

CITY OF CLEVELAND HEIGHTS  
BOARD OF ZONING APPEALS  
MINUTES OF THE MEETING  
NOVEMBER 15, 2017

MEMBERS PRESENT:	Gail E. Bromley George A. Gilliam Benjamin Hoen	Chair
MEMBERS ABSENT	Liza Wolf Thomas Zych	Vice Chair
STAFF PRESENT:	Vesta A. Gates Kara Hamley O'Donnell Kimberly Bolton Richard Wong	Zoning Administrative Assistant City Planner Assistant Law Director Planning Director

CALL TO ORDER

Ms. Bromley called the regular meeting to order at 7:15 p.m. at which time three members were present.

APPROVAL OF THE MINUTES OF THE SEPTEMBER 27, 2017 PUBLIC HEARING

Approval of the September minutes was postponed as there was no quorum of members present who attended 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

NOVEMBER 15, 2017

CALENDAR NO. 3435

Hebrew Academy of Cleveland, 1516 Warrensville Center Road, 'AA' Single Family District, requests variances to Code sections 1121.12 (i)(1) and (6) to permit a 7 foot tall chain link fence in the front yard (4 foot maximum height permitted; chain link not permitted).

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

Ms. O'Donnell's staff report was as follows:

Hebrew Academy owns approximately 60.9 acres of the original 144-acre parcel occupied by the former Oakwood Club, including the original clubhouse. The land is zoned "AA" single-family. To the south, in South Euclid, about 1/3 of the former Oakwood Club land was developed as a Walmart and other retail stores. To the west are large single-family homes in the "AA" single-family district on Oakwood Drive, a private road, and Andrews Road. To the north are single-family homes in the "A" single-family district, Yeshiva Derech Hatorah (formerly Mosdos Ohr

Hatorah) school and multi-family and commercial properties in the S-2 Mixed-Use zoning district. To the east are properties in South Euclid, commercial and residential, which are zoned C-1 (Limited Commercial), C-2 (General Commercial), R-50 (Single-Family 50) and R-50 (Single-Family 40). The southernmost 20 +- acres owned by Hebrew Academy are reserved for future development.

### **Case History**

January 2016 (Proj. 16-5): The Planning Commission approved reuse of the former Clubhouse as Hebrew Academy's 10-classroom, first floor high school and administrative offices, retention and reuse of existing outbuildings, and construction of playfields and courts.

September 2016 (Proj. 15-31): The Planning Commission approved a conditional use permit for new school (early childhood, elementary, jr. high) with parking & playfields at former Oakwood Club.

June 2017 (Proj. 17-14): The Planning Commission approved a conditional use permit for Hebrew Academy to use 13,028 s.f. in the lower level at high school for six new K-12 classrooms & support space to bring total maximum number of students in building to 310 students.

The applicant proposes a 7' tall chain link fence surrounding a playground in front of the existing school (former Oakwood Clubhouse). The fence is set back over 200' from Warrensville Center Road. Zoning Code Section 1121.12(i)(1) permits a front yard fence to have a maximum height of 4 feet. Code section 1121.12(i)(6) states that no chain link or mesh, wire fence or barb wire shall be constructed in a front yard. The Zoning Code establishes the front yard as the area between the school building and the public right-of-way.

On November 7, the Architectural Board of Review (ABR) approved this fence as shown with the following conditions:

1. Receipt of a Fence Permit;
2. Complete construction within 18 months of City Council's approval of this resolution; and
3. A requirement to return to the Board of Zoning Appeals for another variance should the property owner or subsequent owners consider modifications that would increase the fence's height or length.

Ronald Kluchin, architect, 23215 Commerce Park Road, Beachwood, OH, represented the applicant and had been sworn in. He stated that the request is for a 7 foot tall fence for security reasons for the wildlife that currently roams the property. There is also a creek that winds through the entire length of the property which needs adequate safeguarding. The area is completely protected visually from Warrensville Center Road so there is no impact on that area. Another reason this is necessary is because the west side of the property is very active with trucks, parking, and parents coming and going. This fence would make the west side considerably more secure. Most importantly, the granting of this variance will not

negatively impact any contiguous property.

Ms. Wolf asked Mr. Kluchin if he could elaborate upon the practical difficulty.

Ms. Bromley explained that the practical difficulty was submitted with the application and suggested it would be helpful if the answers to the questions could be read into the record.

Mr. Kluchin read the following: The playground is positioned to the 6 classrooms for easy access for the young children. This area is located on the east side of the building which places it in the front yard which is approximately 285 feet from Warrensville Center Road. In order to keep the children safe, a fence is necessary. The city code allows only a 4 foot tall fence in the front yard and we are proposing a 7 foot tall fence, matching the other new fencing on the site. Both security from intruders and animals dictate a fence that is 7 foot in height. The playground could not be safely occupied without a fence. The impact of the fence is insubstantial in that the fence is so far from the main street and is hidden by the thick vegetation. The fence is the minimum height that would discourage animals from jumping over. The essential character of the neighborhood would not be altered in any way by constructing the fence. The variance would not affect the delivery of governmental services. The property was purchased without knowledge that the front yard setback would be based on the old tennis building since other existing buildings are much closer to the street. Once the lower level was approved for the elementary school use the natural location for the playground was on the east side of the building as indicated. The only windows and exit doors are on the east side allowing natural light into the classrooms. The location of the playground only functions on the east side of the building adjacent to the classrooms. Granting the variance does not alter the spirit or intent of the ordinance that does allow fencing within the front yard. The fence will be totally hidden from outside the campus. The property, the Oakwood Campus, is unique to the district which does not occur in other sites within the district. Therefore the variance does not confer on the applicant any special privileges. The very size and screening from the public streets make it unique in the district.

**PUBLIC HEARING OPENED/PUBLIC HEARING CLOSED**

As there were no further questions or comment from the Board, Ms. Bromley asked for a motion.

Mr. Hoen moved to grant Hebrew Academy of Cleveland, 1516 Warrensville Center Road variances to Code sections 1121.12 (i)(1) and (6) to permit a 7 foot tall chain-link fence in the front yard where a 4 foot maximum height is normally permitted and chain-link is not permitted based upon the finding that this is a unique property in that it is the former Oakwood Country Club and the property itself has no visible neighbors therefore the fence will not create a problem for any

of the neighbor's sight lines. There is a serious security and safety issue that we as a Board have addressed in other similar cases in granting variances for similar fences for schools where there are small children involved, taking that safety concern into consideration. The neighborhood will not be altered by this fence as far as we can see the fence is not visible to anyone outside the campus and it certainly is an area where the animals roam freely which I can attest to. I was there the other night and there was a family of deer in the parking lot near the building. That is a concern as well so there is a practical difficulty in this scenario that was not created by the property owner. If the variance is granted we would add the following conditions:

- 1) Receipt of a Fence Permit;
- 2) Complete construction within 18 months of City Council's approval of this resolution; and
- 3) A requirement to return to the Board of Zoning Appeals for another variance should the property owner or subsequent owners consider modifications that would increase the fence's height or length.

Mr. Hoen seconded the motion which carried by a vote of 3-0.

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

**CALENDAR NO. 3436**

Peace Lutheran Church, 3740 Mayfield Road, 'A' Single Family District, requests a variance to Code section 1163.04 for a 26.15 square foot per side institution ID sign (24 square foot maximum per side permitted).

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

Ms. O'Donnell's staff report was as follows:

Peace Lutheran Church is the result of a recent consolidation of Hope Lutheran and Bethlehem Lutheran churches at this address. The property is located just east of Severance Town Center in the 'A' Single-Family district. To its west and south is the Courtyards of Severance housing development in the S-1 Mixed-Use district, north are multi-family homes in the MF-1 Multiple-Family district, and east are homes in the 'A' Single-Family district.

**Case History**

July 1998 (Proj. 98-21): The Planning Commission approved a conditional use permit for the Interfaith Hospitality Network to provide food and overnight lodging to a maximum of 14 homeless persons for one week every two to three months.

## **Project**

The applicant proposes a freestanding digital institutional identification sign which is 26.15 s.f. per side. Code section 1163.04 permits 24 s.f. maximum per side. Originally the applicant proposed a sign which exceeded the height requirement but then revised the application so that the height is Code-conforming. On October 3, 2017, the Architectural Board of Review (ABR) approved this sign with the condition that the sign be dimmed at night and have static images.

Along this stretch of Mayfield, the Community Center and Lutheran East High School have Code-conforming freestanding digital signs. Staff remembers no institutional uses in residential districts that have required variances for oversized freestanding signs. The applicant proposes the sign be setback 20' from the right-of-way, though there is no City code mandating this. Nearby Lutheran East's sign is 10' from the right-of-way, making the Code-conforming sign easily read. The sign design is such that eliminating the static "Peace Lutheran Church" and moving that text onto the message board would bring the sign into compliance with our Zoning Code. The applicant should explain why the sign needs to be in the location shown and the size shown. If approved, conditions may include:

1. Receipt of a Sign Permit;
2. Complete construction within 18 months of City Council's approval of this resolution;
3. A requirement to return to the Board of Zoning Appeals for another variance should the property owner or subsequent owners consider modifications that would increase the sign's height or area and
4. The existing sign and sign posts shall be removed upon completion of the new sign.

Ms. Bromley asked the applicant's representative to come to the microphone.

Major Harrison, Brilliant Electric Sign Co., 4811 Van Epps Rd., Cleveland OH, represented the applicant. He stated there were also two people present from Peace Lutheran Church who may wish to speak.

Mr. Harrison further stated that, in conjunction with the Planning staff, he had gone back and forth regarding the different variances necessary for this particular signage. Originally a sign that was a little over 6 feet tall with a sign face close to 30 square feet was proposed. With the help of planning staff we reduced the height of the sign, reduce the header portion of the sign, and reduced the sign face so that now we are down to a 2.15 square foot variance. We do not manufacture message centers in-house. There are 3 different America manufacturers that we use. The message centers come in specific sizes. When deciding which message center to use, especially for a church, we must consider the lines of copy. With churches, schools and other institutions, the lines of copy matter based on how many lines of copy are needed to express your message. With that you must also consider the height of the letters and what will allow the church to broadcast to the community,

what is going on at the church. Another issue to be considered is the 5 trees on the property in the front. The proposed setback of 20 feet was the only location that would allow the sign to be visible. The adjacent property as well as the church itself has a lot of shrubbery. Referring to the slide view looking west, he pointed out the large pine tree next to the driveway can interfere with sign visibility. Signage is all about being visible in a timely fashion which also plays into determination of the size and placement of the sign. Regarding the practical difficulty, factor (A) Special conditions and circumstances exist which are peculiar to the land; the sign must be located in the proposed location because of the existing trees and other existing shrubbery on the church site and the neighboring site. (B) It must be large enough to be legible from the street so that it can be read in a timely fashion. This is a church, a public facility, and the signage would not serve its purpose without this variance. (C) Is the variance substantial? We are just asking for 2.25 square feet. (D) Will the character of the neighborhood be substantially altered? No, there are other neighboring properties that are using electronic message centers. The church wishes to turn the sign off at 10:00 in the evening and turn it on at 6:00 in the morning. They do not believe this will affect the neighborhood detrimentally. We do not believe factors (E), (F), and (G) are applicable in this case. (H) The applicant's predicament feasibly cannot be resolved through a method other than a variance; as was explained earlier, we tried other sizes and determined that no matter what we did, we were going to need a variance. One size down from what is proposed is a 1.99 square foot variance and one size smaller than that would be useless. (I) Whether the spirit and intent behind the zoning requirement would be observed by granting the variance; because of this use, the sign needs to be legible, imperative for wayfinding purposes and navigation, as well as disseminating the message. We do not feel this variance would interfere with the spirit and intent of the zoning code. It actually supports the zoning code because it helps with identification and recognition of the church. We also do not feel that factor (J) is applicable in this case.

That being the end of the applicant's presentation, Ms. Bromley opened the public hearing.

Robin Wrener, 2304 Tampa Avenue, Cleveland OH, had been sworn in. She stated that she was assigned the task of getting a new sign when the 2 congregations merged. Major did a good job of explaining the technical difficulties we face. She first approached this issue from the view of a west-sider heading up Mayfield Road. With the trees and vegetation surrounding this site, you don't know there is a church there until you pass it. While there is a side street entrance to the back parking lot, the layout is one-way, so the placement of the sign is based on a traffic safety issue. You don't want people slamming on brakes on Mayfield Road. The major issue is the trees. We tried everything we could, including considering removal of the trees. Someone suggested it while everyone was heartsick at the suggestion. It is not an option. The trees are healthy and beautiful but very much

impede one's ability to read a sign as your vehicle is moving down Mayfield Road. This is the one time in our church history that we have some funds to invest and we want to make this our forever sign. I was very happy that Kara worked with us and offered suggestions, one of which was to remove the header cabinet and join it as part of the electronic messaging system. But the more I considered it, I decided it would not be a pleasing aesthetic and we want to be good neighbors. We are trying to demonstrate that good neighbor attitude by turning off the sign in the evening hours as much as we would prefer displaying a sign that asks "Does your mother know where you are?" late into the night. We are right on the edge of a commercial zone and people's vision is accustomed to seeing large, in-your-face signage and this is where it kind of drops off. We respect that this is a residential area but we just want to be sure we are seen. Thank you.

There being no one else from the public who wished to testify, Ms. Bromley closed the public hearing and called the applicant's representative back to the microphone.

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

Mr. Gilliam moved to grant Peace Lutheran Church, 3740 Mayfield Road, a variance to Code section 1163.04 for a 26.15 square foot per side institution ID sign based on the fact that the location is somewhat predicated by the existing trees and the applicant's effort to save those trees goes along with what we've previously done with landscaping in Cleveland Heights. There are other signs along Mayfield that are similar in nature to what this is and they are close by. The applicant's representative has presented the statement of practical difficulty and if the variance is approved the following conditions shall be included:

1. Receipt of a Sign Permit;
2. Complete construction within 18 months of City Council's approval of this resolution;
3. A requirement to return to the Board of Zoning Appeals for another variance should the property owner or subsequent owners consider modifications that would increase the sign's height or area; and
4. The existing sign and posts shall be removed upon completion of the new sign.

The motion was seconded by Mr. Hoen and carried 3-0.



OLD BUSINESS

None.

NEW BUSINESS

None.

ADJOURNMENT

There being no further business to come before the Board, the regular meeting was adjourned at 7:44 p.m.

Respectfully Submitted,



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Gail E. Bromley, Chair



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Vesta A. Gates, Secretary