

**CITY OF CLEVELAND HEIGHTS
BOARD OF ZONING APPEALS
MINUTES OF THE MEETING
December 15, 2021**

MEMBERS PRESENT:

Benjamin Hoen	Vice Chair
Dennis Porcelli	
Thomas Zych	Chair

MEMBER ABSENT:

Liz Wolf
Melissa Fliegel

STAFF PRESENT:

Karen Knittel	Assistant Planning Director
Pamala Roessner	Assistant Law Director
Christy Lee	Recording Secretary

CALL TO ORDER

Mr. Zych called the regular meeting to order at 7:00 p.m. at which time all members were present with exception of Liz wolf and Melissa Fliegel

APPROVAL OF THE MINUTES

Mr. Hoen moved to approve the Minutes of the September 14, 2021 BZA Meeting. Mr. Porcelli seconded; the motion was approved.

Mr. Hoen moved to approve the Minutes of the November 17, 2021 BZA Meeting. Mr. Porcelli seconded; 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 a 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

Ms. Knittel and the applicants were sworn in by Ms. Roessner.

Mr. Zych asked that the staff report dated December 9, 2021, be entered into the record, hearing no objection it shall be entered.

Karen Knittel PowerPoint Presentation was as follows:

Cal. No. 3535 B. & J. Miller, 1618 Rydalmount Rd., A Single-Family, requests a variance to

A. Sect.1121.12(a)(2) to permit new garage/workshop to be setback less than 5' min. req'd side yard setback;

B. Sect. 1121.12(d)(1) to permit garage/workshop rear yard coverage to be greater than max. 20%; & to

C. Sect. 1121.12(e)(2) to permit garage floor area to be greater than max. area permitted.

Context:

This is a single-family house located in an 'A' Single-family district.

The property is surrounded by single-family houses in 'A' Single-family district

The Master Plan Future Land Use Map shows this area as continuing to be used for single-family housing.

Project:

The applicant proposes to construct a detached 36' by 27'2" garage and workshop with 0' setback on the side (north property) line and set back 5' from the rear property line. The total square footage of the structure will be 976.8 square feet and results in the rear yard coverage of the accessory building being 23.7%,

Facts

- The parcel is conforming in terms of 50' wide at the building line and is 8,000 square feet in area lot width and area. Code Section 1121.06 states that in an 'A' Single-family district the minimum lot width is 50 feet at the building line and

has a minimum of 7,500 square feet in area.

- Code section 1121.12 (a) requires garages to be set back a minimum of 3' from the rear and side property lines.
- Code section 1121.12 (b) requires pool houses, storage sheds, and other similar structures to be a minimum of 5' from the side and rear property lines.
- This structure is more than a garage as it will include a workshop area and therefore must comply with 1121.12(b) requiring a 5' setback. The applicant is requesting a 0' setback.
- The applicant's driveway and the driveway at 1614 Rydalmount abut each other and are nonconforming as the pavement goes to the property line resulting in the appearance of a shared driveway.
- Code Section 1121.12(e)(2) states that the maximum floor area of a garage is 600 square feet plus one additional square foot of garage floor area for every 15 feet of lot area greater than 6,000 square feet.
- This parcel is 8,000 square feet, resulting in the maximum permitted floor area of 718 square feet.
- The proposed accessory building will be 976.8 square feet, however, the 270 square feet of this is proposed to be used for a workshop and storage with the remaining 706 feet being used to garage vehicles. The structure will not have internal walls and therefore the entire footprint is included when applying Code Section 1121.12(e)(2).
- Section 1121.12(d)(1) permits a maximum rear yard coverage of 20%.
- The proposed accessory building rear yard coverage is 23.7%.
- The total rear yard coverage is code conforming at 46%; Section 1121.12(d)(5) states that the maximum rear yard coverage is 60%.

The applicant has submitted a Statement of Practical Difficulty with their application and it is attached to this staff report.

If approved, conditions may include:

1. A. Cal. No. 3535 A variance to Section 1121.12(a)(2) is granted to permit a new garage/workshop to have a 0' side yard setback as shown on the site plan submitted with the BZA application;
- B. Cal. No 3535 B variance to Section 1121.12(d)(1) is granted to permit garage/workshop rear yard coverage to be greater than max. 20% as shown on the site plan submitted to BZA;
- C. Cal. No. 3535 C variance to Section 1121.12(e)(2) is granted to permit the garage floor area to be 976.8 square feet as shown on the site plan submitted to BZA.
2. The applicant shall have a survey to establish the side (north) property line;
3. Approval by the Architectural Board of Review;
4. Receipt of a Building Permit; and
5. Complete construction within 24 months of the effective date of this variance.

Mr. Zych asked the applicant to the best of his knowledge was there an application submitted on October 26, 2021, by Mr. Miller, and is it to the best of his knowledge true and correct.

Mr. Miller responded, yes. Mr. Miller verified his address as 1618 Rydalmount Rd. Mr. Miller explained his practical difficulty regarding his reasoning of wanting to permit a new garage/workshop to be setback less than the required 5' minimum side yard setback. He explained that he would like to have more workable space in the backyard and also allow for more space in front of the garage to utilize the space for special projects such as working, storage, and adding additional value to the home.

Mr. Zych asked if there were any questions from the board.

Mr. Porcelli asked why the garage could not be moved further to the south.

Mr. Miller responded that moving the garage would take about 3 feet, which is space that he does not want to lose. Mr. Miller said that there were other garages in the neighborhood that have a similar design to what he is looking to achieve.

Mr. Porcelli mentioned that unless a survey has been completed on the other properties, Mr. Miller can't know exactly where the property line is. He asked Mr. Miller if he was assuming that the proposed garage had zero setbacks.

Mr. Miller stated that he has not surveyed the other property. He said that he was doing this work pending a survey of the property.

Mr. Porcelli asked if there was a physical barrier in the garage that prevented it from being pushed further back to where the workshop area would be located.

Mr. Miller stated that he doesn't know what that would be like because it would no longer be long enough to park.

Mr. Porcelli asked if the entire floor area would be counted as a garage if there were something that prevents a vehicle from being driven to the back area of the structure.

Ms. Knittel said that this was correct. She said that with other garages sometimes, as we have allowed variance for others who have wanted a garage that would accommodate a workout space or office space but there was a physical barrier that people use from the use of hosing a vehicle/garage storage area. While they may still need a variance for the total square footage of the accessory structure of the rear yard there wasn't a need for a garage floor area variance.

Mr. Porcelli stated that his question was that if there was some form of a physical barrier other than a wall that prevented a vehicle from being driven past the garage portion would that qualify as being separate.

Ms. Knittel it would need to be a permanent barrier, I wouldn't be sure of the purpose other than not receiving a variance for that particular space.

Mr. Zych stated that if there's no physical barrier all of the floor area in the building counts as the garage floor and is subject to the maximum size of a garage floor.

Mr. Miller, I understand that.

Looking at the site plan of the proposed project, Mr. Zych asked Mr. Miller how much space there would be between his proposed garage wall and his neighbor's garage wall.

Mr. Miller stated there would be at least 3 feet from the wall of the garage. He mentioned that he was unsure if there was 5 feet along the other side of the garage.

Mr. Zych asked Mr. Miller was there a reason why there wasn't a survey done before he submitted his project.

Mr. Miller stated that the survey wasn't done, due to the fact that he was under the impression that the variance was pending a survey of the property. and due to the expense of a survey, he was hoping that he would be allowed the variance with the survey pending.

Mr. Zych asked to have the PowerPoint site plan shown again for review. He asked if the width of the garage could be narrowed which would then allow a 2 or 3-foot setback from the side property line without moving the garage into the garden area of the yard.

Mr. Miller replied that that would take away space and alter the yard in a way he wasn't comfortable doing. He said that he was looking to have 2 feet on the north side where the garage door is located and then 3 feet on the south side of the door because there will need to be room for the garbage cans.

Mr. Zych referred to the measurements on the applicant's drawing and said that based on that drawing, there is 7 feet of available space which would allow for passage in the garage, for walking and for garbage storage.

Mr. Miller stated that there is a 3 feet door there.

Mr. Zych said that on Mr. Miller's application, there is a drawing that shows that between the south side of the garage door and the south wall of the garage there is a total of 7'2".

Mr. Zych said that this is a straight line and cars will be parked and the dimensions will stay the same which will be 7'2" according to the drawings that you have given us. He added that if this area was 4 feet instead of 7 feet that would allow for a setback without a variance.

Mr. Porcelli stated that if Mr. Miller took the hinged door that is next to the garage door and moved it to the south side of the garage and reduce that space on the south side of the door as it has been suggested, it seem as though that would still allow for a functional garage.

Mr. Miller stated that he considered that however, it doesn't allow for the additional storage and functional use of the total garage that he is looking for at this time.

Mr. Zych went on to explain again to Mr. Miller the purpose of the Board of Zoning Appeals and how they must make a decision that upholds the zoning code. Which in this case is making their decision difficult with having a proper survey available.

Mr. Miller asked if having a survey done would be helpful.

Mr. Zych replied yes and explained that this case could be continued until a proper survey has been done.

Ms. Knittel asked if the case could be continued for more than a month, considering that it may take longer than a month to have a survey performed on the property.

Mr. Zych asked Mr. Miller if having the case continued until February 2022 be enough time to allow for a survey.

Mr. Miller stated that with spring approaching shortly and this truly being a learning experience for him regarding the new garage. He asked that the case be heard in January 2022.

Mr. Porcelli stated that before returning in January the applicant may want to consider the roof overhang of the garage as this cannot project over his neighbor's property and that the applicant may also want to consider whether the proposed location provides enough space between garages to allow for maintenance of the garages.

Mr. Zych asked if there was a motion on the floor.

Mr. Hoen moved that Cal. No. 3535 B. & J. Miller, 1618 Rydalmount Rd., A Single-Family, requests a variance to a) Sect. 1121.12(a)(2) to permit a new garage/workshop to be setback less than 5' min. required side yard setback; b) Sect. 1121.12(d)(1) to permit garage/workshop rear yard coverage to be greater than max. 20%; & to c) Sect. 1121.12(e)(2) to permit garage floor area to be greater than max. area permitted. be granted a continuance to the January 2022 calendar.

Mr. Porcelli seconded the motion.

Motioned carried 3-0.

Ms. Knittel and the applicants for the next case were sworn in by Ms. Roessner.

Mr. Zych asked that the staff report dated December 9, 2021, be entered into the record, hearing no objection it shall be entered.

Karen Knittel PowerPoint Presentation was as follows:

Cal. No. 3536 S. & S. Dyke, 2558 Guilford Rd. A Single-Family, requests variances to Section Sect. 1121.12(e)(3)b to permit an attached garage to be closer to the street than the façade of the house facing Monmouth Rd. (required to be setback 5' behind the house façade).

Context:

This is a single-family house located in an 'A' Single-family district.

The property is to the west, south, and east across Guilford Road are single-family houses in 'A' Single-family district. The properties to the north across Monmouth are single-family houses in an 'AA' Single-family district.

The Master Plan Future Land Use Map shows this area as continuing to be used for single-family housing.

Project:

The applicant proposes an addition to their house that includes an attached garage. The front of the attached garage will be 2.75 feet in front of the existing house.

Facts

- Code Section 1121.06 states that in an 'A' Single-family district the minimum lot width is 50 feet at the building line and has a minimum of 7,500 square feet in area. This parcel is 142 feet wide and is 33,383 square feet in area.
- The property is a corner property, located at the corner of Guilford and Monmouth roads.
- Code Section 1121.12(e)(3)b requires attached private parking garages to be located at least five (5) feet behind the façade of the primary structure, A new attached private parking garage on a corner lot shall be set back at least five (5) feet from the façade of the primary structure on the side that contains the driveway.
- The proposed attached garage would be 2.75 feet in front of the existing house.
- Code Section 1121.12(e) states that a single-family dwelling shall be permitted no more than one attached and one detached garage with a total maximum floor area of 600 square feet plus one additional square foot of garage area for every fifteen (15) square feet of lot area greater than 6,000 square feet. The maximum garage floor area permitted is 1,300 square feet.
- This parcel is 33,383 square feet and therefore may have up to the maximum 1,300 square feet that the code permits.
- The current detached garage is located closer to Monmouth Road than the proposed attached garage.
- The current curb cut and driveway would be used for the proposed attached garage.
- The Architectural Board of Review conducted a preliminary review at their November 16th meeting.

The applicant has submitted a Statement of Practical Difficulty with their application and it is attached to this staff report.

If approved, conditions may include:

1. Cal. No. 3536 variance to Section 1121.12(e)(3)b is granted to permit the attached garage to be 2.75 feet in front of the existing façade of the house as is shown on the site plan submitted with the BZA variance application.

2. Approval by the Architectural Board of Review.
3. Receipt of a Building Permit; and
4. Complete construction within 24 months of the effective date of this variance.

Mr. Porcelli asked for clarification on the code requiring the garage to be setback five feet behind the side elevation of the house.

Ms. Knittel said that until the recent code change no garage with a forward-facing garage door is permitted unless there was already a certain percentage of garages that have a forward-facing garage. This zoning code amendment was reviewed and approved by the Planning Commission and approved by City Council. The code intends that the garage not be the predominant feature of a home when there's an attached garage.

Mr. Porcelli stated his observation of the garage size in relation to the house plan.

Ms. Knittel said that this is currently not a part of the consideration, however, the Architectural Board of Review still looks at all aspects of every design that is brought forth.

Mr. Hoen asked if we consider a garage forward-facing when we are dealing with a corner property.

Ms. Knittel said that the code has two sections and includes a section regarding a corner property. Ms. Knittel went on to reread the amended zoning code for clarification.

Michael Caito gave his address 2635 Fenwick Rd., University Heights, Ohio He went on to state that he was the architect for this project located at 2558 Guilford Rd and will represent the homeowner of this property this evening. Mr. Caito gave a brief overview of the project and why a variance is being requested. He reviewed the submitted statement of practical difficulty. He went on to state that the homeowner has an undersized garage that's original to the home. He said that the new garage would allow for better function of space for the family as well keep the current charm of the house intact. He added that the improvement would allow for the resident to have better access in and out of the garage as well giving additional storage. Mr. Caito informed the Board that they have been before the Architectural Board of Review with this design as well.

Mr. Zych if there was a motion on the floor.

Mr. Hoen moved regarding **Cal. No. 3536 S. & S. Dyke, 2558 Guilford Rd.** A Single-Family, requests variances to Section 1121.12(e)(3)b to permit the attached garage to be closer to the street than the façade of the house facing Monmouth Rd. (required to be setback 5' behind the house façade). He moved to grant the application with the conditions for the variance, after reviewing the application and other submissions, hearing the evidence under oath, the Board finds and concludes special conditions and circumstances exist which are peculiar to this land/structure which would constitute a technical difficulty.

Special conditions and circumstances exist which are peculiar to this land/structure, specifically, this is a corner parcel at Guilford Road and Monmouth Road, the driveway runs

to the side of the house that faces Monmouth Road and the new attached garage will face Monmouth Road; there are unique characteristics of this property including landscaping that would be encroached upon if the garage were moved further back from the road; the variance is insubstantial as it is only a few feet in front of the house; the essential character of the neighborhood would not be substantially altered as a result of this variance and the proposed improvements would enhance the character of the neighborhood; the variance does not adversely affect the delivery of government services; the special circumstances existing such as the landscape are not the result of the actions of the applicant, they were there before the applicants purchase the house; and the spirit and intent behind the zoning requirement would be observed and substantial justice is done by granting the variance. If granted, the variance shall have the following conditions:

1. Cal. No. 3536 variance to Section 1121.12(e)(3)b is granted to permit the attached garage to be 2.75 feet in front of the existing façade of the house as is shown on the site plan submitted with the BZA variance application.
2. Approval by the Architectural Board of Review.
3. Receipt of a Building Permit; and
4. Complete construction within 24 months of the effective date of this variance.

The motion was seconded by Mr. Porcelli and approved 3-0.

The meeting was adjourned at 7:56 p.m.

Respectfully Submitted,



Thomas Zych, Chair

Karen Knittel, Secretary

