

CITY OF CLEVELAND HEIGHTS
BOARD OF ZONING APPEALS
October 19, 2022

MEMBERS PRESENT:

Benjamin Hoen Vice-Chair
Dennis Porcelli
Gayle Lewin
Liza Wolf

ABSENT MEMBERS

Thomas Zych Chair

STAFF PRESENT:

Karen Knittel Assistant Planning Director
Lee Crumrine Assistant Law Director
Christy Lee Recording Secretary

CALL TO ORDER 7:00 pm

Vice Chair Mr. Hoen welcomed all to the meeting and noted that Chair Thomas Zych was out of town on business and therefore he would be chairing the meeting.

APPROVAL OF THE MINUTES

Mr. Porcelli motioned to approve the September 21, 2022 Minutes, the motion was seconded and the minutes were approved.

THE POWERS OF THE BOARD AND PROCEDURES OF THE BOARD OF ZONING APPEALS PUBLIC HEARINGS FOR REGULAR VARIANCES

Mr. Hoen 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 the 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 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 outlined 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 inconveniences are not relevant to the Board's determination.

The Board is the final administrative decision-maker for all regular variances.

PUBLIC HEARING

Lee Crumrine swore in all applicants and staff.

Staff Report dated October 24, 2022, was entered into the record after hearing no objection.

Karen Knittel presented her staff report as follows

Cal. No. 3552 D. & M. Schubert, 2245 Harcourt Dr., 'AA' Single-Fam. requests approval to expand their carriage house per Nonconforming Use Code Sect. 1173.01(a) by adding a 336 sq. ft. one-floor addition.

Context

- This is a single-family house zoned 'AA' Single-Family. Properties to the north and south, and west across Harcourt Dr. are all single-family houses zoned 'AA' Single-Family. The properties to the east (rear of the property) are single-family houses zoned 'A' Single-Family.
- The Master Plan Future Land Use Map shows this area as continuing to be used for single-family housing.

Project

The applicants propose to build a 336-square-foot one-floor addition to their 2-story carriage house. The existing carriage house footprint is 546 square feet. This request is for a nonconforming use expansion to occupy a greater area of land.

Relevant Code Sections

- Code section 1121.12(j) (2) *Alterations to the carriage house shall be regulated by Section 1173.01(a)*
- Code section 1173.07(a), Continuation of Nonconforming Uses, *Alterations* states:
"No existing building devoted to a use not permitted by this Code in the district in which it is located shall be extended, reconstructed, or structurally altered to occupy a greater area of land than was occupied, nor by the addition of accessory uses which would not be permitted elsewhere in the same district, except upon approval by the Board of Zoning Appeals."
- Code section 1109.06(e), holds that the Powers and Duties of the Board include *"To allow or permit the expansion or extension of a nonconforming use where the enforcement of the regulations pertaining to nonconforming uses will result in unnecessary hardship."*
- Code section 1115.07(e)(2) sets forth seven (7) criteria each of which the applicant must demonstrate by clear and convincing evidence to establish an unnecessary hardship.
- BZA's findings and conclusions of law concerning a proposed expansion of a nonconforming use pursuant to Code section 1173.07 are not subject to Council review.

Facts

- This is a code-conforming parcel as it is 105 feet wide and 23,310 square feet, per code Sect 1121.06 a parcel in the 'AA' single-family district is to be a minimum of 100 feet wide and 15,000 square feet in area.
- The carriage house is in the rear of the applicant's property.
- Code Section 1121.12(j) regulates carriage houses that were constructed prior to the zoning code: *In an AA or A District there shall be only one (1) dwelling unit on a lot except that an existing carriage house may continue as a nonconforming dwelling unit in compliance with the following:*
 - (1) the carriage house shall have been occupied (regardless of the length of time), designed for, constructed for, or intended for residential occupancy and legally constructed or created prior to the adoption of this Zoning Code.*
 - (2) Alterations to the carriage house shall be regulated by Section 1173.0(a) and (b).*
 - (3) For the purposes of this section, the occupants of the carriage house shall be considered as part of the family in the principal dwelling unit and shall comply with the family definition.*
- The existing carriage house was in existence before the zoning code, the applicant has stated that the house and carriage house were built in 1925.
- The existing carriage house is 2-stories with a first-floor footprint of 546 square feet.
- The carriage house is setback 3' to 6'3" from the rear property line.
- The addition would be a minimum of 6'3" from the rear property line and 18' from the side property line.
- Accessory buildings are to be a minimum of 5' from the property line per Section 1121.12(a)(2).
- The one-story addition would not increase the height of the carriage house.
- The rear yard coverage with the carriage house addition is code-conforming at 52%, Code Section 1121.12(d) permits a maximum rear yard coverage of 60%.
- Other than this addition being proposed for a carriage house that requires the alteration to be considered under the nonconforming regulation, the proposed addition is code-conforming.

The Board of Zoning Appeals must find that all seven (7) criteria are demonstrated by clear and convincing evidence to prove an unnecessary hardship and thus approves the expansion of a nonconforming use pursuant to Section 1173.01(a) to occupy a greater area of land.

If approved, conditions should include:

1. Cal. No. 3552 is granted to permit the Carriage House footprint to be expanded by 336 square feet as shown on the plans dated September 20, 2022, submitted with the BZA application.
2. Approval of 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.

Ms. Knittel stated that the applicant was present and prepared to briefly review their project and statement of practical difficulty.

Mr. Hoen asked for the applicant to come forward to address the Board and the public for any additional Comments.

John Payne came forth as the representative and architect for Mr. and Mrs. Shubert, affirmed the oath as well as that an application was submitted and to his knowledge, it was true and correct. Mr. Payne went on to address the statement of hardship regarding this project. He proceeded to explain that the house had been built in the late 1920s having a main house along with an additional structure the carriage house and garage. Mr. Payne went on to explain how this was a very unique property that need some improvement to allow for a more functional and modern appeal. Mr. Payne carried on by explaining the improvements to the carriage house would allow for the resident to move their parents onto the property allowing for them to have their own personal space together with the Schubert to care for their family close to home.

Ms. Wolf asked for Mr. Payne to expand on not having the ability to add on to the main house.

Mr. Payne responded by referring to the current power-point before the Public and Board showing the layout of the main house. Mr. Payne reviewed reasons why the addition was not being proposed to be added onto the house.

Ms. Lewin asked for clarification on the term "family" relating to the new remodel of the carriage house. Per code 1121.12 section 3.

Mr. Crumrine responded stated the zoning code 1121.12 section 3 meaning and how this relates to the definition of "family" and allows for this project to be considered within the category.

Ms. Knittel confirmed the definition of the Zoning Code and how this particular project and the reasoning of the project fall into this category of zoning.

Mr. Payne stated that placing an elevator within the carriage house would allow for the aging parents of the Schubert to have complete and safe access throughout the carriage house.

Ms. Wolf asked if there would be a possibility for caregiving to have access to the carriage house at some point.

Mr. Payne "yes".

Ms. Lewin asked what would be the impact on the vegetation on the property with the new renovations.

Mr. Payne responded that there will still be vegetation remaining on the property allowing for screening for the neighbors and well the homeowners.

Mr. and Mrs. Schubert stated they wanted to have this project completed for the betterment of their family. They started the building and the addition to the home would compromise the function of the current main house. Utilizing the carriage house allows their family to be able to have a sense of independence but also allows them to care for and attend to their elderly parents.

Ms. Wolf stated that the carriage currently provides a kitchen, and bedroom and just needs additional quarters for comfortable living. Ms. Wolf asked Mr. Payne if it would be more expensive to add to the

main house versus rehabbing the carriage house. She also stated that regarding the impact on the neighbors, they would not be increasing the height of the carriage house.

Mr. Payne responded that adding an addition as discussed would involve many systems of the house, electrical, plumbing HVAC, and would interfere with the current flow and use of the house and property.

Ms. Lewin wanted to certify that there wasn't a code that had a limit on bedrooms allowed within a carriage house.

Ms. Knittel "No" there is not.

Frank Kuhar asked to speak as a member of the public on behave of Cal No. 3552, he affirmed the oath. Mr. Kuhar stated that he has seen many projects like this where carriage homes have been converted into living quarters for family members who are aging. He stated that this allows for what would have been a wasted function of space and would allow the property owners to utilize the full functionality of the property.

Ms. Wolf moved to approve **Cal. No. 3552 D. & M. Schubert, 2245 Harcourt Dr., 'AA' Single-Fam.** requests approval to expand their carriage house per Nonconforming Use Code Sect. 1173.01(a) by adding a 336 sq. ft. one-floor addition. After reviewing the application and other submissions and hearing the evidence under oath the board finds and concludes that special circumstances do exist and The property cannot be put to any economically viable use as this is an existing carriage house and the requested repairs enable a first-floor bedroom permitting aging in place which is needed especially when considering the extreme cost of care outside the home; The request stems from a condition which is unique to the property as there is no viable option to add to the house and renovating the carriage house will make it viable and can be done with no variances; The hardship condition is not created by actions of the applicant as the carriage house and much of the housing in Cleveland Heights lacks first floor bedrooms; The granting of this request will not adversely affect the rights of adjacent property owners as the addition is code conforming in terms of setbacks, height, and rear yard coverage for this property; The granting of this will not adversely affect the public health, safety, or general welfare as this carriage house is located in the rear of the property and is code-conforming; Granting this request will be consistent with the general spirit and intent of the zoning code as this conforms with the use of carriage houses and residents being defined as being part of the family of the primary residents and especially in this instance where the carriage house will be used by the applicant's parents; and This request is the minimum that will afford relief to the applicant as there is little ability to add to the main house and other alternatives would not be cost-effective or viable options. If granted the variance should have the following conditions

1. Cal. No. 3552 is granted to permit the Carriage House footprint to be expanded by 336 square feet as shown on the plans dated September 20, 2022, submitted with the BZA application.
2. Approval of 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 4-0.

Ms. Knittel reviewed her staff report for Cal. No. 3553 using a PowerPoint as follows:

Ms. Lewin recuse herself from this case.

Cal. No. 3553 F. Kuhar, 2243 Bellfield Ave., 'B' Two-Fam., requests a variance to Sect. 1121.08 to permit the new attached garage to have a rear yard of less than min. 30'.

Context

- This is a single-family house zoned 'B' Two-Family. Properties surrounding the applicant are zoned 'B' Two-Family. The adjacent property to the north is a single-family house and the adjacent property to the south is a two-family home. To the east, the rear of the property, and behind the existing garage is a single-family house, and the house behind the applicant's house is a two-family house. To the west, across Bellfield Ave. from this parcel are two single-family houses.
- The Master Plan Future Land Use Map shows this area as continuing to be used for detached or attached single-family residential uses, two-family homes, or townhouses.

Facts

- This is a code-conforming property in terms of parcel width and area. The parcel is 100 feet wide and 13,800 square feet. Code Section 1121.06 states that for a single-family house in a 'B' Two-Family District the parcel must be a minimum width of 50 feet at the building line and have 7,500 square feet.
- The applicant's house is set back further from the public right-of-way than the houses adjacent to it. The applicant's house is set back from the public right-of-way by approximately 61 feet, the house to the south is setback approximately 34 feet and the adjacent house to the north of the applicant is set back approximately 31 feet from the public right-of-way. (measurements from myplace.cuyahogacounty.us)
- The house is located at the top of a hill, and the public sidewalk and street are at a lower elevation than the front of the house.
- There is a 14.3' by 20' garage that will remain.
- Code Section 1121.12(e)(1) permits a single-family dwelling to have one attached and one detached garage.
- The proposed garage floor area combined with the existing garage floor area is code-conforming. Code Section 1121.12(e)(2) states that the maximum garage floor area for a single-family dwelling shall be 600 square feet plus one (1) foot of additional garage floor area for every fifteen (15) feet of lot area greater than 6,000 square feet, up to a maximum floor area of 1,300 square feet.
 - The parcel is 13,800 square feet and therefore an additional 520 square feet of garage floor area is permitted in addition to the base 600 square feet. The parcel is permitted to have 1,120 square feet of garage floor area.
 - The current garage floor area is 286 square feet and the proposed garage would have 624 square feet of garage floor area for a total garage floor area of 910 square feet. The proposed garage floor area is code-conforming.
- The new garage would be attached to the principal structure (house). Code Section 1121.08 states that the minimum depth for a rear yard is 30 feet.
- The distance from the existing rear wall of the house to the rear property line is 30 feet.
- The proposed attached garage addition would result in the rear yard being 4 feet in depth.

- The garage addition will be a single story and not visible from the street;
- The properties to the rear of the applicant are at a higher elevation than the applicant's property.
- The detached garages on the properties to the rear of the applicant are close to the shared property line.

If approved, conditions should include:

1. Variance 3553 is granted to permit the addition of an attached garage to the principal structure (the house) resulting in the rear yard being 4 feet in depth as shown on the site plan submitted with the BZA application.
2. Stormwater from the new garage addition shall be directed to a rain garden(s);
3. Approval of 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. Hoen asked if there were any questions for the staff, but there were none. Mr. Hoen asked if the applicant had any additional remarks.

Frank Kuhar with Revise Housing, went on to give further description of the property and the proposed project and renovations that will happen.

Ms. Wolf asked if this had been a two-family home. She noted it is zoned as a two-family home. She asked for additional clarification on where the garage will sit.

Mr. Kuhar stated that it has been and will continue to be a single-family house and discussed where the current garage is and where the proposed attached garage will be.

Mr. Hoen asked if there were any comments from the public there were none, Mr. Hoen asked if there was a motion at this time.

Mr. Porcelli **Cal. No. 3553 F. Kuhar, 2243 Bellfield Ave., 'B' Two-Fam.**, requests a variance to Sect. 1121.08 to permit the new attached garage to have a rear yard of less than min. 30'. After reviewing the application and other submissions and hearing the evidence under oath the board finds and concludes that special circumstances do exist and The property in question would not yield a reasonable return without this variance to allow for the construction of a two-car garage that is required for a house of this size; The essential character of the neighborhood would not be substantially altered as a result of the variance as the proposed garage is located behind the house and will not be visible from the public right-of-way; The variance does not adversely affect the delivery of government services; Special conditions exist that are not a result of actions by the applicant as the existing garage should be maintained due to its structural and historical significance; The applicant's predicament feasibly cannot be resolved through any other method. The spirit and intent of the zoning code would be observed and substantial justice is done by granting this variance because of the logistics and geography of this site; if approved the following conditions would apply:

1. Variance 3553 is granted to permit the addition of an attached garage to the principal structure (the house) resulting in the rear yard being 4 feet in depth as shown on the site plan submitted with the BZA application;

2. Stormwater from the new garage addition shall be directed to rain garden(s);
3. Approval of 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.

The motion was seconded by Ms. Wolf and approved 3-0.

Cal. No. 3554 Weeks Automotive, 3984 Mayfield Rd, 'S2' Mixed-Use, requests a variance to Sect. 1163.04 to permit commercial identification signage to be greater than max. 150' to permit commercial identification sign on the east side of bldg. & north, Mayfield Rd. side of bldg. & on prior nonconform pole sign.

Staff report dated October 13, 2022 was entered into the record after hearing or seeing no objection.

Ms. Knittel reviewed her staff report using a PowerPoint Presentation was as follows:

Context

- This is a commercial property zoned 'S2' Mixed-Use. The property to the east and the properties to the west are commercial properties zoned 'S-2' Mixed-Use. The property to the south is an apartment building zoned 'S-2 Mixed-Use. North, across Mayfield Road, are commercial properties zoned C-3 General Commercial.
- The Master Plan Future Land Use Map shows this area as being Mixed-Use: Commercial & Retail.

History

- This property has been used as an automotive repair business (Aamco Transmission) since at least 1994. While the free-standing pole sign and signage on the building have been in place, there are no records of approvals.

Facts

- The property has a shape similar to the capital letter 'L'. The building fronts along Mayfield road at the top of the "L" and the bottom of the "L" extends behind the adjacent business, Subway, to provide access to Warrensville Center Road.
- The entry to the building is a door along the east elevation facing the Subway and Warrensville Center Road.
- While there is a driveway adjacent to the building from Mayfield Road most access the property by turning into it from Warrensville Center Road.
- The shape of the property and the main access of the property from Warrensville Center Road causes this property to appear to be a corner property.
- This is a continuation of a prior nonconforming auto repair use and shall follow all standards in Code Section 1153.05 (u) including:
 - All activities including cleaning, washing, and drying operations shall take place in the building;
 - No merchandise except oil may be stored or displayed outside; and
 - No junk, inoperative or unlicensed vehicles will remain on the property for more than 48

hours.

- Code Section 1163.04 permits a business to have commercial identification signage of one square foot for each lineal foot of building frontage, up to a maximum of 150 square feet.
- Code Section 1163.03(c) states that the building frontage is the length of the building facing a principal street or the length of the wall of the building which contains the main entrance to the use.
- The main entrance to Weeks Automotive is on the east side of the building, facing Warrensville Center Road. The length of the building is 150 feet.
- Based on lineal footage of the east elevation, the maximum commercial identification signage permitted is 150 square feet.
- There is an existing freestanding sign along Warrensville Center Road that is 24 square feet on each of the two faces, totaling 48 square feet of identification signage.
- There is one projecting sign on the building's northeast corner that is 24 square feet on each of the two faces. Code Section 1163.04(b)(1) states that one face (as calculated from an elevation view) of a two-faced sign shall be part of the total identification sign area permitted in Schedule 116.04. Therefore, for this projecting sign, 24 square feet is counted towards the total commercial identification signage.
- The applicant proposes approximately 80 square feet of signage for the east (Warrensville Center Road elevation).
- The applicant proposes signage for the north (Mayfield Road elevation) that is 39.69 square feet.
- The total commercial identification signage being proposed is 191.69 square feet.
- The location of this building results in the signage facing Warrensville Center Road (east elevation) not be visible to persons on Mayfield Road.
- Signage on Mayfield Road (north elevation) is not visible to persons on Warrensville Center Road.
- The existing pole sign is at the entrance drive to the applicant's business.

If approved, conditions should include:

1. Variance 3554 is granted to permit commercial identification signage totaling 191.69 square feet, including the nonconforming pole sign, the projecting signs, and building signage on both the Mayfield Road (north elevation) and Warrensville Center (east elevation) as shown on the site signage plan submitted with the BZA application.
2. As a continuation of a nonconforming use, Weeks Automotive will adhere to auto repair as stated in Section 1153.05(u) requirements;
3. Approval of 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.

Ms. Knittel explained that in calculating the sign square footage, we can only count the one elevation and the code says that you take the length of the building facing the primary street, Ms. Knittel further explained how the signage applies to the project.

Ms. Lewin asked what total sign square footage would be permitted if this was a corner property. Ms. Knittel stated it would be 60 square foot.

Mr. Hoen asked for the applicant to come further.

Lee Crumrine swore in the applicant.

Deidre Weeks 2600 Norfolk Rd affirmed she took the oath.

Mr. Hoen asked if they submitted an application dated October 5, 2022, and to the best of her knowledge that it was true and accurate. Ms. Weeks confirmed that she had submitted that application. Mr. Hoen stated that if there are no objection they will enter the application in to the recorded.

Ms. Weeks went on to give further details regarding the new signage for the business and reviewed her statement of practical difficulty.

Ms. Lewin on the 4th page asked for clarification on the correct font that will appear on the sign.

Ms. Knittel added that ABR will make the decision regarding the font and graphics of the sign.

Ms. Wolf non-conforming sign is how many square feet.

Ms. Knittel its 24 square feet.

Ms. Lewin **Cal. No. 3554 Weeks Automotive, 3984 Mayfield Rd, 'S2' Mixed-Use**, requests a variance to Sect. 1163.04 to permit commercial identification signage to be greater than max. 150' to permit commercial identification sign on the east side of bldg. & north, Mayfield Rd. side of bldg. & on prior nonconform pole sign. after reviewing the application, staff report, and other submissions and hearing the evidence under oath during a public hearing, the Board of Zoning Appeals found the following facts and made the following conclusions of law: Special conditions and circumstances exist which are peculiar to this property, specifically this property functions as a corner lot with two faces along major thoroughfares; The property in question would not yield a reasonable return without this as customers, especially new customers need to know where the business is located and this information needs to be on both streets; The variance is insubstantial as the signs are needed on both streets to be visible and if this was on the corner parcel or a gas station more signage would be permitted; The essential character of the neighborhood would not be substantially altered as a result of the variance as other businesses in the area have similar signage; The variance does not adversely affect the delivery of government services; The property owner testified that the property was purchased without knowledge of the zoning restriction; Special conditions exist that are not a result of actions by the applicant as the building and site function as a corner lot even though it is not technically the corner parcel; The applicant's predicament feasibly cannot be resolved through any other method. The spirit and intent of the zoning code would be observed and substantial justice is done by granting this variance as to be visible, signage is required on both streets; The granting of the variance requested will not confer on the applicant any special privilege because this property functions as a corner lot; The granting of the variance does not confer on the applicant any special privilege as other businesses in this district have similar signage; if approved the following conditions would apply:

1. Variance 3554 is granted to permit commercial identification signage totaling 191.69 square feet, including the nonconforming pole sign, the projecting signs, and building signage on both the Mayfield Road (north elevation) and Warrensville Center (east elevation) as shown on the site signage plan submitted with the BZA application.

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2. As a continuation of a nonconforming use, Weeks Automotive will adhere to auto repair standards as stated in Section 1153.05(u) requirements;
3. Approval of 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.

The motion was seconded by Mr. Porcelli and approved 4-0.

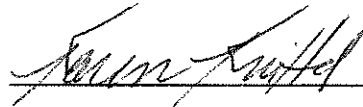
Old Business: There was no old business

New Business: There was no new business

The meeting Adjourned at 8:32 pm.



Ben Hoen, Vice-Chair



Karen Knittel, Secretary