

CITY OF CLEVELAND HEIGHTS
BOARD OF ZONING APPEALS
MINUTES OF THE MEETING
OCTOBER 17, 2018

MEMBERS PRESENT:	Denver Brooker George A. Gilliam Benjamin Hoen Thomas Zych Dennis Porcelli	Vice Chair Chair
MEMBERS ABSENT	Liza Wolf	
STAFF PRESENT:	Vesta A. Gates Karen Knittel Elizabeth Rothenberg Richard Wong	Zoning Administrative Assistant City Planner Assistant Law Director Planning 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. Wolf whose absence was excused.

APPROVAL OF THE MINUTES OF THE SEPTEMBER 26, 2018 PUBLIC HEARING

Mr. Hoen moved to approve the September minutes as written and distributed. Mr. Gilliam seconded the motion. There being no further discussion, the motion carried 4-0-1. Mr. Zych abstained since he had been absent from that meeting.

THE POWERS OF THE BOARD AND PROCEDURES OF THE BOARD OF ZONING APPEALS PUBLIC HEARINGS FOR REGULAR VARIANCES

Mr. Zych stated that the purpose and procedures for tonight's meeting are stated for all in attendance. The 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 will then 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 not to 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(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 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 regular variances.

Mr. Zych also noted that the applicant for Calendar No. 3427 GMC Cleveland LLC has requested that the Board postpone consideration of their request until the December meeting. He asked for a motion to continue this request.

Mr. Gilliam moved to continue consideration of Calendar Number 3427 until the December meeting as requested.

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

PUBLIC HEARING

OCTOBER 17, 2018

CALENDAR NO. 3469

Saints Constantine & Helen Cathedral, 3352 Mayfield Rd., 'MF1' Multiple-family district, requests a variance to Section 1123.11 to permit a 21'9" tall bell tower in the corner side yard along Compton Rd. (15' max. ht. permitted).

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

Mr. Zych stated that the Board has received a staff report dated October 11, 2018 and without objection asked that it become a part of the record. Hearing no objection it is so entered.

Ms. Knittel's staff report is as follows:

Context

The property is located at the corner of Mayfield and Compton Road and is zoned MF1 Multiple-Family.

North - across Mayfield Road is the apartment building owned by HELP, Inc., 3345 Mayfield Rd. This section of Mayfield Road is zoned MF1 Multiple-Family.

East - across Compton Road is along Mayfield Road is a single-family house, 3368 Mayfield Rd., zoned MF1 Multiple-Family. The next parcel along Compton Rd., 1499 Compton Rd. is a single-family house and begins an A Single-Family District that continues south on Compton Rd.

West - adjacent to the applicant's parcel along Mayfield Rd. is Park Synagogue, 3300 Mayfield Rd., zoned MF1 Multiple-Family

South - adjacent to the applicant's parcel along Compton Rd is a single-family house, 1512 Compton Road, zoned A Single-Family.

Project

The applicant is seeking a variance to install a 21'9" tall bell tower as part of their renovated ADA ramp. The applicant intends to remove the steps that extend from the church front down to Mayfield Rd. At a later date, the applicant may update signage.

Facts

- Code Section 1123.04(b) states that places of worship are conditionally permitted uses in MF1 Multiple-family Districts.
- While places of worship are conditionally permitted in the multiple-family

districts, the zoning code is written for multiple family buildings and does not consider places of worship.

- Code Section 1153.03(2) Supplemental Standards for Conditional Uses regulation places of worship does not provide additional regulations regarding structures
- Per section 1123.06, a code conforming MF-1 parcel is required to have minimum width at the building line of 100 feet and a minimum of 20,000 square feet in development area. This parcel has 382 lineal feet frontage along Mayfield Road and is approximately 89,000 square feet in area.
- Section 1123.11 permits the principal building in a MF1 District to be 35' tall.
- The bell tower would be 21'9" tall, measuring from grade to the top of the dome.
- The bell tower base will be 16'4" from the Compton Road public right-of-way.
- The elevation increases to the east across Compton Road.
- The proposal has been reviewed and approved by the Architectural Board of Review subject to Board of Zoning Appeals approval.

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.

That being the conclusion of staff's report, Mr. Zych asked the applicant to come to the microphone and state whether he had been sworn in.

Michael Fant, architect, AODK Architects, 17306 Madison Avenue, Lakewood, Ohio, came to the microphone and affirmed that he had been sworn in.

Mr. Zych stated that the Board had received an application dated September 12, 2018, submitted by the representing architecture firm. He asked the applicant if he could affirm that the information contained in the application is true and correct to the best of his knowledge.

Mr. Fant stated that it was.

Mr. Zych stated that without objection, it will become a part of the record. Hearing no object it is so entered. He asked the applicant if he had anything to add to the staff presentation and if he could help the Board by addressing the factors that

were indicative of a practical difficulty.

Mr. Fant stated that Ms. Knittel had done a really good job of explaining the proposal which, to his mind, was fairly simple. He stated that we designed the bell tower as a kind of monument and a place of rest as you are making your way up the handicap ramp. It was designed to mimic the entrance of the church. Currently, the wall of the church that faces Compton Road is very tall and bleak and it has this little outcropping. So anything we added we wanted to be sure it was in scale with the features and building that was already there. While remodeling it in 3-dimension we just kept playing with the size of it and this was the height we felt wasn't so small that it would be taken over by that side piece that is already on the church but not overpowering the church itself. It is subjective but somehow that 22 foot height seemed to work well to break down the scale as you approach Compton Road.

PUBLIC HEARING OPENED/PUBLIC HEARING CLOSED

Mr. Zych stated that there was federal legislation that guides a zoning board in dealing with religious institutions. He asked if a bell tower of any size was typical for this or a similar denomination as part of the standard church architecture.

Mr. Fant stated that he wouldn't say it was common but you do see them.

Richard Warren, Parish Council President, 3352 Mayfield Rd, stated that Father Stevens could not be here this evening but he had sent him information about the meaning of the bell tower. Most Greek Orthodox churches have bell towers. Our church was built in 1956 without one and the bell has been in the basement for some 50 years waiting for a home. In orthodox Christian tradition worship involves all 5 senses; sight, hearing, smell, taste, and touch. Church bells are audible components of worship that serve 2 purposes. One, they call people to worship and two, they express joy or sorrow. That is Father Stevens's interpretation of the meaning of the bell tower.

Mr. Zych recalled when he was younger, going to the top of the Tower of Pisa when it was still possible to do so, and observing that there were bell towers in many denominations, and if not a necessity, it is a very common feature.

Mr. Porcelli asked about the frequency with which the bell would be tolled.

Mr. Warren explained that the bell will call people to worship and express joy or sorrow, therefore the bell will be rung on Sundays 3 times. At 9:00 a.m., and 9:30 as a call to service. After the Prayer of Consecration at 10:00 or 10:30, it will ring again. These are not long rings. There is a similar sequence and timing on holy days. Our holy days average once a week. Some weeks we don't have any and during Christmas and Easter we might have more. For funerals we ring the bell

when the casket enters and when it leaves the church as an expression of sorrow. Funerals are almost always at noon and we average 12 funerals a year. Bells are sometimes rung at the recession at the end of a wedding. We average 8 to 10 weddings a year, usually between 1:00 and 5:00 pm. We do not have the custom of ringing the bell at specific hours. We do not ring for anything that would indicate time.

Ms. Knittel added that since this is a conditionally permitted use, if the number of bell ringing's should become a nuisance to the neighborhood, the Planning Commission could always ask the church to come in and address how to work that out. We are not anticipating anything like that but it is part of the conditional use.

Mr. Warren stated that the church would be more than willing to work it out.

Ms. Knittel explained that she was not anticipating that, but only wanted the Board to know that there were safeguards already in place should there be any concerns about frequency or loudness.

Mr. Zych added that we do have houses of worship in Cleveland Heights that do ring the hours, although not necessarily 24 hours a day.

Mr. Brooker asked staff that since the zoning code doesn't set up location criteria for something that has been conditionally approved, if this were a multi-family building, what would the setback requirement be.

Ms. Knittel stated that the code is silent about structures in a corner-side-yard. We are viewing this as a structure because it is not a building. A building would be required to have a setback of 30 feet, but this is not a building.

Referring to the aerial view, Mr. Zych stated that there was nowhere else this could be put that would be code-conforming.

Ms. Knittel agreed, stating that looking at the aerial view you can see that the rear of this property is all parking lot.

Mr. Zych asked the applicant if he agreed.

Mr. Warren did agree that, practically speaking, there was nowhere else to put the structure. He recalled there being 2 ways to install the ADA ramp. One was, tight, with a lot of rails and we didn't want that visual from the street or in the community. So we chose the meandering, longest route, so we put this as a focal point in the rear as you lead back to it. So it is not just a meandering sidewalk.

Mr. Zych stated that it was part of the accommodation for ADA accessibility into the church. He asked staff about the difference in height between the bell tower and

the height of the church.

Ms. Knittel explained that the applicant stated that the height of the church was 40 feet. Referring to the slide, she stated that from the ground to the top of dome of the tower is 21-feet 9-inches.

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

Mr. Brooker moved regarding Calendar No. 3469, Saints Constantine & Helen Cathedral, 3352 Mayfield Road, to grant the application for the variance to Section 1123.11 to permit a 21'9" bell tower in the corner side yard along Compton Road where a 15' maximum height is permitted. After reviewing the application and other submissions, hearing the evidence under oath, I find and conclude special conditions/circumstances exist that are peculiar to this land and structure and that it is a conditional use permit for the religious structure. The zoning code was set up around multi-family buildings and there are no provisions in the code related to a religious structure. I believe that the variance is insubstantial and the fact that the new accessory structure is relatively small related to the existing building and actually compliments and improves the structure. The essential character of the neighborhood is not substantially altered, it's actually improved. The variance does not affect the delivery of government services and the location proposed for the bell tower is really the best location for it. The spirit and intent behind the zoning requirement would be observed by granting the variance. If the variance is granted conditions should include:

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

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

Mr. Zych stated that the variance has been granted.

OLD BUSINESS

None.

NEW BUSINESS

None.

ADJOURNMENT

There being no further business to come before the Board, the regular meeting was adjourned at 7:21 p.m.

Respectfully Submitted,



Thomas Zych, Chair



Vesta A. Gates, Secretary