

CITY OF CLEVELAND HEIGHTS
BOARD OF ZONING APPEALS
MINUTES OF THE MEETING
APRIL 19, 2017

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

CALL TO ORDER

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

APPROVAL OF THE MINUTES OF THE FEBRUARY 15, 2017 PUBLIC HEARING

Mr. Zych moved to approve the February minutes as written and distributed.

Mr. Gilliam seconded the motion which carried 3-0-2; Ms. Bromley and Ms. Wolf abstained as they were not present at that meeting.

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

For the benefit of the applicants, representatives, and the public, Ms. Bromley stated that these hearings are quasi-judicial and certain formalities must be followed as if this were a court of law. Those who wish to speak regarding each case will be placed under oath. Following a presentation by City staff, each applicant may present his or her case. The Board will open a public hearing to obtain testimony from any other persons and the applicant will have a chance to respond to any such testimony. The Board will then ask questions of the applicant and render its decision. The formal nature of these proceedings is necessary because the applicant is asking for an extraordinary remedy called a variance. A variance is formal permission for the applicant not to comply with the municipal ordinances by which all other citizens are bound. The factors and criteria weighed by the Board with respect to the granting of variances are set forth in the Zoning Code and have been made available to all applicants. The burden is upon each applicant to establish the right to a variance under these criteria. The applicant must demonstrate circumstance unique to the physical character of his or her property, not personal difficulty, hardship or inconvenience. All variances granted by this Board are subject to review by City Council.

PUBLIC HEARING

APRIL 19, 2016

CALENDAR NO. 3419

Waldorf Partners Ltd. Partnership, 2300 Overlook Rd., 'MF-3' multi-family district, requests variances to Code section 1123.10(a) to permit alteration of 12 three-bedroom apartment units to create 36 studio apartments: Proposed are 12 with 410 sq. ft., 12 with 400 sq. ft. and 12 with 350 sq. ft. (min. 500 s.f. per unit req'd.); and to Code section 1161.03(a)(4) to provide no additional parking spaces. Existing are 160 apartments, 184 apartments proposed; 165 garage spaces existing, (24 more req'd.) and 73 surface paces existing, (24 more req'd.).

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

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

Waldorf Tower is located in a MF-3 Multiple-Family District. Properties surrounding Waldorf Towers are also zoned MF-3 with the exception of one property to the

southeast, Kenilworth Road which is zoned a Single-Family. Directly south of the applicant's property is the Kenilworth Mews Development. The property to the east of Waldorf is the College Club and to the west 2141 Overlook is the location of the Emily Program, providing residential care for persons with eating disorders.

CASE HISTORY

1996, cal. No. 2616: Request for variance for 64-unit apartment building addition withdrawn.

1998, Cal. No. 2706: Parking variance granted for construction of 65-unit apartment (project never moved forward).

1998, Cal. No. 2767 & 1999, Cal. No. 2810: Variances granted to permit a freestanding sign.

2003, Project No. 03-03: resubdivision granted to split land from Waldorf Towers for development of Kenilworth Mews.

2011, Cal. No. 3243: variances granted to permit 12 three-bedroom units to be converted to 24 one-bedroom units ranging in size from 540 sq. ft. to 630 sq. ft. (700 sq. ft. min.) and to provide no additional parking. (Project was not implemented)

This tall apartment building was built in 1960. In 1960, no minimum unit size existed in the Code; however the maximum percentage of one-bedroom suites or efficiency suites was limited to 50%. Until 1993, the Zoning Code limited the number of apartment units based on the size of the lot, but did not specify minimum unit sizes. In 1993 after the comprehensive Zoning Code rewrite, the minimum unit size of 700 square feet was established. 2017 Zoning Code amendments taking effect April 19, 2017 establishes a minimum unit size of 500 square feet. For informational purposes, the minimum area of a dwelling unit in the Building Code is 120 square feet.

Currently there are 160 units in Waldorf Towers: 34 studio apartments that are 378 square feet; 42 one-bedroom apartments that are 635 square feet; 68 two-bedroom apartment units of 845-895 square feet; and 16 three bedroom units of 1196 square feet.

The applicant proposes to reconfigure 12 three-bedroom units to create 36 studio apartments. Twelve units would have 410 square feet, twelve units would have 400 square feet and twelve units would have 350 square feet (min. 500 square feet per unit required). This reconfiguration would result in there being a total of 184 apartment units.

No additional parking is proposed. Currently there are a total of 238 parking spaces; 165 garage spaces and 73 surface parking spaces. Code requires 24 new garage spaces and 24 new surface parking spaces for the proposed new units.

The Waldorf has a history of renting to students who often have no vehicle and

choose this location for its short walk to Case and University Hospitals. Staff visited the parking lot at various times of the day and observed that at the site's most crowded time, 7:30 a.m. 24 of the parking spaces reserved for residents were available.

The applicant should provide information about their experience with tenants and the amount of parking that is utilized and whether this information is applicable for predicting demand for parking with the proposed new units.

If approved, conditions may include:

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

That being the end of staff's report, Ms. Bromley asked the applicant to come to the microphone.

Eric Kustack, Project Manager, LDA Architects, 5000 Euclid Ave., Cleveland, Ohio, who had been sworn in, stated he was representing Waldorf Partnership for the renovations on this project. Paul Hebert who is the Property Manager at Waldorf Towers is also here to assist in answering any questions related to the building that he can't answer. Paul is more familiar with what goes on day-to-day and who the residents are. To begin with the statement of practical difficulty, the issue is that currently there are 9 out of 16, 3-bedroom units that are vacant. They are difficult to fill, in part because they are too expensive. The majority of the current residents are students from Case Western University. Students live here because it is a short walk to the school and they typically do not drive. The big issue for Waldorf is that the 1 and 2 bedroom units fill up quicker than the 3-bedrooms. There is a lot of new construction going on in University Circle that has lots of studio apartments that are filling up fast. They are selling out and we are not. Usually the 3-bedroom apartments that fill up in this building are those who want a larger apartment but most students cannot afford a bigger apartment. Currently there are no families in this building. They are all students.

Regarding special conditions or circumstances, we are hoping to get a variance from the code that requires 2 parking spaces for each dwelling unit. Since we are splitting each 3 bedroom unit into 3 studio units which equals 24 units, the addition of 48 parking spaces is not possible. We don't have the space for additional unenclosed spaces nor do we have the infrastructure to expand the garage. Also we maintain that we are not adding any bedrooms. The 3 bedroom apartments are being split into 3 single studio apartments. Studio apartments are not permitted to have more than 1 person so there will be no more than 3 people added. Paul also mentioned that only about 80% of the garage is currently filled and about 80% of the surface parking is currently filled. There is still a lot of room for more parking and typically, not every student has a vehicle. We do not foresee the parking lot

filling up or overflowing into the street. We expect there will be more than enough parking for all the new tenants in this renovation. The code states that effective this day, units less than 500 square feet are not permitted. The market calls for studio apartments right now. Students are going to University Circle and leasing more cost effective units. They cannot afford the larger units. This is the most feasible, practical solution that we can see to more fully occupying the building. As to whether this variance is substantial, we have nine 3-bedroom vacant units out of a total of 16. There are no family tenants. It is not practical to keep holding on to these vacant 3-bedroom units. Therefore we do not consider this variance to be substantial. Is this the minimum necessary to make reasonable use of the land? The 1 and 2 bedroom units are always filling up first and we expect the new studio units to go very quickly. Will the alterations change the character of the neighborhood? No alterations are being done to the exterior of the building. Nothing is being done to reflect badly on the neighborhood. Again, we don't foresee any parking overflow as a result of this proposal. We don't believe there will be any adverse effects as a result of this variance. Did the applicant purchase the property with knowledge of this restriction? This building was purchased in the 80's, prior to the 1993 amendment to the zoning code. The units had the minimum square footage at that time. The building has not been altered since it was purchased so it is still the original floor plan. The problem is these 3-bedroom units represent a time when they were popular but now the designs need to address what the students are looking for in this current market. Is there any other feasibility or resolution we can think of to resolve this problem? We do believe the most practical solution is to split up the interior of the 3-bedroom units. It is the simplest solution we can think of. Explain how the spirit and intent behind the zoning requirement will be observed and is substantial justice done by granting the variance. We think this will really help because before the zoning code change, smaller units were permitted by the code. We want to bring that back. Case Western Reserve University is constantly growing and expanding so we really need to help accommodate the student body of this growing university. Explain whether the granting of the variance will not confer on the applicant any special privilege that is denied by this regulation to other land, structures, or buildings in the same district. This variance will grant an apartment size similar to other apartment buildings in the district such as in University Circle and Uptown. That is where the students are going and we are trying to meet that demand. That is all of the practical difficulties I can think of. I am open to any questions.

Ms. Bromley opened the public hearing to anyone who had been sworn in.

PUBLIC HEARING OPENED/PUBLIC HEARING CLOSED

As there was no one who wished to testify, Ms. Bromley closed the public hearing and asked for questions from the Board.

Mr. Zych stated that this has been a high variance neighborhood. He recalled the

Alcazar being most recently being granted a parking variance. Residing on Edgehill Road, he knew this neighborhood quite well and struggled to visualize where any more parking could be put. He couldn't imagine digging up the whole building to enlarge the garage. He asked staff if he was correct in his thinking that there really isn't any place in that neighborhood to add covered or surface parking..

Ms. Knittel agreed. She stated that as we've discussed before in terms of parking, the choices are either dealing with the current location and situation or try and buy another structure that is viable and demolish it for a surface parking lot, which is something we have never advocated for.

Mr. Zych agreed. He added that working downtown he could affirm that it would be the lowest and worst use of any property.

There being no further comments or questions from the Board, Ms. Bromley asked for a motion.

Mr. Zych moved to grant Waldorf Partners Ltd. Partnership, 2300 Overlook Rd., variances to Code section 1123.10(a) to permit alteration of 12 three-bedroom apartment units to create 36 studio apartments: Proposed are 12 with 410 sq. ft., 12 with 400 sq. ft. and 12 with 350 sq. ft. (min. 500 s.f. per unit req'd.); and to Code section 1161.03(a)(4) to provide no additional parking spaces. Existing are 160 apartments, 184 apartments proposed; 165 garage spaces existing and 24 more are required; and 73 surface paces existing and 24 more are required. These variances are granted on the grounds that a long history of operation of this property shows that the 3-bedroom apartment is no longer economically feasible which calls into question the economic feasibility of the structure as a whole, based upon the testimony we have had about the market which the Board adopts and accepts. Further finding there is no place else to put additional covered or surface parking remotely near this location that would be usable. Therefor a code-conforming solution with regard to parking spaces is not feasible and adopting staff's recommendation and testimony that observing the patterns of use of the underground and surface lots, it is not a fully used parking inventory so there would be no likely increase of parking imposition on the surrounding neighborhood. Further finding this variance is the minimum to keep the property feasible in its unique location and noting there have been similar parking variances granted in that neighborhood so it is something that is common to this area and we find no evidence that any of the varied adjacent or neighboring properties would be adversely affected by the variance. If this variance is approved, conditions include:

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

Mr. Hoen seconded the motion which carried 4-0.

Ms. Bromley reminded the applicant that all variances must be approved by City Council.

OLD BUSINESS

Ms. Knittel stated that 4 of the cases from last month were approved by City Council. The use variance will be voted on by City Council on Monday night.

NEW BUSINESS

None.


ADJOURNMENT

There being no further business to come before the Board, the regular meeting was adjourned at 7:25 p.m.

Respectfully Submitted,



Gail E. Bromley, Chair



Vesta A. Gates, Secretary