshire Road, stated her concern was regarding the visibility when walking along the sidewalk and seeing traffic on that lane. I don't know what

the fence is made of but it looks like a stockade-type which has zero visibility. There is a playground on the church property just west of this lane and kids come along there all the time. If the fence is coming up to the sidewalk, you can't see a car or a child until they actually meet. Even the shrubbery that was recently install is not too large now but it will certainly grow larger and block visibility also. I feel it is unsafe for pedestrians.

Ms. Knittel stated for the Board's clarification that the fence in the front yard is 4' tall which is code conforming but at the sidewalk where the stop sign is, there is something called the sight triangle, so before a fence permit is issued, we would look at that sight triangle to make sure that there is visibility from the sidewalk on Derbyshire Lane as well as from vehicles turning from Overlook Lane onto Derbyshire; that they can see the sidewalk and the traffic. That is taken into consideration when a permit is pulled.

Mr. Wong added that it needs to be 10' from the right-of-way which is usually about where the sidewalk is. This would address Ms. Bier's concern about the ability to see objects or people.

Mr. Zych stated that by adding the condition that the applicant acquire a fence permit, that would be a requirement the Board can count on before the permit is issued.

Mr. Wong stated that was correct.

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

Mr. Zych asked for questions from the Board.

Ms. Wolf asked if Overlook Lane was a two-way lane.

Mr. Hicks stated that it was one-way.

Mr. Zych asked the applicant to elaborate on what is across Overlook Lane and why there is a need for privacy and that use.

Mr. Hicks explained that there is a parking lot for the Baptist Church and a basketball court and children's playground. There will be plenty of kids playing there, sometimes with a ghetto-blaster as well. He couldn't hear the noise before but can hear it now.

Ms. Wolf asked for clarification of whether there is currently an existing fence.

Mr. Hicks stated that there is. This proposal is to extend the fence. We are replacing the existing 6' tall fence and extending a 4' tall fence in the corner side yard.

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

Mr. Gilliam moved to grant Brent and Katrina Hicks, 2654 Derbyshire Rd., a variance to Code Section 1121.12(i)(1) to permit a 6' tall fence in the corner side yard parallel to Overlook Lane where a 4' maximum would normally be permitted. Corner-side yards, especially on a lane this narrow are unique conditions and for the most part we are replacing fencing with other fencing. The character of the neighborhood would not be substantially changed and the variance maintains the spirit and intent of the zoning code and does not confer any special privileges on the applicants. If the variance is approved conditions include:

1. Receipt of a fence permit; and
2. Complete construction within 18 months of the effective date of this variance.

Ms. Wolf seconded the motion.

Mr. Zych asked if the motioneer and seconder would add to the motion a finding that as is typical for properties along the lanes in this neighborhood, the properties are unusually close to what is largely a pedestrian but also a vehicular right-of-way and bringing those right up to the house requiring additional and unusual needs for privacy and protection. Also noting that across Overlook Lane is a heavily, publicly used property from which those concerns are even more acute.

The motioneer and seconder agreed to the amendment.

There being no further discussion, the motion carried 4-0. The variance is granted.

CALENDAR NO. 3448:

Xian Mao, 2640 Euclid Heights Blvd., 'MF3' Multi-family District, requests variances to Boarding House Code section 1153.03(18): to permit lot size to be 6,700 sq. ft. (20,000 sq. ft. min. req'd.); to permit a lot width of 50' (100' min. req'd.); to permit a 3' west side yard and 8' east side yard (15' min. req'd.); and to Code section 1161.03(a)(6) to permit 3 parking spaces (8 spaces min. req'd.).

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

Mr. Zych asked that the staff report dated April 11, 2018 could be entered into the record if there was no objection. Hearing no objection the staff report was so entered.

Ms. Knittel's staff report was as follows:

Context

North: Across Euclid Heights Boulevard are apartment building in a MF3 Multi-family district;

South: to the rear of the parcel are single family houses in an A Single-family district;

East: along Euclid Heights Boulevard are two single family houses and then apartment buildings in a MF3 Multi-family district
West: is a two-family house and a single family homes in a MF3 Multi-family district
and then the balance of the block is zoned A Single-Family with single family houses having Edgehill Road addresses.

Project

The owner would like to continue to operate a boarding house at 2640 Euclid Heights Boulevard.

History

- The owner purchased the home in February of 2012.
- The owner has been operating the house as a boarding house since at least 2015.
- The owner never applied for the required conditional use permit to operate a boarding house, so it has been operating in violation of the Zoning Code since at least 2015.
- The Cleveland Heights Fire Department responded to and extinguished a house fire at this property on November 15, 2015. Battery operated smoke detectors alerted the eight occupants who all got out of the house prior to the fire department arriving. Fire Inspector James Streb was a firefighter and was with one of the fire crews who responded to this fire. He provided a statement that due to smoke on the 2nd floor, visibility was only about 3' to 4' above the floor. A bedroom door was found to be locked and after forcibly opening it discovered that a second door knob was installed approximately a foot higher than the original door knob. He states that crews at the fire did not know that each individual room and space had private locks installed for the occupants.
- On January 10, 2018, Cleveland Heights Housing Inspections attempted to inspect 2640 Euclid Heights Blvd as part of the systemic rental inspections. Multiple rooms could not be inspected as the doors were locked these included the dining room on the first floor, the entire second floor, and third floor bedrooms. Snow cover kept some exterior areas from being inspected, these will be inspected at later date. The following eleven violations were ordered to be corrected by May 15, 2018. (The inspection report is attached.)

Basement main room:

1. properly contain exposed conductors behind bathroom at joist across from rear wall
2. discontinue use of adaptor(s) and install fixture with pull chain across from front wall
3. secure loose laundry receptacle
4. scrape and paint flaking window trim

First floor bathroom

1. scrape and paint flaking window trim

Foyer Area

1. discontinue use of adaptor(s) and provide proper receptacle for refrigerator(s) or remove refrigerator(s)

Front

1. mortar seal downspout(s) to drain tile(s) MISSING ADAPTER, RIGHT OF ENTRANCE

Drive

1. mortar seal downspout(s) to drain tile(s) MISSING ADAPTER, RIGHT OF ENTRANCE

Rear

1. rewire receptacle to eliminate hot/neutral reverse – GFCI
2. tuckpoint foundation where mortar is loose or missing.

Opposite Drive

1. properly connect downspout

- On February 23, 2018, Cleveland Heights Housing Inspections conducted an inspection of 2640 Euclid Heights Blvd. in response to a complaint. The owner was instructed to restore the dining room to the original intended use as this room cannot be used as a bedroom as the building code requires a bedroom to have a closet. Housing Inspections reports that there are 6 proper bedrooms.

Facts

- The Master Plan Future Land Use Map shows this area of Euclid Heights Boulevard as Being attached or multiple-family having a range of high-density options including townhouses and apartment buildings.
- 2640 Euclid Heights Blvd. is a nonconforming parcel as it is 50 wide and has 6,700 square feet. A code conforming MF3 parcel is a minimum frontage of 60 feet and a minimum lot width at the building line of 100 feet. The minimum development area is 20,000 square feet.
- 2640 Euclid Heights Blvd. was constructed as a single family house. Single family houses are nonconforming uses in the MF3 district.
- Boarding houses are conditionally permitted uses in the MF-1, MF-2 and MF-3 multiple-family districts (Code Section 1123.04) and must comply with supplemental standards for the conditionally permitted uses Code Section 1153.05(k)(2).
- Code Section 1153.03(18) provides area, width and yard regulations for boarding houses.
 - the minimum lot area is 20,000 square feet
 - the minimum lot width is 100 feet
 - the minimum front yard is 30 feet
 - the minimum side yard is 15 feet
 - the minimum rear yard is 15 feet
- Parking requires a minimum setback of 15 feet from the rear property line
- Along this section of Euclid Heights Boulevard (EHB) there are three other Single family houses, 2624 EHB, 2652 EHB and 2648 EHB which are owner

- occupied. Also there is one two-family house, 2628 EHB.
- The adjacent single family houses and the two family house that are also zoned MF3 are located on parcels comparable in size to the applicants.
- Code Section 1153.05(k)(2) provides supplemental standards for the conditionally permitted boarding house in a MF-2, MF-3 or commercial district establishing that the minimum land area per bed shall be 750 square feet.
 - 2640 Euclid Heights Boulevard is 6,700 square and therefore the maximum number of beds permitted per code is 8.
- Code section 1161.03(a)(6) requires that 1 parking space per bed.
- Currently there is a preexisting two car garage and a paved parking area and an area with drive strips that is used for parking in the rear yard. The applicant shows these 3 parking spaces on the site plan, three parking spaces in the rear yard. However the applicant did not include the garage as an area available for parking; and is requesting a variance to provide 3 surface parking spaces.
- The house was designed and built as a single family house. A boarding house use requires a change in use review by the Building Department. This use change requires extensive renovation to fulfill the building code requirements for a boarding house, including the installation of a sprinkler system. This requires an architects input.

If approved, conditions should include:

- 1 Receipt of a Conditional Use Permit from the Planning Commission;
2. Review and approval of change in building use from the Building Department;
3. Receipt of applicable Building Permit; and
4. Complete construction within 6 months of the effective date of this variance.

Mr. Zych asked the applicants to come to the microphone.

Xian Mao, 2373 Kenilworth Rd. came to the podium.

Mr. Zych stated that the applicant has submitted an application dated March 8, 2018. He asked if to the best of his knowledge, the content is true and accurate.

Mr. Mao stated that it was.

Mr. Zych stated that hearing no objection, this application is entered into the record. He explained for the applicant that there were quite a few variances and the standard must be applied to each one. If there was anything he wished to add to justify the variances, each one should be addressed.

Mr. Mao stated that the house is 6,700 square feet in area. The code requires 20,000 square feet which is why we need to apply for a variance. The code also requires a lot width of 100 feet but this lot is only 50 feet wide. The code requires 15 feet side yards but the west side yard is only 3 feet and the east side yard is only 8 feet. The code requires 8 parking spaces because there are 8 bedrooms in the house. Including the 2 parking spaces in the garage and the 3 unenclosed parking spaces, we have a total of 5 spaces.

Mr. Zych explained that the Board already knows what variances are needed. What needs an explanation of is what is unique, different, or special about this property, so that the rules that generally apply to boarding houses should not apply to this parcel. What is different about this that would allow us to grant these variances.

Mr. Mao stated that when he bought this property he only considered the fact that directly across the street are apartments, so he thought this was an opportunity for student housing. Many international students need to find housing. So far we have only rented to students.

PUBLIC HEARING OPENED

Susan and Richard Brink, 2642 Euclid Heights Blvd., came to the podium. Ms. Brink stated that as property owners two doors east from this property and being 20 year residents of this street, we have several concerns. We were residents when the residence was occupied by a single family. One of her concerns is that this property is too close to the neighboring properties. The second issue is that it is too small for such an intense use. The third issue is not having enough parking for such a use. Being long term residents we are committed to the vision of Cleveland Heights and this neighborhood. Over the last several years we have seen deterioration and some reinvestment in the neighborhood. We are concerned not only about our neighborhood but the property values in the neighborhood and the continuation of change in the lack of owner-occupied properties on our street. I think there are 5 homes between the intersection of Overlook and Euclid Heights and on the south side of Euclid Heights we are concerned about the deterioration of our neighborhood, lack of owner-occupied properties. We continue to invest money, time, effort, and energy into our property and we want to keep that from declining and keep up the vision for our neighborhood.

Mr. Brink stated that with regard to parking, he wanted to remind the Board that Euclid Heights Boulevard is a rush hour traffic lane with multiple apartment buildings across the street and is parking-challenged as it is. It is extremely challenging for those who don't have garage space. We are fortunate but we get to watch the dance every morning as people rush to move their cars.

Lisa Dottore, 2637 Edgehill Road, stated that she echoed what the previous speakers have said. We bought our house 30 years ago, out of foreclosure, and spent years rebuilding our house, bringing it up to code and maintaining the integrity of an old brick house in Cleveland Heights. Regarding the properties across the street on Euclid Heights Boulevard, she felt the condominiums are professionals who have moved in and are invested in Cleveland Heights because that is their home. I'm not sure how it works in a boarding house. Do they have a lease? Do they rent for 1 or 2 weeks at a time? It seems like a lot of coming and going. I'm often home alone and I have 2 daughters who live with me. I'm tired of building higher fences, getting bigger dogs, installing more security systems only to have more people move into our neighborhood that aren't invested in the neighborhood like we are. I have lived in Cleveland Heights since I was 2 years old and love the neighborhood but I don't think this is in keeping with the character or

the integrity of the Cleveland Heights that I have invested so much money in. Could someone explain how a boarding house works. Is it week by week? Month by month?

Mr. Zych explained that the Board will have the opportunity to ask questions of the applicant once the public hearing is closed.

Scott Weitzman, 2648 Euclid Heights Boulevard, stated that he has lived next door to this property for two years now. He had never once had an issue with any of the tenants. It is always very quiet. His concern was the switching from single-family to the boarding house code and what that will do to the resale value of my house. Most people don't want to live next to a boarding house. Is there a way that they can keep the current zoning? Can they reduce the number of tenants? Can they not use the dining-room as a bedroom as was mentioned? Can they change the number of doorknobs for each door allowing them to continue to rent to students but not change the zoning to a boarding house.

Mr. Zych explained that when the Board grants a variance it goes to the property, not to the owner. Once we grant a variance any subsequent owner has the benefit of that variance. This means questions we may ask of a given applicant or any responses we may get from a given applicant may not necessarily continue to exist and is why we put conditions on the variances.

Mr. Weitzman asked if there was some opportunity to discuss some type of ability, if it is a 6 bedroom house that the request for 8 bedrooms is knocked down to 6, keeping the same general zoning.

Mr. Zych explained that again by matter of procedure, there is an application. We don't write people's application for them but there are times we can add additional conditions. It is not our practice to negotiate during the hearing. The applicant has made a decision as to what to ask for and our job is to judge whether or not they have met the standard to grant this extraordinary remedy.

Mr. Weitzman stated that he would then say that he had a concern about the boarding house code and what that will do for other property values and neighboring views on multiple people moving in and out but, again for the record, I have not had any problems during the 2 years I have lived there.

There being no further members of the public who wished to testify, the public hearing was closed.

Mr. Zych asked the applicants to return to the microphone.

Ms. Rothenberg asked if it would be helpful to have the definition of a boarding house read into the record.

Mr. Zych stated that it would.

Ms. Knittel explained that the code uses the term "boarding house or lodging house". She read: *a building occupied for or arranged, intended or designed to be occupied for rooming, or rooming and boarding for compensation by not less than four persons by prearrangement for definite periods of not less than one week in contrast to a hotel which is open for occupancy for shorter periods. The term "lodging house" includes "boarding house" and "rooming house".*

Ms. Rothenberg pointed out the key is that there are 4 or more persons and the rental period has to be a week or more.

Mr. Zych briefly reopened the public hearing to allow someone from the public to speak.

Lisa Dettore, 2637 Edgehill Road, stated that she understood that the owner would maintain the property but asked if the Housing Department would oversee it? From what she could see, the property has not been taken care of in a very long time and putting more people in it will not make it any better. She was also very concerned about the amount of taxes that she pays and her property values.

Mr. Zych stated for clarification that it is not the Board's position to grant permission to operate a boarding house. Once something meets the classification of a boarding house in an MF-1, MF-2 or MF-3 district, then there are zoning requirements meant to regulate a boarding house that may not apply to other uses. This is assuming that we would grant any of the variances that would say when operated as a boarding house these are the things that they could or couldn't do. There are a set of regulations above and beyond the power of this Board, such as Housing and Fire departments and others. Those considerations are germane and relevant to our determination because as you've looked at the factors we've talked about, those are all necessarily relevant to the decision we make.

Ms. Knittel added that one of the considerations is that a boarding house is a conditionally permitted use. If someone wanted to operate a boarding house they would have to apply to the Planning Commission and there are standards for a conditional use they would have to meet. Those standards deal with the impact on the neighborhood and how they would operate. That would be standard practice for anyone who would want to operate a boarding house in any of our multi-family districts.

Mr. Zych stated that according to the staff report this came to light because of a very unsafe condition which was a fire on the property. He asked the applicant why was there no application made to the city for a conditional use to operate as a boarding house and seek the variances from this Board. We have been brought to this after the fact.

Mr. Mao explained that being new to this country, he had been unaware of city regulations. When there was a fire in 2015, several inspectors came through the house for different reasons. They all were aware that there were 8 students in residence but no one told him this was not permitted. Eventually, one of the inspectors told him he needed to apply to the city. Then he applied to the Building

Department and the Planning Department, one-by-one. He also wanted to say that before he purchased this house, it had been vacant for 10 years. It was in very bad condition and close to being torn down. He spent a lot of money to bring it up to code. Regarding the need for parking, in all the time he had been renting to students he had never used more than 3 spaces. Sometimes 2 spaces are used. Most of the students that live in this house are international. The third issue is the effect the boarding house has on the neighborhood but he had no idea about that. There will be no changes to the exterior of the house so no one would know looking at it from the outside. It can easily be turned back into a single family home inside.

Mr. Gilliam stated that he was concerned about the violations cited by the Fire and Building Department while the students are still living there. He wondered if having that many students is putting too much pressure on that house since it was originally designed as a single-family home. Of all the violations that are cited by the Building and Fire Departments, how many have been completed or scheduled for completion.

Mr. Mao stated that regarding there being too much pressure on the house, he did not think there was a problem. He and his wife clean the house from top to bottom once a week so the inside looks pretty good. Regarding the violations listed, he had corrected all the violations but when the inspector came out he only checked off some of the violations. The others were not his department and would be checked at another time.

Ms. Wolf asked the applicant if he had purchased this initially as a home or as an investment.

Mr. Mao stated that it was purchased as an investment.

Ms. Wolf asked the applicant if at any time he had applied for an occupancy permit from the city.

Mr. Mao repeated that he had not known it was necessary. Now he knows the occupancy permit is \$200.00 per year and he has paid it.

Mr. Hoen asked staff what number of non-related individuals were permitted to live in this type of home.

Ms. Rothenberg explained that the city looks at how the occupants are functioning. We do not look at their biological relation. In our definition of a family, it matters how they are living together. Where there are 3 unrelated we just assume they are functioning as a family but when it extends to 4 unrelated, we make sure they are functioning as a family. We look at things such as whether they having meals together or are there locks on the doors, in which case they are not a family.

Mr. Hoen noted that one of the conditions is to obtain a conditional use permit from the Planning Commission. He asked why the applicant had not gone before the Planning Commission before seeking these variances.

Ms. Knittel explained we felt it was important to look at whether they would receive the variances since there were so many of them. If the lot area and parking was something we felt should be varied, then it would go to the Planning Commission for review of the operation. The Planning Commission does not look at the property, it looks at the operator. The conditional use permit goes to the person operating the boarding house at this location whereas the variances go to the property.

Mr. Wong added that conditions can be changed or modified to suit the operation but, for example, the lot can never be changed to be larger.

Mr. Hoen stated that if the Planning Commission did not want this to be a boarding house, the variances would be a moot issue.

Mr. Wong stated that it could go either way.

Ms. Rothenberg added that this procedure is our standard practice to have this Board consider it first because the variance runs with the property.

Mr. Zych stated that the variance requested is for 3 parking spaces but there is a garage on the property. What is currently inside the garage?

Mr. Mao stated that it is a new garage and is useable but no one uses it because we don't need those additional spaces. Out of all the students, only 2 have cars.

Mr. Zych confirmed with Ms. Knittel that if the variance to permit 3 spaces is granted and there are 2 spaces available in the garage, the applicant would only need to provide 1 more space. He then asked, in response to an earlier question from the public, what are the leasing arrangements with the students?

Mr. Mao explained that most of the students sign a contract with him for 1 year, but some sign up for 2 years.

Ms. Wolf asked the applicant if he were to maintain the house as a single family home and rent to only 3 unrelated tenants, would that allow him a reasonable return on the home.

Mr. Mao stated that the income would be much less and probably not enough to cover the taxes, heating, and water. In which case, we would sell the house.

There being no further questions from the Board, Mr. Zych stated that since each of the Board members had made a motion, in the sense of equity he would make the next one.

Mr. Zych moved to deny Xian Mao, 2640 Euclid Heights Blvd., the variances to Boarding House Code section 1153.03(18) to permit a lot size to be 6,700 sq. ft. where a 20,000 sq. ft. minimum is required; to permit a lot width of 50' where a 100' minimum is required; to permit a 3' west side yard and 8' east side yard where a 15' minimum is required; and to Code section 1161.03(a)(6) to permit 3

parking spaces where 8 spaces minimum are required. I note that as was previously stated that it is the burden of the applicant to prove by a preponderance of evidence that there are circumstances unique to this property that would make the otherwise applicable zoning code of our city not applicable in this instance. I invited the applicant to provide this and I appreciated the frankness of the testimony as to why there is something different about this property. Why there is something unique, its shape, its size, its orientation. Something that would make it a special circumstance. And remember that it's not personal inconvenience, that one would be better off financially or otherwise with a set of variances that are otherwise not available to other property owners but there is something unique about the property that would justify the variance. And so the motion will find the applicant did not provide evidence of special conditions or circumstances peculiar to the land or to the structure that or not generally applicable to other lands or structures in the same zoning district. Contrary evidence is that there is nothing about this that would make something that is less than one third of the required lot size, less than half of the required lot frontage, and the other variances, including something we heard nothing about, the 8-foot and 3-foot setbacks. There being no evidence whatsoever on the record that would indicate why that variance should be granted. All of these things being required by the zoning code with regard to boarding houses. There is no evidence that the property could not yield a reasonable return. The economic value we hear from the record and have heard testimony that there are other houses on that street that are occupied and can be sold as a single-family or two-family occupancy and they have been maintained that way for quite a long time. My residence is just off that picture at 2669 Edgehill Road and understanding the nature of the homes and the neighborhood, appreciating that the mix of students, long-time residents, old folks like me and others, that mix and diversity is key to this neighborhood, but it works so long as the rules are maintained. I think the applicant concedes that these are very substantial variances and we've heard testimony that there is potential if not likely impact on the surrounding properties and the neighborhood. There is an effect on government services. The only thing we've heard is there was a fire and that the conditions of this boarding house made the first responders job more difficult. So we've seen impact upon the delivery of government services and safety. We are here because the applicant decided to use this as a boarding house. The Planning Commission could tell us whether that is appropriate but that is the applicant's decision and it comes to us after the fact. There a way to resolve this need. There are similar analogous properties all over in which non-boarding house or otherwise conforming uses yield and have yielded a sufficient economic return and the spirit and intent behind the zoning requirement are such that the variances go so far beyond that and again the key is we have not heard evidence as to what is unique about this property that would justify this large set of variances. As I said, I really do this reluctantly but with an understanding of what my obligations are. I'm not an elected official. I don't get to change the zoning code myself, we have elected officials who can do that. With that in mind, although it may have been too long of a motion, I move that we deny the variances requested in Calendar Number 3448.

Mr. Gilliam seconded the motion which carried 4-0. The variance was denied.

CALENDAR NO. 3450:

True North Energy LLC, 2310 Lee Rd., 'C2X' Multiple-Use District, requests expansion of nonconforming use to occupy a greater land by expanding their building per Nonconforming Uses Code Section 1173.01 by adding 745 sq. ft. rear addition.

Mr. Zych reminded the audience that as he stated at the beginning of the meeting, this is a slightly different matter than the variances we've been talking about. Perhaps if council could explain for us, the sequence to the decisions we have to make and what the appropriate standards and procedures are.

Ms. Rothenberg explained that before we get into the facts of this case, this gas station is a non-conforming use, so the first thing the Board will analyze is whether they want to grant permission to expand this non-conforming use. Unlike what we have been doing all evening when considering a standard variance and you get to balance the factors and think about some of them not others, in this case the Board will first determine whether to expand the non-conforming use by looking at all 7 of the factors listed in the code regarding unnecessary hardship. If the Board determines that there is a finding of unnecessary hardship, it is appropriate to look at the standard variances that are requested.

Mr. Zych stated that the Board has received a staff report dated April 9, 2018, which if there is no objection he asked to be entered into the record. Hearing no objection, it was so entered.

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

Ms. Knittel's staff report was as follows:

NONCONFORMING USE EXPANSION TO OCCUPY A GREATER AREA OF LAND REQUEST

Context

- 2310 Lee Road is located at the corner of Lee Road and Essex Road.
- North, across Essex Road, is the Marathon Gasoline station, zoned C2X Multiple-Use
- South, on Lee Road is the CH CH-UH Public Library parking lot, zoned S-2 Mixed Use
- East, across Lee Road, are local businesses zoned C2X Multiple-Use
- West are single family houses, zoned A Single-Family

Project

True North Energy LLC, 2310 Lee Rd. would like to expand the size of their building.

Relevant Code Sections

- Code section 1173.07(a), Continuation of Nonforming Uses, *Alterations* states:

"No existing building devoted to a use not permitted by this Code in the district in which it is located shall be extended, reconstructed or structurally altered to occupy a greater area of land than was occupied, nor by the addition of accessory uses which would not be permitted elsewhere in the same district, except upon approval by the Board of Zoning Appeals."

- Code section 1109.06(e), holds that Powers and Duties of the Board includes *"To allow or permit the expansion or extension of a nonconforming use where the enforcement of the regulations pertaining to nonconforming uses will result in unnecessary hardship."*
- Code section 1115.07(e)(2) sets forth seven (7) criteria each of which the applicant must demonstrate by clear and convincing evidence to establish an unnecessary hardship.
- BZA's findings and conclusions of law concerning a proposed expansion of a nonconforming use pursuant to Code section 1173.07 are not subject to Council review.

Facts

- True North Energy Shell Gasoline Station is an existing nonconforming use in a C2X Multiple Use District.
- A gasoline station has been located on this site since 1938.
- True North Energy LLC took ownership of the gasoline station in November 1999 (Cuyahoga County Recorder property data records).
- In January 2001, Planning Commission issued a conditional use to permit North Energy LLC to permit a gasoline station with retail (bays had previously been converted to retail but conditional use permit not issued.) conditions included (Project No. 00-56):
 - 6:00 AM to midnight hours of operation;
 - signs posted citing city's noise ordinance and requesting that a customer's car radio be turned off; and
 - All reasonable measures to minimize the problem of noise from their patron's car stereos that are in violation of the city's noise ordinance.
- The Master Plan Future Land Use Map shows this area of Lee Road as being Mixed-Use: Commercial and Retail with commercial and retail in walkable buildings with upper-floor residential or offices.
- Zoning Amendments adopted by City Council on March 20, 2017 changed the permitted uses in a C2 and C2X district to prohibit gasoline stations as a purpose of these districts is to *"promote and encourage pedestrian activities"*. (CODE section 1131.01 Purpose (b) and (c)) Code Section 1131.01(c) describing the C2 X district states that *"Parking and driveways are generally located so as not to disrupt the pedestrian activity"*.
- Prior to the 2017 Zoning Amendment, gasoline stations were conditionally permitted in a C-2X Multiple-Use District.
- Code section 1153.05 (t) regulates Supplemental Standards for Conditional Uses, Gasoline Stations:
 - (1) *Such use should be located so as to be the least disruptive to pedestrian traffic;*
 - (2) *A gasoline station in the C-2 District shall comply with the standards and regulations set forth in Section 1131.09;*

(3) A gasoline station may be combined with a car wash or service station provided that the minimum lot area shall be no less than 30,000 square feet and that such dual use is in compliance with the regulations established for each use.

- Code section 1131.09 Supplemental Regulations for Gasoline Stations:
 - (a) Gasoline stations located on a corner lot shall have not less than 100 feet frontage on each of the two (2) intersecting streets.
 - (b) Fuel pumps may be erected in a front yard but not less than twenty-five (25) feet from the public right of way.
 - (c) Pavement to provide access to a gasoline pump shall be located no less than fifteen (15) feet from the public right-of-way. The resulting open space shall be landscaped and maintained in satisfactory condition and, except for entrance and exit drives and permitted signs, shall not be used for any other purpose.
 - (d) A canopy may be constructed over the pump island provided the canopy shall be no closer than fifteen (15) feet to the right of way.
 - (e) The only services permitted to be performed on a vehicle shall be the dispensing of fuel, oil, air and windshield wiper fluid.
 - (f) The location, display or storage of rental trailers, automobiles, trucks or other rental equipment on the premises is not permitted.
 - (g) No merchandise, except fuel and oil, may be stored or displayed outside the building.
 - (h) Except while being serviced at a pump island, no vehicles shall be parked between the pump setback line and the front property line; nor on a corner lot shall any vehicles be parked between the pump setback line and the property line on either of the intersecting streets. A vehicle parked in violation hereof during the time such station is open for business shall be presumed to have been so parked with the knowledge and consent of the operator of that station.
 - (i) No junk, inoperative or unlicensed motor vehicles will be permitted to remain on gasoline station property for more than forty-eight (48) hours.
 - (j) All refuse shall be kept or stored within the building, or be screened from view as required by Section 1166.10.
 - (k) All outdoor wiring, including electrical and telephone wiring, shall be installed underground.
 - (l) At least one (1) standard tree and at least two (2) standard shrubs pursuant to Section 1166.04 shall be planted and maintained on the lot for each gasoline pump on the station property.
 - (m) A landscaped area at least fifteen (15) feet wide shall be provided on private property adjacent to the public sidewalk areas, except where interrupted by driveways.
 - (n) Locations where such use abuts a residential district or use shall also provide a buffer zone along the entire length of the common boundary between the commercial use and the residential use which shall be maintained not less than ten (10) feet in depth. This buffer zone shall be landscaped with grass, standard shrubs and standard trees, pursuant to Section 1166.07.

If the Board of Zoning Appeals finds that all seven (7) criteria are demonstrated by clear and convincing evidence to prove an unnecessary hardship and thus approves the expansion of a nonconforming use pursuant to Section 1173.01(a) to occupy a

greater area of land, the variance request then will be considered by the Board of Zoning Appeals.

Mr. Zych asked the applicant's representative to come to the podium.

Rick Turner, Diamond Z Engineering, 5670 State Road, Cleveland, OH; Tanya Ross, RCI Architects, 236 East Haselcroft, Newcastle, PA and Frank Ross, RCI Architects, 236 East Haselcroft, Newcastle, PA, came to the microphone.

Mr. Turner stated that this site has existed as a gas station for the past 80 years. He did not know when the current building was constructed but it was built as an auto repair facility with gasoline out front. It was remodeled and changed to a convenience store about 20 years ago. In doing so, True North was striving to keep up with the times and give their customers what they wanted. What we have found is there a need to expand this building in order to expand the services. Customers are expecting a lot more from convenience stores like this and the government is expecting a lot more. In this case we are expanding the restrooms to include ADA compliant facilities. This remodel will allow us to come up to code on Building Code changes that have taken place over the last 20 years. Regarding an economically viable alternative for this site, I guess I've got to limit that to the customer I'm serving and the ownership of the site. The owners are in the gas station/convenience store business and they like this facility, they are making money but they can see in the future that they will not be able to compete and provide the services that people in the area want. The facility is beginning to look old and tired, not a good representative of the community. With those things in mind, we looked at how we would make this economically viable as well as a good neighbor in the community. The result is that we have to make this building bigger. The building is old and built for another time. It needs to be modernized.

Mr. Zych confirmed with Mr. Turner that an application dated March 9, 2018 had been submitted and to the best of his knowledge all the information therein is true and accurate. Without objection, this application is entered into the record.

Mr. Turner continued, stating that the granting of the expansion of use to occupy a greater area of land will not adversely affect the rights of adjacent property owners. There is no change to the front of the facility although the fascia on the canopy will be updated. The footprint will not change. The change proposed is happening on the west side of the property. Referring to the slide showing the rear of the building he point out the storage shed and the chain-link fence which did have evergreen landscaping along it but the neighbor asked that it be removed so he could redo his driveway. The outside of the building will be bricked all the way around and a wrought-iron metal fence will replace the chain-link, although the next door neighbor expressed a preference for a privacy fence in the rear yard and a picket fence in the front yard. He submitted a rendering of that preference for the Board's review. He pointed out how the proposed remodeling is a vast improvement over existing conditions. Other neighbors across the street or on the other side will benefit from the same improvements. In addition to new fencing, new landscaping will be installed. The expansion of use to occupy a greater area of land will not adversely affect the public health, safety or general welfare because all

of the expansion is in the rear and does not affect any pedestrian traffic. The area is closed off currently so no one can walk through there. Regarding traffic flow, utilities are underground except for the electric which is overhead and isn't affected by this. Will expansion of use be consistent with the general spirit and intent of the Zoning Code. We like to think the well-being of neighbors and the community is considered while designing this proposed project. The primary goal of good zoning is to do so. What we are proposing is an increase in lot coverage, from 6% to 14.8% but there is no change in the area where the vehicles are moving. Regarding whether this is the minimum that will afford relief to the applicant, I'll allow Mr. Ross to continue.

Mr. Ross stated that the existing building is much more narrow than any building we could construct today and the existing lot is narrower. This is because of the change in the way the facility has been used over the past 80 years. This location has a lot of restaurants in the area and a lot of walk-up traffic. A customer in this area would expect a newer interior, a fresher environment, wider aisles for accessibility, and wider restrooms that are ADA compliant. Based on that we concluded that we needed a minimum of 10 more feet just to fit these items in and create a better environment. We hoped to also use that as an opportunity to make the outside better, using red clay brick which is more consistent with what we have noticed in the neighborhood. Currently there is a silver-glazed brick which is very dated. The goal is to make that whole corner a better experience both inside and out.

Mr. Turner added True North is not doing this project out of the kindness of their heart and to benefit the community. It has to work for them. We looked at the size and what needed to be done to make it profitable for the future and determined if we just have this much space, we can make this work.

Mr. Zych asked if anyone was present from True North Energy LLC itself.

Mr. Turner stated there were just the representatives at this time.

Mr. Zych pointed out that it would have been helpful.

PUBLIC HEARING OPENED

Leatrice Tohs, 3175 Corydon Rd., stated that her rear yard abuts the rear corner of this property. She wanted to speak to a concern that may not be directly attributed to the expansion. There was a lot of work done to the front of the property and there is some confusion between the Fire Department, the Water Department and the city as to who is responsible for the placement of things. I have lived at this address for 21 years and currently since the sidewalk has been expanded and the apron is bigger, turning right onto Lee Road runs into a fire hydrant that cannot be seen from the newer vehicles. Her car has suffered \$1400.00 in damages because of it. She was sorry that no one from True North was present because she had been unable to get a response from Cleveland Heights Fire Department, the City of Cleveland Heights or the City of Cleveland. No one is calling her back. One of the departments told her that the Water

Department might be responsible for locating the hydrant 3 inches from a busy business apron. Also, she wanted to point out the number of rats that live near the dumpster and have infested her property, the property immediately next to hers and the home whose driveway abuts this property. There is a huge expanse of tunnels that go under and into the dumpster so she hoped the operators intend to enclose their dumpster. In August the back yards of the 3 homes previously mentioned would literally be moving. Her neighbor killed over 70 of them in 3 days. We would also appreciate a safer environment. She goes there almost daily and she would not like to see this place close and would love to see it updated. There was a kid that got shot there and he ran behind her garage. Kids seem to congregate behind the dumpster as evidenced by the number of little fire-pits all around. Hopefully, this project will remedy this situation. She would like the Board to tell her exactly who is responsible for fire hydrant placement.

Mr. Zych advised Ms. Tohs that staff will investigate this situation and contact her.

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

Mr. Zych asked the applicant's representatives to come back to the microphone and make any response to the public testimony.

Mr. Turner stated that there were maintenance issues raised that will have to be addressed regardless. We actually handle new buildings and construction but we will relay the messages to the owners.

Mr. Zych asked for questions from the Board.

Ms. Wolf asked if it would be possible to create the larger bathrooms in the existing building.

Mr. Ross explained that it originally wasn't as desirable as it is now. There is only 1 unisex bathroom in the existing building and that situation is never truly desirable. There are some strange angles inside the building, the cooler would have to be moved, and the aisles would have to be reconfigured. It would be very difficult.

Mr. Hoen asked if the restrooms would be for employees only or open to the public.

Mr. Ross stated that they would be public bathrooms.

Mr. Zych stated that the procedure will be in two steps. The first is the expansion of nonconforming use and finding there is an undue hardship, that the property cannot be put to an economically viable use but for this variance. He noted that there are some types of businesses that are easily converted from one type of retail to another. That does not fit gas stations. We have had this discussion before that the amount of remediation that would be necessary to turn a property on which hydrocarbons are stored underground to another use, it is my understanding that it is a significant burden in converting to another use. However we do have testimony as to the economic viability of the property now, secondhand, even

though the owner is not here themselves, there has been testimony as to the financial performance at least, at present. So with that in mind, is there someone ready with a motion either way on the first part of Calendar Number 3450, the expansion of the non-conforming use.

Mr. Hoen moved to grant True North Energy LLC, 2310 Lee Rd., the application for expansion of a nonconforming use to occupy a greater land by expanding their building per Nonconforming Uses Code Section 1173.01 by adding 745 sq. ft. rear addition, after reviewing the application and other submissions, hearing the evidence under oath, I find that there is an unnecessary hardship and the property cannot be put to an economically viable use based upon the testimony presented here today. The current status of gas stations and the convenience stores that go along with them dictate that in order to come to the modern economy of this business, you would be required to expand in order to make it a better experience for the customers and the neighborhood. In addition the request for expansion requested stems from a condition which is unique to the property. We heard testimony about widening the aisles and creating ADA accessible bathrooms. That is certainly something this Board favors, upgrading existing structures to be conforming with those special code requirements and the property as it is situated currently it is not possible to allow those features, so you would not be able to bring it up to code. The hardship condition is not created by actions of the applicant obviously the way the gas station itself is situated you wouldn't be able to expand forward because the pumps are there, therefore the only option would be to expand in the rear as the space is there. As we heard testimony some of this construction may be able to resolve some of the residual problems that have been created by the existing structure so that as well would be a benefit to the property and the neighborhood. It will not adversely affect the rights of adjacent property owners. One adjacent property owner has indicated that the expansion is looked upon favorably and could potentially resolve, working together with the neighborhood, other issues that have been brought to light. The granting of the expansion will not adversely affect the public health and safety or general welfare, with the exception of a mis-positioned fire hydrant, perhaps which is not True North's responsibility. The expansion would be consistent with the general spirit and intent of the zoning regulations. The use of the property has been such that it's been a gas station for 80 years so the continuation of that use is certainly within the spirit of the zoning code and in order to continue in the modern marketplace, this is the minimum necessary to do so. The expansion sought is the minimum to afford relief and this is the only way to continue to be competitive in this marketplace. I did not see any conditions.

Ms. Rothenberg explained that there cannot be conditions for this part.

Mr. Hoen stated that based upon those findings, I move that the request be granted.

Mr. Gilliam seconded the motion. There being no further discussion, the motion carried 3-1. Mr. Zych opposed the motion.

True North Energy LLC, 2310 Lee Rd., 'C2X' Multiple-Use District requests a variance to Code section 1131.06 (d)(1) to permit a 7' rear yard and 15' side yard setbacks (20' min. req'd.).

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

Ms. Knittel's staff report was as follows:

Context

- 2310 Lee Road is located at the corner of Lee Road and Essex Road
- North, across Essex Road, is the Marathon Gasoline station, zoned C2X Multiple-Use
- East, across Lee Road, are local businesses zoned C2X Multiple-Use
- The CH-UH Public Library parking lot is the adjacent property to the south on Lee Road is zoned S-2 Mixed Use
- The properties to the west are zoned A Single-Family and are single family houses.

Project

The applicant would like to construct a 10' by 7.5' addition (745 sq. ft.) addition to the rear of the current building. This addition would be set back 15'6.5" from the south side yard property line and 7' from the west rear property line.

Facts

- The site is a code conforming commercial property as it is approximately 19,518.55 square feet and is 160' wide at the building line. Code requires a minimum of 10,000 square feet and 70' width at the building line.
- The existing building is 28' by 74' (2072 sq. ft.).
- The existing building is set back 68'4¼" from the Essex Road public right of way (north).
- The existing building is set back 17.9' to 21.6' from the rear property line (west).
- The existing building is set back 17.3' to 16.1' from the side property line (south).
- Currently there is a 7' wide landscape bed with minimal plant material and a chain link fence along the rear property line shared with the single family homes to the south.
- Currently there is an 8' by 12' shed located behind the building and 10' from the rear (west) property line.
- For newly constructed gasoline stations, Code Section 1131.09 (n) requires gasoline station that abut a residential district or use to provide a buffer zone along the entire length of the common boundary between the commercial use and the residential use which shall be maintained not less than ten (10) feet in depth. This buffer zone shall be landscaped with grass, standard shrubs and standard trees, pursuant to Section 1166.07.
- Code section 1131.06 Minimum Yard Requirements for Principal Uses

requires a 20' setback from both the side and rear yard when the yard abuts an A Single-Family District.

- The proposed addition would result in a rear yard setback of 7' to the property line shared with 3174 Essex Road, a single family house zoned A Single-Family, resulting in the variance request.
- The proposed addition would result in a side yard setback of 15'6¼" from the rear yard of 3181 Corydon Road, a single family house zoned A Single-Family, resulting in the variance request.
- The trash enclosure is located between the current building and the south property line, adjacent to the rear yard of 3181 Corydon Road.
- Current Code Section 1131.09 (n) requires gasoline station that abut a residential district or use to provide a buffer zone along the entire length of the common boundary between the commercial use and the residential use which shall be maintained not less than ten (10) feet in depth. This buffer zone shall be landscaped with grass, standard shrubs and standard trees, pursuant to Section 1166.07.

If approved, conditions should include:

1. Receipt of Conditional Use Permit from the Planning Commission and approval of reduction in parking if required;
2. Approval of the Architectural Board of Review;
3. Receipt of a Building Permit;
4. Approval of a landscape plan by the Planning Director prior to building department permits being issued; and
5. Complete construction within 18 months of the effective date of this variance.

Mr. Zych asked the applicant's representatives if they had anything to add to this part of the request.

Rick Turner, Diamond Z Engineering, 5670 State Road, Cleveland, OH, stated that the statement of practical difficulty is just a repetition of many of the things that were in the statement of hardship.

Mr. Ross added that the setback to the south is just a continuation of the existing wall due to the skew in the property line. The wall does not move.

PUBLIC HEARING OPENED

Leatris Tohs, 3175 Corydon Road, stated that if the applicants could use this as an opportunity to develop a design that would ensure that the area is not rat central that would be fantastic for all of us that live in the circle around the property. We all have a series of tunnels that extend from the dumpster under the garages which she hoped would be taken into consideration.

There being no further comment from the public, the public hearing was closed.

Mr. Zych asked for questions from the Board.

Ms. Wolf asked if there was a current plan for the dumpster. Will it remain in the same area, will it be enclosed?

Referring to the slide, Mr. Turner explained that the dumpster is currently enclosed with a wooden fence. He also recalled seeing a lot of big boxes with a lot of little holes in them. Obviously the fence isn't stopping the rats, so let us take a look and see what we can do to help remediate that problem. If nothing else replacing the existing pavement with a solid slab of concrete will remove some of that habitat.

There being no further questions from the Board, Mr. Hoen moved to grant True North Energy LLC, 2310 Lee Rd., a variance to Code section 1131.06 (d)(1) to permit a 7' rear yard and 15' side yard setbacks where 20' minimum setbacks are required. Reviewing the application and other submissions, hearing the evidence under oath, I find that there are special circumstances that exist at this property. One being that the proposed addition follows the line of the existing building which is currently non-conforming. It starts off with a 16 foot setback and we are talking about an inconsequential one foot differentiation from the current setback. Regarding the rear property line, the building expansion would require it to go back as I alluded to in my previous motion, in order to bring all of the structures up to code and conforming with the current marketplace, the building would have to go backwards because of the nature of the gas station lot and forward construction would not be possible. Therefore the 7 foot setback would be an acceptable hardship and I move to grant the variance with the following conditions:

1. Receipt of Conditional Use Permit from the Planning Commission and approval of reduction in parking if required, although that has not been discussed tonight;
2. Approval of the Architectural Board of Review;
3. Receipt of a Building Permit;
4. Approval of a landscape plan by the Planning Director prior to building department permits being issued; and
5. Complete construction within 18 months of the effective date of this variance.

Mr. Gilliam seconded the motion.

There being no further discussion, the motion carried 4-0. The variance was granted.

Ms. Rothenberg stated that before the applicants leave she wanted to reiterate there will be 2 additional steps for the applicant which is to go before the Planning Commission and the Architectural Board of Review. Some of the concerns that were raised, particularly about the rats, would be best heard before the Planning Commission. She encouraged the representatives to get back to the owner and try to get ahead of the situation and encouraged the public to come to the Planning Commission meeting.

CALENDAR NO. 3449:

TRDBY LLC, 2550 Noble Rd., 'C2' Local Retail District, proposes converting a 2nd floor office to 2 apartments and requests a variance to Code section 1161.03(a)(4) to permit 2 surface parking spaces (1 surface & 1 enclosed req'd.).

Mr. Zych stated that the following are two separate requests by the same applicant. They will be reviewed separately because they were submitted separately.

All those who wished to testify for this and the next calendar number were sworn in by Ms. Rothenberg.

Mr. Zych asked that the staff report dated April 9, 2018 be entered into the record if there is no objection. Hearing no objection the staff report was so entered.

Ms. Knittel's staff report was as follows:

Context

This property is located at the southeast corner of the Noble Road and Roanoke Road intersection.

North- across Noble Road are commercial properties zoned C2 Local Retail, northwest across the Noble Roanoke intersection are apartments zoned MF2 Multiple-family

South- single family houses, zoned A Single-family

East- along Noble Road are commercial properties zoned C2 Local Retail

West- across Roanoke Road are commercial properties zoned C2 Local Retail

Project

The applicant would like to convert the second floor office space into two apartments. There is surface parking behind the building and the applicant requests having 2 surface parking spaces for the apartments and no garage spaces.

Facts

- Multiple-family dwelling units above first floor commercial use is permitted in the C2 local district (Code Section 1131.02(a)(2))
- This is an existing structure with an underutilized 2nd floor space.
- The Master Plan Future Land Use Map shows this area of Noble Road as having Mixed Use building with commercial and retail in walkable building with upper-floor residential or offices.
- Code Section 1131.04 lot area and width regulation for both commercial buildings and multiple-family dwelling units above the first floor require the following standards:
 - minimum development area 10,000 square feet;
This parcel has 8,500 square feet
 - minimum land area per dwelling unit is 1,740 square feet
- 2560 Noble Road has 2nd floor apartments with no garage parking available.
- Many apartment buildings in the vicinity do not provide garaged parking spaces, including nearby 2534 and 2537 Noble Road.
- It is common in Cleveland Heights for mixed-use buildings with commercial

- and residential to have no garage parking spaces.
- The current office area is approximately 1500 square feet and requires 5 parking spaces (1 per 300 square foot); the two apartments requires 1 surface space and 1 garage space. The proposed use requires fewer parking spaces, though requires a one-car garage.
 - Shared parking is encouraged and regulated in Code Section 1161.04 allowances for shared parking.

If approved, conditions should include:

1. Receipt of a Building Permit; and
2. Complete construction within 18 months of the effective date of this variance.

Mr. Zych asked the applicant to come to the podium.

Shalom Shy, 2567 Noble Rd. came forward.

Mr. Zych stated that the Board had received an application dated March 8, 2018. He asked the applicant if, to the best of his knowledge, the information was true and correct.

Mr. Shy stated that it was.

Hearing no objection Mr. Zych asked that the application be entered into the record. There being no objection, it was so entered.

Mr. Shy stated that he is actually improving the parking situation because the requirement is for 2 spaces and he is providing 6 spaces. The only issue is there is no garage, but a lot of surrounding buildings do not have garages. The office space above the store no one wants to rent. Economically it makes more sense to convert the upstairs to an apartment.

PUBLIC HEARING OPENED/PUBLIC HEARING CLOSED

Mr. Zych asked for questions from the Board.

Ms. Wolf asked if the spaces were currently rented.

Mr. Shy explained that it was rented to a church that only has service on Sundays.

Mr. Hoen asked if the parking spaces were only for the building.

Ms. Knittel stated that the parking spaces were available to the public, although they are on his property. He recently purchased the building so it is up to him as to how the parking will be used. The city encourages shared parking. The issue is that he is not providing a covered space as the code requires.

There being no further discussion, Mr. Zych asked for a motion.

Mr. Hoen moved to grant a variance to TRDBY LLC, 2550 Noble Rd., for a proposal to convert a 2nd floor office to 2 apartments, to Code section 1161.03(a)(4) to permit 2 surface parking spaces where 1 surface space and 1 enclosed space is required. After reviewing the application and other submissions, hearing the evidence under oath, I find that there are special circumstance on this property, namely that it is currently an office above retail which is undesirable in this neighborhood and testimony has been presented that it is difficult to get a tenant in such an arrangement and other similarly situated buildings in the neighborhood have apartments in a dual-use scenario where apartments are above the retail and that is a more desirable arrangement. In addition in order to convert the building into that condition, the code requires a covered parking space, however it is common in this area and other areas in the city to have living spaces that don't have access to covered parking garages. There are sufficient parking spaces on this particular property and therefore it would not cause an inconvenience to either the surrounding neighbors, businesses, or the tenants themselves and it would not be an undue burden on the city. In addition, if the landlord is unable to convert these, the evidence has shown that he would not be able to get a reasonable return on his investment. The variance is also insubstantial as there is more than sufficient parking on this site but for the fact that the code requires a covered spot and it is not practical to create a covered parking space as it is currently situated. The essential character of the neighborhood would not be altered in any adverse fashion. This arrangement where you have living quarters on top of retail is a desirable arrangement in today's environment especially in Cleveland Heights and we see that popping up all over. On that basis I move that we grant the variance and if granted the conditions are:

1. Receipt of a Building Permit; and
2. Complete construction within 18 months of the effective date of this variance.

Ms. Wolf seconded the motion.

There being no further discussion, the motion carried 4-0. The variance was granted.

CALENDAR NO. 3453:

TRDBY LLC, 2565 Noble Rd., 'C2' Local Retail District, requests a variance to Code Section 1131.04(c) to permit parcel to be 8,025 sq. ft (10,000 sq. ft. min. req'd.).

Mr. Zych asked that the staff report dated April 12, 2018 be entered into the record if there is no objection. Hearing no objection the staff report was so entered. He added that any pertinent information from Calendar 3449 will also be entered into the record for this calendar number.

Ms. Knittel's staff report was as follows:

Context

North- to the rear of the property is an A Single family district with single

family houses

South – across Noble Road are commercial properties zoned C2 Local Retail

East- along Noble Road are commercial properties zoned C2 Local Retail

West – commercial properties zoned C2 Local Retail

Project

The applicant is seeking to create a more uniformly shaped parcel to encourage Development by splitting off a portion of 2565 Noble Road (Permanent Parcel Number 682-15-022) and adding the area to 2555 Noble Road (Permanent Parcel Number 682-15-021).

History

Originally the two parcels were equally sized rectangles. Sometime between 1920 and 1940, the rear portion of 1003 Roanoke was split from the residential lot and added to 2565 Noble Road resulting in the L-shaped parcel.

Facts

- 2565 Noble Road (PPN 682-15-022) is an L-shaped parcel with 10,405 square feet.
- 2555 Noble Road (PPN 682-15-021) currently has 5,100 square feet.
- Both 2565 and 2555 Noble Road have commercial buildings located on the parcels.
- The applicant is the owner of both properties.
- The applicant is renovating 2555 Noble Road to be a day-care facility and requires the property behind the parcel to be joined to provide a play area.
- Currently the area behind 2555 Noble is not utilized.
- The result of the lot subdivision is that 2565 Noble becomes a parcel that is more uniform in shape, however the parcel would be reduced to 7,769 square feet.
- 2555 Noble Road will become a parcel that is more code conforming in terms of area.
- Code Section 1131.04, lot and area regulation, requires a commercial property to be a minimum of 10,000 square feet.
- Four commercial parcels in this block are less than 10,000 square feet and, with the exception of the CVS parcel, the other four commercial parcels across the street are less than 10,000 square feet.
- At their April 11, 2018 meeting, the Planning Commission approved this lot resubdivision with the condition that the applicant receive the variance to the minimum lot size.

If approved, conditions should include:

Required plat maps shall be filed with the Cuyahoga County Recorder after being signed by the Planning Director and Law Director.

Shalom Shy, 2567 Noble Rd, stated that Ms. Knittel had covered everything and he would be happy to answer any questions.

PUBLIC HEARING OPENED/PUBLIC HEARING CLOSED

Larry Washington, 1003 Roanoke RD., stated that his property abuts the rear of the Subject property and his concern was the possibility of the area being turned into a parking lot. The area has always been grassed. He had seen the applicant working diligently with his crew and they have done a nice job in cleaning up the site. We also heard several rumors about what would go into the development. He was happy to hear it will be used as a daycare. If the area behind the building will remain a greenspace, he had no issue with the proposal.

There being no further comment from the public, Mr. Zych closed the public hearing and asked the applicant to come back to the microphone.

Mr. Hoen asked for clarification that the issue is only concerning the rear yard of this building. He thought there was something in the code that would prohibit a property owner from using the rear yard.

Mr. Shy stated that he can use the building for daycare as it is and use the rear yard. He is doing the resubdivision in case he would like to sell the property in the future.

There being no further question from the Board, Mr. Zych asked for a motion.

Ms. Wolf moved to grant TRDBY LLC, 2565 Noble Rd., a variance to Code Section 1131.04(c) to permit parcel to be 8,025 sq. ft where 10,000 sq. ft. minimum required. After reviewing the application and other submissions, hearing the evidence under oath, the Board finds and concludes that there are special conditions and circumstances do exist which are peculiar to the land/structure involved which are not generally applicable to other land/structures in the same zoning district. In particular a significant portion of the commercial lots in that area are not code-conforming to the 10,000 sq. ft. Also no structure will be added. The use of the property will be as greenspace or extra lot space for that existing property. The property will not yield a reasonable return without the variance. I'm assuming that you will not be able to rent it to a daycare without that extra property for outside exercise for the children. The variance is insubstantial and is the minimum necessary to make possible the reasonable use of the land/structure as demonstrated by the fact that the current portion of the parcel to be joined is not being used for any purpose other than greenspace. This will not affect the essential character of the neighborhood. Essentially the parcels will be re-divided back to where they basically were originally. There will not be any adverse effect on delivery of government services as no structure is being added to the property. If granted the variance should have the following condition: That the required plat maps shall be filed with the Cuyahoga County Recorder after being signed by the Planning Director and Law Director.

Mr. Gilliam seconded the motion.

There being no further discussion, the motion carried 4-0. The variance was granted.

OLD BUSINESS

None

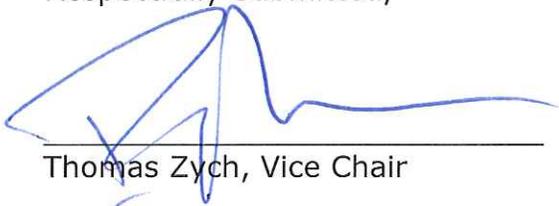
NEW BUSINESS

Mr. Knittel reported that only 1 application has been received for May which might possibly be resolved so we may not have a meeting in May. We'll let everyone know as soon as we know whether or not we have this resolved.

ADJOURNMENT

There being no further business to come before the Board, the regular meeting was adjourned at 9:58 p.m.

Respectfully Submitted,



Thomas Zych, Vice Chair



Vesta A. Gates, Secretary