

CITY OF CLEVELAND HEIGHTS
BOARD OF ZONING APPEALS
MINUTES OF THE MEETING
December 18, 2019

MEMBERS PRESENT: Denver Brooker
Benjamin Hoen Vice Chair
Thomas Zych Chair
Dennis Porcelli

MEMBERS ABSENT Liza Wolf

STAFF PRESENT: Ben Lee Planning Technician
Karen Knittel City Planner II
Natalie Thomas Assistant Law Director
Richard Wong Planning Director

CALL TO ORDER

Mr. Zych called the regular meeting to order at 7:00 p.m. at which time a quorum was present.

APPROVAL OF THE MINUTES OF THE OCTOBER 30, 2019 PUBLIC HEARING

Mr. Hoen moved to approve the minutes. There was a second, and the motion was approved.

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(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

December 18, 2019

CALENDAR NO. 3491

Peter & Catherine Richer, 2217 Tudor Drive, 'A' Single-Family, requests a variance to Code Section 1121.12 (k) (1) to permit parking pad in corner side yard along Nottingham Lane (not permitted).

All those wishing to testify were sworn in by Ms. Thomas.

Mr. Zych noted that this matter combined two anomalies within the City of Cleveland Heights: A corner side yard, as well as a lane.

Going forward, Mr. Zych entered the staff report from Ms. Knittel, dated December 11, 2019.

Ms. Knittel gave her presentation. She stated the single-family house is surrounded by single-family homes in an 'A' Single-Family District and that this corner property is located at the southeast corner of the Tudor Road and Nottingham Lane intersection.

Continuing, she stated the existence of an easement and maintenance agreement between the applicants and the City of Cleveland Heights regarding the side porch, fence, yard and various landscaping features on a portion of Nottingham Lane which was not paved. It is believed that the previous owners may have been encroaching upon Nottingham Lane. Additionally, this agreement assigns a permanent easement for the use and occupancy of the portion of Nottingham Lane.

Mr. Zych asked that Ms. Knittel please specify who in this case would be the grantor and the grantee.

Ms. Knittel stated that the City of Cleveland Heights would be granting the easement to the applicants.

Ms. Knittel stated the applicants are modifying portions of their house and yard and would like to include a parking pad adjacent to their garage along Nottingham Lane. The majority of this parking area is considered to be in the public right-of-way described in the Easement and Maintenance Agreement with the City of Cleveland Heights. A portion of the proposed parking pad is located in the corner side yard. The project requires a variance as parking pads are not permitted in corner side yards and requires an amendment to the Easement and Maintenance Agreement. The applicants are working with the Law Department regarding the agreement and have made an application for a variance for the portion of the parking pad located in the northern portion of their property.

Ms. Knittel also stated the parcel is code-conforming as it is 68' wide and is 165' long. A code conforming lot in an 'A' single-family district is a minimum of 50' at the building line and is a minimum of 7,500 square feet (Code section 1121.06).

She stated that Nottingham Lane is a unique right-of-way in Cleveland Heights. It is 50' wide. The pavement is only 18'1".

Displaying an aerial image, Ms. Knittel stated the garage is set back 9'5" from the Nottingham Lane pavement. The driveway access is 18' at the door and 20' at the apron. A standard parking space is 9' by 20' (Code section 1161.11(a)).

Showing two images of the garage door, she displayed the anticipated location for the parking pad.

The proposed parking pad measures 10' by 17'; with 3.8' by 17' being in the corner side yard. The total pavement from this would be 37'. At the Northwest corner, the applicant's house is located 2' from the Nottingham lane public right-of-way and the side porch encroaches 1.5' into the Nottingham lane public right-of-way. The Existing Easement and Maintenance Plan permits the house porch, fence, yard and landscaping to encroach onto the Nottingham Lane right-of-way.

Bringing the next slide up, she displayed the entire length of Nottingham lane, with the measurements of all the driveways that accessed it.

Concluding her presentation, she stated the conditions that might be included:

1. The variance granted is to allow the 3.8' by 17' portion of the parking pad in the corner side yard as shown on the site plan submitted with the BZA variance application;

2. Receipt of a Building Permit;
3. Receipt of the amendment to the easement and maintenance agreement with the City of Cleveland Heights permitting the portion of the parking pad along Nottingham Lane right-of-way;
4. Complete construction within 18 months of the effective date of this variance; and
5. A requirement to return to the Board of Zoning Appeals for another variance should the property owner consider modifications that would increase the pad's dimensions in the corner side yard.

Her presentation concluded, she noted that the applicants were present and prepared to briefly review their project and Statement of Practical Difficulty.

Mr. Richer stood and confirmed that the application dated November 12, 2019 and that the statements made within the document were true and accurate.

Mr. Zych entered the document into the record.

With this, Mr. Richer spoke about his reasoning for requesting a variance on his property.

Mr. Richer stated that the original easement that was in place was done so he could obtain a permit to replace a chain-link fence that was installed along with the site with a new fence.

After applying for this fence permit, Mr. Richer was informed that he would need to sign a licensing agreement with the city to gain approval, as the existing fence was situated on city property.

Mr. Richer speculated that the house has been encroaching on Nottingham Lane since its construction in 1920. It includes the side porch, and when referring to the driveway, he stated that it was a mischaracterization, as there is not an adequate amount of depth to define it as such. Mr. Richer proposed that it was more akin to an apron.

Mr. Richer noted that when guests are over, people are forced to parallel park on the apron to not create any issue with other users of the lane. He also noted that with two children, one who is 19 and drives and another who is soon-to-be eligible to drive. Parking the third car in the apron area is a serious hassle. Additionally, when removing the car from the garage and parking it on the apron, it creates a difficult environment for other cars to navigate. On Mondays, when other vehicles are using the lane, it creates an issue, and they have received several complaints from the service department about this matter.

Mr. Richer also noted that to park a car on Tudor drive, you are required to call the police and notify them, which he stated as a big inconvenience.

Mr. Richer stated that he will be replacing the apron and steps adjacent to the garage with new concrete as part of this proposal. He stated that it would include extending the concrete further

east along the lane, roughly 6 feet in depth from the street's pavement. That is the practical difficulty, he stated the apparentness of how little concrete he has compared to those of neighboring properties. He stated with this in mind it was a reasonable request to put a parking pad next to the existing apron.

Having finished his testimony, he stood and waited for the Board to ask any questions.

Mr. Zych asked if any part of the existing wooden fence be moved as a result of this project.

Mr. Richer answered yes.

Mr. Zych asked Mr. Richer to elaborate.

Mr. Richer stated that he would not change the fence's style in any manner.

Mr. Zych asked how far into the lane would the parking pad extend.

Mr. Richer replied that the pad would be congruent with the existing apron, adjacent and no different when there is parallel parking, as this would be the most efficient use of concrete.

With no other questions, Mr. Zych asked if there was a motion.

Mr. Brooker made the motion to approve the variance. Regarding Calendar Number 3491 Peter & Catherine Richer, at 2217 Tudor Drive. 'A' Single-Family, requesting a variance to code section 1121.12 (k) (1) "to permit a portion of a parking pad in the corner side yard along Nottingham Lane (not permitted). After reviewing the application and other submissions, and hearing submissions under oath, the Board finds and concludes:

Special conditions and circumstances exist which are peculiar to the land or structure involved and which do not apply generally to other lands or structures in the same Zoning District, in particular, the proximity of the garage and the existing building to the right of way eliminates any driveway sufficient to accommodate off-street parking outside the garage.

The variance is insubstantial and is the minimum necessary to make possible the reasonable use of the land structure is demonstrated by the fact that it does not have any off-street parking and the proposed new apron is the minimum amount of paving to accomplish that

The essential character of the neighborhood would not be substantially altered or adjoining properties would not suffer a substantial detriment as a result of the variance because the expanded apron is similar in size, and the expanded paving area is less than other properties along Nottingham Lane. The variance would not adversely affect the delivery of government services and would improve upon the delivery of services by eliminating parking in the lane.

If granted the variance should have the following conditions:

Variance granted is to allow the 3.8' by 17' foot portion of the parking pad in the corner side yard as shown on the site plan submitted with the BZA portion of the application;

1. Receipt of a building permit;
2. Receipt of the amendment to the easement and maintenance agreement with the City of Cleveland Heights, permitting the portion of the parking pad along Nottingham Lane right-of-way;
3. Complete construction within 18 months of the effective date of this variance;
4. A requirement to return to the Board of Zoning Appeals for another variance should the property owner consider modifications that would increase the pad's dimensions in the corner side yard.

Mr. Porcelli seconded the motion.

No old business was put forth.

No new business was put forth.

Mr. Zych commented on the success of the Planning Department's winning of a national award for their complete street ordinances. That recognizes urban design and takes the wishes of drivers, pedestrians, and cyclists into account.

Mr. Wong stated his appreciation.

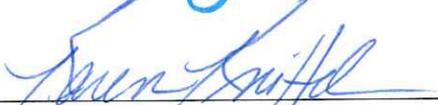
ADJOURNMENT

There being no further business to come before the Board, the regular meeting was adjourned at 7:27 PM

Respectfully Submitted,



Thomas Zych, Chair



Karen Knittel, Secretary