

CITY OF CLEVELAND HEIGHTS  
BOARD OF ZONING APPEALS  
MINUTES OF THE MEETING  
JUNE 17, 2015

MEMBERS PRESENT:	Gail E. Bromley	Chair
	George A. Gilliam	
	Thomas Zych	Vice Chair
	Michael Wellman	
	Nancy Dietrich	Alternate
MEMBERS ABSENT	Benjamin Hoen	
STAFF PRESENT:	Vesta A. Gates	Zoning Administrative Assistant
	Karen Knittel	City Planner
	Elizabeth Rothenberg	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 except Mr. Hoen, whose absence was excused. Ms. Dietrich arrived at 7:05 p.m. to replace Mr. Hoen as alternate.

APPROVAL OF THE MINUTES OF THE MAY 20, 2015 PUBLIC HEARING

Mr. Zych moved to approve the minutes of the May meeting. The motion was seconded by Mr. Wellman and carried 4-0.

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

JUNE 17, 2015

CALENDAR NO. 3373

Dave and Michelle Hegenbarth, 3035 Monmouth Road, 'AA' single-family district, request variances to Code Section 1121.08 to permit an addition with a rear-yard depth of 16.5' (30' min. rear-yard setback req'd.) and to Code Section 1121.12(i)(4) to permit 5'-tall columns in the corner-side-yard (3' max. ht. permitted).

Ms. Bromley stated that the Board had received a letter from the applicant requesting that his application be withdrawn from the agenda as he has decided on a code-conforming option. She asked for a motion to withdraw.

Mr. Zych moved to withdraw Calendar No. 3373 from the agenda as requested.

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

CALENDAR NO. 3369

Keith and Terry Caryer, 2995 Edgehill Road, 'A' single-family district, request variances to Code Section 1121.12(a)(1) to permit reconstruction of a garage with a 12" side-yard setback (3' req'd) and 12" rear-yard setback (3' req'd); and to Code Section 1121.12(a)(8) to pave the driveway with a setback of 0' from the side lot line (min. 3' setback req'd).

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

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

This property is located in an 'A' single-family district and is surrounded by single-family homes.

Code Section 1121.06, Minimum Lot Area and Width regulations states that a single-family lot in an 'A' single-family district must have a minimum lot width at the building line of 50' and a minimum lot area of 7,500 square feet. 2995 Edgehill is a nonconforming lot of record as the lot is 40 feet wide by 121 feet deep resulting in 4,840 square feet.

The applicant requests a variance to enable a new 20' wide by 24' deep garage to be constructed to replace their deteriorated 18' 1-3/16" by 18' 4-13/16". The existing garage has an addition that has 12" that cross the rear property line. The applicant is requesting a variance to locate the garage 12" from the rear property line and 12" from the side property line. A larger garage will enable the applicant to park 2 full-size cars in the garage and provide storage of lawn and garden equipment and a 40' extension ladder.

There is 14' 4-1/16" between the front of the garage and the bottom step of the rear deck and 19' from the garage front to the rear deck. Moving the garage to the west would make ingress and egress impossible as would moving the garage south, closer to the house.

Also, the applicant plans to pave the gravel driveway and add catch basins. The driveway is less than 7 feet wide from the applicant's house to the property line. The property slopes from Edgehill downhill to the rear property line. The applicant states that the water flows down the driveway. The applicant states that the drainage system is needed to keep the water from flowing into the garage and further downhill beyond the rear property line.

If approved, conditions should include:

1. Receipt of appropriate 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.

Keith Caryer, 2995 Edgehill Road, who had been sworn in, came forward. He stated that he has lived in this property since 1981 and the garage was in bad shape even at that time. The reason for the request at this time is that the garage walls can no longer hold paint. Also, water runs into the foundation, which is now totally eroded. The floor is totally moist inside and the structure is rotting from the inside out. Now that he has gotten his children through school, it is time to fix this problem. He explained that it had always been difficult to maneuver into the side closest to the house, so the proposed garage door will be 16' wide with no center post. He will address the problems with the Building Code in terms of fire protection walls. Mr. Ramos, owner of 2996 Lincoln Blvd., the property that abuts the rear yard, had been unaware that part of the existing garage was on his property but the encroachment is noted in our deed. The back property line had never been pegged. A survey was done and now there are new markers for the rear property line, so the site plan submitted is accurate within an inch or so. Referring to the slide, he stated that the back property line appears to be where the fence and the utility lines are. If the garage was moved back 3 feet it would look like the garage was set back 6 feet from that existing fence. He pointed out that the garages on either side of this property sit about a foot off the property line but they appear to be code-conforming. This is something that he has wanted to do for a long time and asked for the Board's support.

Ms. Bromley noted that no one else had been sworn in for this request and closed the public hearing. She asked if the Board had any questions.

#### PUBLIC HEARING OPENED/PUBLIC HEARING CLOSED

Ms. Dietrich asked if the tree shown in one of the slides would be negatively affected by the new construction.

Mr. Caryer, referring to the slide, stated that the Magnolia tree belonged to his neighbor but it did encroach upon his yard in the back. The pavement in front of the garage would stop 3 or 4 inches away from the fence shown in the slide. He did not believe the paving would affect the tree.

Ms. Bromley stated that the Board had also received two letters regarding this applicant's request. One is from Mr. Ramos, owner of 2996 Lincoln Blvd., which abuts the rear property line, and is in support of the proposal.

Ms. Knittel explained that the second letter was a revised letter of practical difficulty from the applicant.

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

Mr. Zych moved to grant Keith and Terry Caryer, 2995 Edgehill Road, variances to Code Section 1121.12(a)(1) to permit reconstruction of a garage with a 12" side-yard and rear-yard setbacks where 3' minimum setbacks are required; and to Code Section 1121.12(a)(8) to pave the driveway with a 0' setback from the side lot line where a minimum 3' setback is required on the grounds that this property is non-conforming in size and that given the zoning requirement for 2 covered spaces, the dimensions proposed are reasonable, and in keeping with good practice, necessitating the placement of the garage where it is, 1) to remove the incursion on the neighbor's property by the existing garage and 2) to allow the placement of a garage that is useable for ingress and egress of vehicles and to perform as a garage for cars of any size, and finding that a different location may increase the rear yard coverage or otherwise cut into a useable back yard; finding that there is no adverse effect on vegetation; as indicated, the plans, if followed, allow for better drainage of water, keeping it from injuring the garage and off neighboring properties and, in the same vein, the width of the paving is necessary for ingress and egress of vehicles through a very narrow space and since the paving goes right up to a building, it's not draining on the grass or otherwise harming any vegetation or landscaping; also, given the consent of the neighbor, finding as well that the paving with 0' setback is both reasonable and necessary. In each instance of the variances there is no evidence of any adverse effect on the surrounding properties or the neighborhood and is in keeping with the appropriate use of the house. If the variances are approved the conditions are:

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

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

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

CALENDAR NO. 3371

Laura and Thomas Sweeney, 3605 Randolph Road, 'A' single-family district, request variances to Code Sections 1121.09(b) and 1161.03(a)(1) to provide no garage on this property (2 enclosed parking spaces req'd).

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

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

This property is located in an 'A' single-family district and is surrounded by single family homes. The applicant proposes tearing down the existing garage and not building a new garage. The current garage was built with the rear portion extending over the edge of a steep hill. It is in disrepair, leaning to the east. The

applicant states that it is unsafe for contractors to attempt to build a garage along this cliff.

A similar case was reviewed last month for 3647 Randolph. Homes located at 3639, 3643, 3631, 3617 and 3607 Randolph do not have garages. Zoning records show that 3639 and 3617 received variances. 3607 Randolph is the adjacent property to the east.

Code Section 1121.06, Minimum Lot Area and Width regulations, states that a single-family lot in an 'A' single-family district must have a minimum lot width at the building line of 50' and a minimum lot area of 7,500 square feet. 3371 Randolph is a nonconforming lot of record as the lot is 40' wide by 135' deep resulting in 5,400 square feet. Approximately three-fourths of the rear yard is a very steep hillside that slopes down to a stream.

The existing 10'8" by 16' one-car garage was constructed with the back of the garage at the edge of the hillside. There is about a one-foot 'bump-out' that extends over the hillside. The garage is located about 1-foot off the west property line. The distance from the rear of the house to the front of the garage is 3'8". The driveway width is 9' and the side of the house is 10' from the west property line. The distance from the rear of the house to the rear fence is 15' and there is approximately one additional foot of land before a steep hillside slopes down to the stream. A standard one-car garage with a 9' by 20' parking area cannot be located on the parcel due to the siting of the house, the lot width and the topography of the parcel.

If approved, the applicant plans to have a parking pad in the area where the current garage is located. An existing retaining wall assists in maintaining the level rear yard and in preventing hillside erosion. If approved, conditions should include:

1. Receipt of applicable permits from the Building Department; and
2. Complete the project within eighteen months of City Council's approval of this resolution.

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

Laura Sweeney, 2643 Kingston Road, who had been sworn in, came forward. She stated that when she and her husband purchased 3605 Randolph Road in 1983, there was only a one-car garage at that time. They could never hire anyone who was willing to try and paint the back of the existing one-car garage, so her kids just painted the sides. Everything else Karen said is self-explanatory. You cannot build a new garage on this site but we are willing to demolish the existing one and do the best we can.

**PUBLIC HEARING OPENED/PUBLIC HEARING CLOSED**

Mr. Wellman asked the applicant to describe what would remain for parking once the garage was demolished.

Ms. Sweeney explained that they just intended to leave the cement parking pad from the demolished garage.

Ms. Dietrich asked if the existing fence would be extended behind the pad.

Ms. Sweeney confirmed that the existing wood fence would be continued behind it.

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

Mr. Wellman moved to grant Laura and Thomas Sweeney, owners of 3605 Randolph Road, variances to Code Sections 1121.09(b) and 1161.03(a)(1) to permit no garage to be constructed on this property where 2 enclosed parking spaces are required based on the finding that special conditions exist which are peculiar to this property, specifically, it is a smaller, non-conforming lot with a steep grade at the rear; the variance is not substantial because the existing garage is deteriorating and essential character of the neighborhood would not be substantially altered because there are numerous, similar, garage-less properties on this street. In addition, the following conditions should be met:

1. Receipt of applicable permits from the Building Department; and
2. Complete the project within eighteen months of City Council's approval of this resolution.

Ms. Dietrich seconded the motion which carried 5-0.

Ms. Bromley reminded the applicant that City Council must review all variances.

#### CALENDAR NO. 3372

Isaac and Shoshana Newman, 3530 Shannon Road, 'A' single-family district, request a variance to Code Section 1121.12(d) to permit a house addition and reconstruction of a garage resulting in 68% rear yard coverage (60% max. coverage permitted).

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

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

This property is located in an 'A' single-family district and is surrounded by single family homes.

Code Section 1121.06, Minimum Lot Area and Width regulations, states that a

single-family lot in an 'A' single-family district must have a minimum lot width at the building line of 50' and a minimum lot area of 7,500 square feet. 3530 Shannon Road is 51' wide however it is a nonconforming lot of record as the lot is only 6,723 square feet.

The applicant plans to add on to their house and to construct a new garage. Currently the applicant has 32% pavement in the rear yard. (This is an existing nonconformity as the Zoning Code permits a maximum coverage of 30% for pavement in a rear yard.) After the new addition is added the rear yard will have 2,227.64 square feet. The new garage will be larger than the existing garage to enable two vehicles to be parked in it. To enable entry into the garage, additional pavement totaling 12 square feet needs to be added. The resulting rear yard coverage is 1,481.26 square feet or 66%. Code permits maximum rear yard coverage of 60%. The applicant has considered other locations of the garage to reduce the drive pavement, however these were not feasible due to the current configuration of the house and how the new addition needs to be constructed.

The rear addition to the house is code conforming as the rear yard setback will be 43' 8" (minimum rear yard setback required is 30'). If the applicant kept the current 359.40 square foot garage, a variance would not be needed. The interior parking area of the current garage is 17'7" by 17'6". This is too small for two cars to park and have room for the car doors to open. The applicant requests a variance for rear yard coverage that will enable construction of a new garage in which two vehicles can be parked and to enable storage of yard equipment and toys. Below is a breakdown of the rear yard coverage:

garage	498	sq. ft.
deck	128	sq. ft.
steps & walk	12.30	sq. ft.
covered walk	57.76	sq. ft.
existing drive	773.20	sq. ft. (35%)
new drive area	12.30	sq. ft.

If approved, conditions should include:

1. Approval of the Architectural Board of Review;
2. Receipt of a applicable Building Department permits;
3. Planning Director approval of a storm water management plan; and
4. Complete construction within 18 months of City Council's approval of this resolution.

That being the end of Ms. Knittel's report, Ms. Bromley asked for clarification of whether anything additional needed to be done by the Board since notices had gone out stating that the coverage was 68% and it has since been reduced to 66%.

Ms. Rothenberg stated that the Board was alright since the variance is less than what was advertised.

Ms. Bromley asked the applicant to come to the microphone.

Robert Martien, architect, 3149 Berkshire Road, represented the applicant and had been sworn in. He explained that the reason coverage went from 68% to 66% was a reduction in the paving of the driveway extension. At one time the drive was to be much closer to the property line but the owners later decided that they were comfortable with a code-conforming configuration of a 3-foot setback. Ms. Knittel has covered everything else. Basically, in order to build the addition and garage they need a variance for wiggle-room to accommodate the rear yard coverage.

PUBLIC HEARING OPENED/PUBLIC HEARING CLOSED

Ms. Bromley asked for questions or comments from the Board.

Mr. Zych asked how much of the total coverage was taken up by the covered walkway and if that was taken out, what percentage of total coverage would be left.

Mr. Martien stated that it was 57.76-square-feet.

Ms. Knittel concurred that it was a very small amount of the overall percentage.

Ms. Dietrich stated that she was concerned about the amount of impervious surface in the yard. She asked Mr. Martien to describe what was under the covered walkway.

Mr. Martien stated that pavers would be under the covered walk and beneath the deck would be open ground so water would drain into the ground beneath the deck. The code requires that if you have a roof and a deck and a paved walk that it be considered hard paved. The whole area beneath the roof cover is going to be open to subterranean dirt because in the area from the garage to the house, the water can just go right into the ground.

Ms. Dietrich asked if the average garage is 20' X 20'.

Ms. Knittel explained that a parking space is supposed to be a minimum of 20' x 9' so 20' X 20' would be a very tight garage. The applicant has stated that they would install a drywell. It will collect the water draining from the garage directing it through a French drain to an area of ground that is graveled (a drywell) and would release the water into the surrounding gassed area.

Ms. Dietrich stated that she also had another tree question. She noticed in one of the slides that there was a tree near the existing garage. She asked if the tree would remain.

Mr. Martien explained that the tree was dead and will be removed and the new garage will be about 18-inches from the current location of the tree.

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

Mr. Gilliam moved to grant Isaac and Shoshana Newman, 3530 Shannon Road, a variance to Code Section 1121.12(d) to permit a house addition and reconstruction of a garage resulting in 66% rear yard coverage where 60% maximum coverage is permitted based on the finding that the increased percentage of coverage is minimal and the amount of room necessary to accommodate the modern vehicles is much more than it used to be. If approved, conditions should include:

1. Approval of the Architectural Board of Review;
2. Receipt of a applicable Building Department permits;
3. Planning Director approval of a storm water management plan; and
4. Complete construction within 18 months of City Council's approval of this resolution.

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

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

#### NEW BUSINESS

Ms. Knittel reported that all variances approved by the Board in May were confirmed by City Council.

#### ADJOURNMENT

There being no further business to come before the Board, the regular meeting was adjourned at 7:38 p.m.

Respectfully Submitted,

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Gail E. Bromley, Chair

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Vesta A. Gates, Secretary