

4. *Outdoor lighting shall not directly glare onto neighboring properties;*
5. *The use will not be injurious to the use and enjoyment of other property in the immediate vicinity or create a nuisance for adjacent residential properties and The Bottlehouse shall work with staff to resolve complaints from neighbors, which, if necessary, could result in reduced outdoor dining hours;*
6. *The Bottlehouse shall maintain any liability insurance required by the City;*
7. *Decorative pylon approval contingent upon granting of Board of Zoning Appeals variance or revised Code-compliant plan approved by Planning Director and Architectural Board of Review;*
8. *Applicant shall obtain license agreement from the City for outdoor dining located in the public right-of-way, if any;*
9. *Any proposed expansion of the use shall require the approval of the Planning Commission; and*
10. *All required construction and installation of the use shall be completed within 18 months of Planning Commission approval.*

Ms. Hamley O'Donnell then showed photos and drawings of the area where the applicant proposed to locate a food truck and explained that City Council had instituted a pilot project this year that would allow restaurants and bars to include a food truck or trucks on their property as part of their conditionally permitted outdoor dining area. She then recommended approval of the outdoor dining facility to include operation of one food truck, with the following additional conditions:

1. *Food truck shall only operate when The Bottlehouse is open though it shall not be operated after 11 p.m.; On-site food truck storage when truck is not in use is prohibited;*
2. *Food truck headlights or lighting shall not directly glare onto neighboring properties;*
3. *Food truck operators and patrons shall comply the City noise ordinances and all traffic laws and shall not block public sidewalks, streets, fire lanes and their access roads, fire hydrants, Fire Department connections, required parking or driveways;*
4. *Food truck shall not park within 10' of buildings, vehicles or any combustible material;*
5. *The use will not be injurious to the use and enjoyment of other property in the immediate vicinity or create a nuisance for adjacent residential properties including, but not limited to, sound; the applicant shall work with staff to resolve complaints from neighbors, which, if necessary, could result in reduced food truck hours;*
6. *Applicant shall maintain lease for two parking spaces within 300' of the site for use when the food truck is on site;*
7. *The Bottlehouse shall assure that each truck that is part of the conditional use permit shall maintain a Mobile Food License from the Cuyahoga County Board of Health and is licensed, as required, by the City of Cleveland Heights;*
8. *The Bottlehouse shall maintain any liability insurance required by the City;*
9. *Applicant shall assure that food truck litter is controlled by providing adequate trash receptacles which must be emptied as needed. At the end of the day, applicant or designee shall empty all trash containers into the restaurant's refuse dumpster or transport off site;*
10. *The Bottlehouse shall provide temporary signage, cones, or similar demarcation to assure the food truck parks only in the approved area and ensure that any engine-driven source of power is separated from the public with barriers or enclosures;*
11. *Food truck staff and patrons shall be provided restroom access at The Bottlehouse; and*
12. *Operation of food trucks shall be permitted only through November 1, 2017.*

Mr. Judson Kline, architect, 3959 Orangewood Drive, Orange Village, affirmed he had been sworn in and explained the fencing area around the proposed outdoor dining.

Members of the Commission had no further questions.

Ms. Cohen made a motion to approve the 35-seat outdoor dining in front of the building with staff's recommended conditions. Seconded by Mr. Howe, the motion passed 5-0 (Mr. Rink and Mr. Mattox, Jr. recused themselves).

Mr. Howe made a motion to approve the outdoor dining facility to include operation of one food truck as shown on the plans with staff's recommended conditions. Seconded by Mr. Gaynier, the motion passed 5-0 (Mr. Rink and Mr. Mattox, Jr. recused themselves).

Project 17-7: J & Y Goldurs, 3867 & 3871 Glenwood, 'A' single-family, request lot resubdivision to join PPN 683-05-022 and 683-05-023 per Code chapters 1111, 1115 and 1121.

Mr. Wong, Ms. Hamley O'Donnell and others in the audience who planned to testify were sworn in by Ms. Rothenberg.

Ms. Hamley O'Donnell shared photographs and plans of the site and recommended approval of the lot joining with the condition that, prior to submitting the plat to the County Recorder, it must be signed by the Director of Law and Director of Planning & Development.

There were no questions of staff.

Mr. Goldhurs, 3867 Glenwood Road, stated he was happy to move forward with this plan and thanked the Commission for their consideration.

Mr. Gaynier made a motion to approve the lot resubdivision with staff's recommended condition. Seconded by Mr. Horowitz, the motion passed unanimously.

Project 17-12: M. Miller & R. Patrick, 2947 Somerton, 'A' single-fam, request lot resubdivision to join PPN 684-05-024 and 684-05-068 per Code chapters 1111, 1115 and 1121.

Mr. Wong, Ms. Hamley O'Donnell and others in the audience who planned to testify were sworn in by Ms. Rothenberg.

Ms. Hamley O'Donnell shared photographs and plans of the site and recommended approval of the lot joining with the condition that, prior to submitting the plat to the County Recorder, it must be signed by the Director of Law and Director of Planning & Development.

There were no questions of staff and the applicant had nothing to add.

Mr. Horowitz made a motion to approve the lot resubdivision with staff's recommended condition. Seconded by Mr. Mattox, Jr., the motion passed unanimously.

Project 17-9: Fairmount Presbyterian Church, 2757 & 2765 Fairmount, AA single-fam, requests revision to Conditional Use permit for parking lot alterations and lot resubdivision of PPN 686-16-014, 686-16-015, 686-16-016, and 686-16-017 to join church parcels and for house at 2765 Fairmount to be a separate parcel per Code chapters 1111, 1115, 1121, 1151, 1153, 1161 and 1166.

Mr. Wong, Ms. Hamley O'Donnell and others in the audience who planned to testify were sworn in by Ms. Rothenberg.

Ms. Hamley O'Donnell shared photographs and plans of the site and recommended approval of the lot resubdivision with the following additional conditions:

1. *Prior to submitting the plat to the County Recorder, it must be signed by the Director of Law and Director of Planning & Development; and*

2. *Approval contingent upon receipt of setback variances from the Board of Zoning Appeals.*

Ms. Hamley O'Donnell recommended approval of the conditional use for the church with the following additional conditions:

1. *Request contingent upon granting of variances by the Board of Zoning Appeals.*
2. *The applicant shall communicate with—and be responsive to—neighbors well in advance of any special event that might intensify the level of activity in this single-family neighborhood;*
3. *All existing trees, shrubs and other landscaping shall be well-maintained, with dead plants being promptly replaced and weeds being removed. Any major changes to the existing landscaping shall require the approval of the Planning Director;*
4. *The use will not be injurious to the use and enjoyment of other property in the immediate vicinity or create a nuisance for adjacent residential properties; Fairmount Presbyterian Church shall work with staff to resolve complaints from neighbors;*
5. *Any proposed expansion shall require the approval of the Planning Commission;*
6. *All required construction and installation of the use shall be completed within 24 months of Planning Commission approval.*

Mr. Gaynier asked if the driveways to Fairmount both existed.

Councilwoman Dunbar asked if the house would be sold as a single-family house and if the garage would be accessible from Fairmount Boulevard.

Mr. Steven Benton, 16713 Fernway Road, Shaker Heights, noted he was a member of the congregation. He said that both driveways existed and clarified where the lots would be resubdivided to bring the house driveway away from the property line. He also noted that the garage was an attached garage with a rear entrance. It was the church's intention at this point to return the house to use as a single-family home, most likely selling it.

There were no further questions or discussion.

Mr. Horowitz made a motion to approve the lot resubdivision with staff conditions. Seconded by Ms. Cohen, the motion passed unanimously.

Ms. Cohen made a motion to approve the conditional use permit with staff conditions. Seconded by Mr. Gaynier, the motion passed unanimously.

Project 17-10: A. Marshall, dba Heights Neighborhood House, 2940 Noble, C2 Local Retail, requests Conditional Use permit for 42-child day care per Code chapters 1111, 1115, 1131, 1151, 1153 and 1161.

Mr. Wong, Ms. Hamley O'Donnell and others in the audience who planned to testify were sworn in by Ms. Rothenberg.

Ms. Hamley O'Donnell shared photographs and plans of the site and recommended approval of the 42-child day care with the following additional conditions:

1. *This use shall not be injurious to the use and enjoyment of other properties in the immediate vicinity or create a nuisance for adjacent properties;*
2. *The applicant shall work with staff to resolve any complaints from neighbors;*
3. *This use shall comply with all Building and Fire Department regulations;*
4. *Between the hours of 6:00 a.m. and 8 a.m., workers and patrons shall not congregate in the parking lot;*
5. *Any exterior changes, including signage, shall require the approval of the Architectural Board of Review;*
6. *Signage shall be installed to designate a minimum of two parking spaces as reserved for pick-up/drop-off only;*
7. *Outdoor play area and practices that meet Ohio Department of Job and Family Services requirements shall be maintained in connection with this business; and*

8. *All required construction and installation of the use shall be completed within 18 months of Planning Commission approval.*

There were no questions for staff.

Ms. Autumn Marshall, 4037 Corwin Road, South Euclid, affirmed that she had been sworn in and noted that she currently operated a home day care in South Euclid and has had such demand that she hoped to expand with a business in Cleveland Heights.

Mr. Mattox, Jr. asked Ms. Hamley O'Donnell to clarify where this site was and Ms. Hamley O'Donnell showed it in relation to the recently demolished Center Mayfield Theater.

Ms. Marshall pointed out that there had been a day care center in the building that was recently torn down so she felt there would be demand. Councilwoman Dunbar asked if Ms. Marshall currently had a commercial business and Ms. Marshall replied that she operated out of her residence. She noted that was the business that she wanted to expand.

There were no further questions or discussion.

Mr. Horowitz made a motion to approve the 42-child day care with staff's recommended conditions. Seconded by Mr. Mattox, Jr., the motion passed unanimously.

Project 17-11: T. Delaney, dba A Natural U Hair Spa, 2490 Lee Blvd., C-1 Office, requests Conditional Use permit for 600 s.f. beauty salon per Code chapters 1111, 1115, 1131, 1151, 1153 and 1161.

Ms. Hamley O'Donnell noted the applicant was not present but requested that we move ahead with a vote on the project. Mr. Wong, Ms. Hamley O'Donnell and others in the audience who planned to testify were sworn in by Ms. Rothenberg.

Ms. Hamley O'Donnell shared photographs and plans of the site and recommended approval of proposed 600 s.f. beauty salon inside the Rockefeller Pointe building with the following additional conditions:

1. *This use shall not be injurious to the use and enjoyment of other properties in the immediate vicinity or create a nuisance for adjacent properties; and*
2. *The applicants shall work with staff to resolve any complaints from neighbors.*

There was no further discussion or questions.

Mr. Gaynier made a motion to approve the beauty salon with staff recommendations. Seconded by Mr. Howe, the motion passed unanimously.

Project 16-16: M. Rajan & L. Radl, 3500 Fenley, chicken coop & run, 'A' single-fam. The Commission will review Conditional Use permit for possible revocation per Code chapters 1111, 1115, 1121, 1151, and 1153.

Mr. Wong, Ms. Hamley O'Donnell and others in the audience who planned to testify were sworn in by Ms. Rothenberg.

Ms. Hamley O'Donnell shared photographs and plans of the site and stated that in July 2016, the Planning Commission unanimously granted the Rajan-Radl family a conditional use permit for a four-hen chicken coop and run with the following conditions:

1. Applicants shall adhere to all applicable Building Code regulations;
2. This use shall not be injurious to the use and enjoyment of other properties in the immediate vicinity or create a nuisance for adjacent properties;
3. The coop and run enclosures shall be of uniform and sturdy design and shall be constructed and maintained in good condition to protect the safety of the chickens

and the aesthetics of the neighborhood. Fencing material shall be securely fastened to posts of reasonable strength firmly set into the ground and, if used, chicken wire or other woven wire shall be stretched tightly between support posts;

4. At all times, chickens shall be contained within the coop and/or run which shall be at least 10' from all property lines;
5. The applicants shall work with staff to resolve any complaints from neighbors;
6. Receipt of Board of Zoning Appeals variance to permit use of the attached shed for chicken coop, or Planning Director will have the authority to approve a change for a Code-conforming coop and run in a different location on the property;
7. All required construction and installation of the use shall be completed within 18 months of Planning Commission approval.

In August 2016, the Board of Zoning Appeals voted to grant a variance to Section 1153.05(gg)(4)B to permit a chicken coop 0' setback from principal structure (min 10' setback req'd.). A variance shall be granted and have effect only following approval by Council. In this case, City Council, by majority vote, disapproved the Board's action in granting the variance, so the variance was void and was not issued per Code section 1115.08(f). Council felt that the 10' distance prescribed by the Zoning Code was a legitimate requirement, that chicken coops should be separate structures and the requirement should not be varied.

Per Planning Commission approval, the applicant then submitted a Code-conforming plan which was approved by the Planning Director and was shown on the slide. There was never approval to put the coop in the attached shed structure.

On January 28, 2017, a fire was started in the attached shed in which the applicant was denied permission to operate a coop. A copy of the fire report was in your packet. The report states a confirmed "active fire...fueled by straw and is confined to an attached chicken coop" in the attached shed.

The applicant was notified that she would have an opportunity to be heard under oath on the issue of whether the conditional use permit should be revoked based on her prior noncompliance.

Ms. Radl and Mr. Rajan, 3500 Fenley Road, introduced themselves and affirmed they had been sworn in. Mr. Radl explained that they had initially wanted the coop in the building because it would be warmer for the hens and explained that Cleveland Heights regulations took much longer than in Cleveland, where she was familiar with the regulations. She stated they did not require a setback from the principal structure in Cleveland. She stated that they had the intention of putting new wiring in the shed structure to heat the coop but instead used an older extension cord which ignited the straw in the coop, causing a fire.

Mr. Cohen asked if Ms. Radl still had the chickens and Ms. Radl said that the chickens had died from smoke inhalation.

Mr. Cobb asked Mr. Radl if she had been aware that she was not permitted to have a chicken coop in the attached shed.

Mr. Radl stated that she was naïve about Cleveland Heights' regulations. She thought that she had 18 months from the permit date to create a Code-conforming chicken coop. She noted she was confused when the Board of Zoning Appeals granted the permit and City Council then denied it. She noted the high fees in Cleveland Heights and noted that the timeframe for her approval was very long.

Ms. Hamley O'Donnell clarified the timeline. Planning Commission approved the conditional use in July 2016, the Board of Zoning Appeals granted the variance on August 17, 2016 and it went to Council on September 6, 2016. Council took no action at that meeting and at its September 19, 2016, meeting denied the attached coop. On September 21, 2016, Karen

Knittel, City of Cleveland Heights City Planner, wrote a letter, which Ms. Hamley O'Donnell read into the record:

"Dear Lana Radl and Mithun Rajan, As I stated in my voicemail message on September 20th, on September 19, 2016, City Council disapproved the resolution of the Board of Zoning Appeals for a variance to Section 1153.05(gg)(4)(B) to permit a chicken coop to have a setback of 0' from the principal structure where a minimum setback of 10' is required on your property. Pursuant to Cleveland Heights ordinance Section 1115.07(i), your variance request is therefore denied. This is a final determination.

Please note, however, that condition number 6 of the Conditional Use Permit issued to you by the Planning Commission on July 13, 2016, states that the Planning Director has the authority to approve a Code-conforming coop and run in a different location on your property. If you would like to proceed under this condition, please submit to the Planning Director for review a site plan showing the location of a Code-conforming chicken coop and run no later than Thursday, October 6, 2016. Should you decide not to go forward with a Code-conforming chicken coop and run, then the chickens you have must be removed from your property by no later than Friday, October 7, 2016."

Mr. Cobb asked Ms. Hamley O'Donnell to reread the last portion of the letter.

Ms. Hamley O'Donnell read the following: "If you would like to proceed under this condition, please submit to the Planning Director for review a site plan showing the location of a Code-conforming chicken coop and run no later than Thursday, October 6, 2016. Should you decide not to go forward with a Code-conforming chicken coop and run, then the chickens you have must be removed from your property by no later than Friday, October 7, 2016."

Mr. Cobb noted that it was clear that the chickens should have been removed from the site.

Mr. Rink stated that this was a serious issue as it was clear that the coop was not permitted to be attached to the house.

Mr. Mattox, Jr. stated the fire had been a serious issue that could have damaged neighbors' properties. He was concerned that the applicant knew she was not permitted to have the coop where she had it and put her property and neighbors' property in jeopardy.

Commission members discussed the possible action they might have tonight, which could involve revoking the conditional use permit for noncompliance. They asked if they might continue the case.

Ms. Rothenberg stated they could certainly continue the case and it could go under Old Business on a future agenda.

Ms. Radl said that she would like the opportunity to build a Code-conforming chicken coop and run. She noted she thought she would build a "dog house" type that many people seem to be building.

The Planning Commission discussed asking the applicant to prove that she would build a Code-conforming coop prior to having any chickens returned to the site.

Ms. Radl said that she and her husband were going to India in June but would like to have the coop in place in July.

Ms. Cohen asked if it could be asked if we could require a staff inspection of the property.

Commission members liked this idea and it was discussed that the applicant should allow staff on the property before the August 9th Planning Commission meeting so staff could report on it. Mr. Horowitz made a motion to place Project No. 16-16 back on the August 9,

2017, agenda at which time staff will report whether a Code-conforming coop has been constructed and whether chickens are present on the property, which was seconded by Mr. Gaynier.

Discussion ensued that if the applicant had the coop in place earlier than August 9th, it would make sense for the report to the Commission earlier.

Ms. Hamley O'Donnell suggested the wording could be to place Project No. 16-16 on the agenda NO LATER THAN THE August 9, 2017, at which time staff will report whether a Code-conforming coop has been constructed and whether chickens are present on the property, which was seconded by Mr. Gaynier.

Ms. Cohen made a motion to amend the motion and Mr. Howe seconded it. Mr. Horowitz and Mr. Gaynier accepted the amendment.

Mr. Mattox, Jr. noted his plan to vote against this motion. He noted that the applicant knew that the location in which the chicken coop was located was not permitted and caused a fire which damaged her property and could have damaged neighbors' property.

There was no further discussion.

With the motion properly made and seconded and amended and then seconded, the motion to place Project No. 16-16 back on the agenda by no later than August 9, 2017, at which time staff will report whether a Code-conforming coop has been constructed and whether chickens are present on the property passed 6-1-0, with Mr. Mattox, Jr. voting against the motion.

Mr. Cobb encouraged the applicants not to place chickens on their property until a Code-conforming coop had been inspected by staff and presented to the Planning Commission.

OLD BUSINESS

Ms. Hamley O'Donnell noted that the amendments to the Zoning Code were now effective and that, now, after an administratively issued chicken coop permit is sent to the applicant, a copy of it, the site plan and a letter are sent to neighboring property owners telling them of the approval and giving them staff contacts in case there are problems.

NEW BUSINESS

Mr. Wong reported that it was time to appoint a new member to the Housing Council. The Housing Council is a City body that meets yearly to review tax-abated properties. This is to make sure they are being maintained as required by the abatement. Many years ago, the Commission appointed Russell Baron, a former member of the Planning Commission. It has been many years and Mr. Wong felt it was appropriate for the Commission to decide whether it wanted to reappoint Mr. Baron or choose a member from its ranks. There was some discussion and Mr. Horowitz offered to be appointed if Mr. Baron was no longer interested. Mr. Gaynier said he would see Mr. Baron soon and would ask if he wished to continue to serve. The Commission will appoint a new member at its June meeting.

The meeting was adjourned at 8:30 PM.

Craig S. Cobb, Chair

Richard Wong, Secretary