

CITY OF CLEVELAND HEIGHTS
BOARD OF ZONING APPEALS
MINUTES OF THE MEETING
JULY 17, 2019

MEMBERS PRESENT: Denver Brooker
George A. Gilliam
Benjamin Hoen Vice Chair
Liza Wolf
Thomas Zych Chair

STAFF PRESENT: Ben Lee Planning Technician
Karen Knittel Planner II
Nathaniel Hall 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.

APPROVAL OF THE MINUTES FROM THE MAY 15, 2019 PUBLIC HEARING

Mr. Zych stated that he had noted a few corrections. Mr. Hoen moved to approve the May minutes as written and distributed as amended. Mr. Brooker seconded the motion which carried 5-0-0.

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

Mr. Zych explained 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(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 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.

PUBLIC HEARING

JULY 17, 2019

Calendar No. 3484

Hebrew Academy of Cleveland, 1860 S. Taylor Rd, C-2 Local Retail and A Single-Family, requests variance to Code Sections 1131.09 (c) (1) and Code Section 1121.12(i) to permit fence in front yard along S. Taylor Rd. and Berkeley Ave. to be taller than 4' maximum permitted.

Ms. Wolf and the Mr. Hoen each stated that their children attended the Academy. Mr. Zych noted this for the record and stated that - this did not create a need for recusal. All those intending to testify were sworn in by Mr. Hall. Mr. Zych stated that they have a staff report dated July 10, 2019 and upon hearing no objections entered it into the record.

Ms. Knittel proceeded to review the staff for 1860 South Taylor Road, Hebrew Academy of Cleveland. She described how the Taylor corridor was majority commercial, and that the along Blanche and Berkeley roads the properties were zoned 'A' single family residential.

The zoning history includes a variance granted in 2003 for parking lot construction and a 2013 variance allowing that parking lot to be extended. Hebrew Academy proposes to install a 6' tall ornamental security fence around the parking lot located at the corner of Berkeley Ave. and South Taylor Road. Educational facilities are conditionally permitted in both the 'A' single-family district and the 'C-2' local retail district. The zoning code permits a fence located in the front and corner side yards to be a maximum of 4' tall (Section 1131.09(c) (1) and Section 1121.12(i) (1). At the June 4, 2019 meeting, the Architectural Review Board approved the fence design and location contingent upon any necessary zoning variances being granted. The Jewish Federation's Deputy Director of Security has written a letter detailing the need for security fencing to be taller than the 4' maximum permitted by code. Similar security fencing taller than the 4' maximum permitted has been approved for other institutions, including: 1700 S. Taylor Rd. (Cal. No. 3422, Sept. 2017) and 1970 S. Taylor Rd. (Cal. No. 3466, Aug. 2019).

Ms. Knittel stated that if approved, conditions may include;

1. The variance granted is to permit a 6' tall fence around the parking lot at the corner of Berkeley Ave. and South Taylor Rd. as shown on the site plan dated June 3, 2019.
2. Receipt of a Fence Permit;
3. Continue to maintain the landscaped areas surrounding the parking lot;
4. Complete construction within 18 months of the effective date of this variance; and
5. Requirement to return to the Board of Zoning Appeals for an additional variance should the property owner consider modifications that would increase the fence's height or length.

Ms. Knittel concluded her presentation by stating that the applicant's representative is present and prepared to review the applicant's statement of practical difficulty.

The applicant's representative, Ronald Kluchin, introduced himself and stated his business address as 23215 Commerce Park, in Beechwood, Ohio. After presenting the application for the variance dated June 3rd 2019, he stated that this fence would not be chain link, but instead decorative metal. Additionally, he stated that it would be open in the middle lane of the parking lot to allow garbage trucks access to the dumpster.

Mr. Kluchin stated the necessity was a result of high school students cutting through the parking lot to avoid having to walk to the corner of Berkeley and Taylor and stated that, while not in and of itself an issue, the fact that there is a playground nearby was a security concern. This represents a security threat to both the students and the teachers as outlined in the security director's letter.

Mr. Kluchin stated that a 4' fence would not work because any of these high school kids could jump the fence, whereas a 6' fence - would take care of the security needs.

Mr. Kluchin stated that there would be an electronic gate for cars going in and out, as well as a pedestrian fence at the southeast corner of the fence to allow people that park in the lot to go to the front entrance on South Taylor Rd.

Otherwise the property would be totally fenced off; this fence is very much needed for the security of the children and the cars that are there.

Mr. Kluchin stated that the fence would be well-screened by the existing landscaping so as to not have a negative impact on the neighborhood, but still provide much needed security for the school.

Mr. Zych asked if anyone else wished to testify on this matter. Upon seeing no one wanting to speak, he closed the public hearing. Mr. Brooker asked for clarification about whether there would be a gate at the main entrance, as there were two at the Northwest and Southeast corners.

Mr. Kluchin answered that the main gate would not have any sort of gate, but if there were to be a need for one it would match the characteristics of the preexisting gates.

Mr. Brooker asked if the purpose of the fence was to thwart people coming through the parking lot, not getting into the parking lot.

Mr. Kluchin answered affirmatively.

Ms. Wolf asked whether the gate would be left open for garbage trucks to enter and exit without having to deal with any form of passage.

Mr. Kluchin answered affirmatively; Mr. Zych asked whether there were any further questions, and whether there was a motion.

Ms. Wolf moved to grant the application of calendar number 3484 Hebrew Academy of Cleveland 1860 South Taylor rd. for the variance of Code sections 1131.09 (c) (1) and Code section 1121.12 (i) (1) to permit a fence along the front yard on South Taylor Road and Berkeley Avenue to be taller than the 4' maximum permitted. After reviewing the application and other submissions hearing the evidence under oath, the board found and concluded that special circumstances do exist which are peculiar to the land structure in the sense that there is an open parking lot where pedestrians are cutting through and creates difficulty in maintaining the security of the children. She stated that the variance was insubstantial and that the height of 6' is necessary to make sure the fence cannot be jumped by pedestrians and that it would not change the essential character of the neighborhood as there are a few other properties with similar height fences along S. Taylor Rd.

It would also have no negative impact on the delivery of government services, since there would not be a gate blocking garbage pickup, if granted the variance would have the following conditions:

1. The variance granted is to permit a 6-foot-tall fence around the parking lot at the corner of Berkley Avenue and south Taylor road as shown on the site plan dated June 3rd 2019.
2. Receipt of a fence permit, continue to maintain the landscaped areas surrounding the parking lot.
3. Complete construction within 18 months within the effective date of this variance and a requirement to return to the board of zoning appeals for another variance should the property owner consider modifications that would increase the fence's height or length.

Mr. Gilliam seconded the motion.

Mr. Zych asked if there was any further discussion. Upon hearing none he added to the record that this motion would be consistent with other decisions by this same Board pertaining to security fences in the same area. He then asked if there were any further comments, and after hearing none he called for the vote on the motion. The motion was approved by a vote of 5-0-0.

CALENDAR NO. 3485

Christopher Harvan, 3271 Beechwood Avenue, 'A' Single-Family, requests variance to Code Section 1121.12(d)(1) to permit garage/workshop bldg. to have rear yard coverage greater than max 20% permitted and to Section 1121.12(a)(8) to permit driveway to be setback from E. property line less than min. 3' required.

Mr. Zych stated that one of things he cherished most about the city was the involvement of people, not only in the community but in the neighborhoods of Cleveland Heights. All those intending to testify regarding this request were sworn in by Mr. Hall.

Mr. Zych stated that they have a staff report dated July 10, 2019 and upon hearing no objections entered it into the record.

Ms. Knittel gave the staff report for 3271 Beechwood Avenue. It is zoned 'A' single-family and surrounded by properties that are zoned 'A' single-family. The applicant's project would be to construct an accessory building that includes both a two-car garage and a workshop and office-space. It would be 32' wide and 24' deep. The total square footage would be 768 square feet. The project would also extend the driveway from its current location to the garage. This would require a variance to permit the side yard setback to be less than the 3' required by code. The parcel is 50' wide it has 7,500 square feet making it a code conforming parcel. This property currently does not have a garage and does not appear to ever have had a garage. It is a nonconforming property in the terms of our parking regulations, which require a two-car garage for every dwelling unit in the single-family district. The accessory building proposed is a code-conforming 3' from both the rear yard and the side property line. The height of the proposed accessory building is a code-conforming 15'. Code section 1121.12 (e) outlines the maximum floor area in the garage that is 500 square feet, plus one square foot of area for every 15 square feet a lot is greater than 6,000 square feet up to a maximum garage size of 1,200 square feet. The proposed garage area is 528 square feet. This code section would permit the applicant to have a 600 square foot garage based on the size of the property. This accessory building includes a 240 square foot workshop office area. The rear yard is 3,332 square feet. The accessory building covers over 23% of this rear yard. Zoning code defines a rear yard as being from the furthest point of the enclosed house to the rear property line. On this parcel, the maximum square footage that the accessory rear building could be 666 square feet A kitchen and enclosed porch area extend beyond the rest of the house towards the rear lot line. On either side of that bump-out there's 273.7 square feet of green space or open yard space. Also, the side yard that is on the opposite side is open green space which the applicant points out is 561 square feet. The front yard is open space and so there's also 1,887 square feet of green space located there. The Architecture Board of Review reviewed and approved the design of the garage at their May 21st meeting noting a few changes they'd like to see in regards to the door and windows. There is an existing 3-car garage that is 18-feet by 20-feet wide located to the rear of the applicant. It's a garage for 3268 and 3272 Euclid Heights Blvd. The current driveway ends at the rear of the applicant's house, so the driveway does not extend into their rear yard. The driveway is 10' wide

and is about 5" from the east property line. Ms. Knittel stated that the requested variance for the driveway would permit it from 5" where the current driveway is located from the side property line, then taper back to 3' code-conforming distance when it reaches the proposed garage.

Code section 1153.05.9 (h) requires home occupations located in an accessory building receive an administrative conditional use permit. Should the variance be granted, the applicant would need to follow this regulation, and had already submitted the conditional use application prior to the meeting tonight, in hopes of receiving approval. If approved conditions may include;

1. The variance granted is to permit the accessory building rear yard coverage to be 23%
2. To permit the driveway to be set back from the east side property line from 3' at the end and tapering to meet the existing pavement setback of 5" from the property line as shown on the site plan dated June 27th, 2019.
3. Require a receipt of a building permit and a receipt of administrative conditional use permit for use of the accessory structure for a home occupation, installation and maintenance of the rain garden as shown on the site plan.
4. The applicant is proposing a rain garden to mitigate any storm water issues that would be caused from the garage's construction.
5. Complete construction within 18 months of the effective date of the variance and
6. A requirement to return to the board of zoning appeals for another variance, should this property owner or a subsequent owner convert the workshop office space into a garage space.

Ms. Knittel concluded her presentation and stated that the applicant is present and prepared to review their statement of practical difficulty.

Chris Harvan stated that he was the property owner at 3271 Beechwood Avenue and verified that he had submitted the application dated June 25, 2019, verifying that everything within was accurate and current. Mr. Zych entered the application into the record, and allowed Mr. Harvan to proceed with his presentation.

Mr. Harvan gave a PowerPoint presentation reviewing his variance request. He also presented two petitions that were signed by his immediate neighbors. Supporting his request to have his driveway be located within 3 feet of the property line and supporting his accessory building covering more of the rear yard than was permitted by the zoning code. Mr. Zych accepted both documents and they were entered into the record.

Mr. Harvan stated the garage is a kit from 84 Lumber. He modified it from having vertical siding to horizontal siding so as to better match the primary structure's style. The sliding glass door would become a traditional man-door as noted by the Architectural Board of Review. He showed a photograph of his backyard that provided a view the three-car garage that spans two properties. He reviewed the site plan showing the garage office/studio and the rain garden. Mr. Haran stated he put a lot of work and investment into the prior residence he lived at on Beechwood Ave. He

stated that variances exist to accommodate unique needs in situations, and over on Shannon and Severn there are unique situations where anywhere from 22 to 58 percent of the backyards are covered. He reviewed the areas of his property that are open and stated that if these areas were considered to be his rear yard; he would only need a 1% variance for coverage. He stated that he has been a resident of Cleveland Heights for 24 years, and that his children attend Cleveland Heights schools, his local taxes are paid and on time, and that he has lived on Beechwood Ave. since 2002. So, he stated that the KeyBank Heritage loan provided an estimate stating that the house property values will be \$78 thousand dollars more than the price he paid for it based upon renovations already made to the house and with the addition of the garage. Mr. Harvan stated he is an urn maker and that his primary material is wood. He said the urns are custom-made and wholesale so there would not be any issues of selling directly out of his household. He mails out his products and communicates with customers over email.

Ms. Knittel reminded BZA that because there would be an occupation in the accessory building a conditional use permit would be required.

Mr. Zych then asked anyone who wished to testify to do so at this time.

Paul Greenberg, 3248 Euclid Heights Boulevard, stated that has lived in Cleveland Heights, for 61 years. He said he was granted a similar variance for his property in 2008 to construct a two-car garage and a workshop, which has a cathedral-ceiling attached portico and spans more than twice the square footage being requested by Mr. Harvan. In terms of precedent, he wished to express that Mr. Harvan is an exemplary citizen and neighbor of their neighborhood. They are proud and privileged to have him and his family as their neighbors. The property that Mr. Harvan had described earlier in this meeting was described as nothing short of gorgeous, and that it is an incredible asset to their block and to their community, solely because they made it that way out of their own creativity. He stated he and the other neighbors have complete confidence that the proposition being offered at this property will be treated similarly. He referred to the number of people in the meeting that night and stated how many of them came out to support the Harvan's.

Mr. Zych asked if there was anyone else who had been sworn in and wished to testify. David Sweeton stated that he and his wife had lived at 3275 Beechwood since 1976. Going on, he said it would be silly to take 2 ½ feet off his driveway to bring it out to three feet. He says that Chris Harvan is the third homeowner and that there's never been any problem with anyone using the driveway prior.

Mr. Zych asked if there was anyone else who wished to testify, and upon hearing no response, closed the public hearing portion of the meeting. Mr. Brooker asked if in addition to the maximum area that an accessory building can have in the rear yard, there exists a maximum area of coverage inclusive of driveway and accessory buildings as well.

Ms. Knittel answered in the affirmative, stating that the code would allow his rear yard coverage, including the accessory building, pavement, and any other sidewalks, patios, etc. to be 60%.

Currently the total rear coverage would be at 41% with Mr. Harvan's proposal, meaning he would be under what the code would allow for total rear yard coverage.

Mr. Zych asked for a motion.

Mr. Brooker moved to grant Calendar Number 3485, Christopher Harvan, of 3271 Beechwood for a variance to section 1121.12(d) (1) to permit garage/workshop building to have rear yard coverage greater than max 20% permitted and to Section 1121.12(a) (8) to permit driveway to be setback from the east property line less than min. 3' required. Mr. Brooker stated that the board found and concluded special circumstances or conditions exists which are peculiar to the land/structure which are not generally applicable to other lands/structures in the same zoning district, in particular: the location of the existing driveway relative to the property line required a transition along the extended driveway, and the irregular footprint at the rear of the home reduced the yard area calculation, limiting the accessory building area. He stated that the side yard area is more than the minimum required on the side yard area. He stated that the property in question would not yield a reasonable return without the variance as evidenced by the fact that: access to any garage building would require a driveway transition zone. The essential character of the neighborhood would not be substantially altered as a result of the variance because the proposed garage structure would be similar to other three-car garages in the neighborhood. Mr. Brooker also stated that the total yard coverage, including the driveway and accessory buildings, would be substantially less than what would be allowed under this code. The variance would not have adverse effects on the delivery of government services, and if granted would have the variance subject to several conditions.

1. The variance granted is to permit the accessory building rear yard coverage to be 23% and to permit the driveway to be set back from the east side yard property from 3' at the garage and tapering to meet the existing pavement set back 5" from the property line as shown on the site plan dated.
2. Receipt of required Building Permits; Receipt of an Administrative Conditional Use Permit for use of an accessory structure for a home occupation. Installation and maintenance of the rain garden as shown on the site plan dated.
3. Complete construction within 18 months of the effective date of this variance; and a requirement to return to the Board of Zoning Appeals for another variance should the property owner or subsequent owner desire to convert the workshop space to a garage space.

Mr. Gilliam seconded his motion. Mr. Zych added that while it had been glossed over a bit, the project would add a garage to a property currently without one, so this would in fact be a substantial improvement to the property, as well as making it code conforming in that regard. Mr. Zych called for the vote; the motion carried 5-0-0.

Mr. Zych again expressed the board's gratitude to those who took time out of their evening to

participate in the local government process.

OLD BUSINESS

Calendar No. 3463

Rozita Davis, 2378 North Taylor Road per Section 1115.07 (j) Terms of the Variance request for extension of time

Mr. Zych continued onto old business which regarded the Calendar Number 3463, of Rosita Davis of 2378 North Taylor road, who had requested an extension of time to complete construction per section 1115.07 (j). He recalled the approval of the variance in August of 2018, and that the applicant, Ms. Davis had asked for an extension as a result of financial hardship. The board, allowed to extend the construction time by an additional 18 months, moved to do so.

Mr. Gilliam moved to extend the construction time by an additional 18 months for Calendar Number 3463, Rosita Davis, 2378 North Taylor Road, per section 1115.07 (j).

Mr. Hoen seconded the motion. The motion was approved 5-0-0.

Mr. Zych asked whether there was any new business.

Ms. Knittel introduced the newest member of the planning department, planning technician Ben Lee.

Ms. Knittel reminded the Board that Mr. Gilliam had previously stated that he would be resigning from the BZA and that tonight would be his last meeting. She stated that Mr. Gilliam had been an active member of the BZA for many years and that before BZA, he had served as an active member of the city's Citizens Advisory Committee. She stated that he continually worked to improve Cleveland Heights.

Mr. Zych spoke on how it was sad to see Mr. Gilliam go, noting that his presence, participation, and wisdom was enjoyed. All wished him best of luck.

There being no further business to come before the Board, the meeting adjourned at 7:50 p.m.

Respectfully Submitted,



Thomas Zych, Chair



Benjamin Lee, Planning Technician

