

**CITY OF CLEVELAND HEIGHTS
SPECIAL PLANNING COMMISSION
June 29, 2021
MINUTES OF THE SPECIAL MEETING**

MEMBERS PRESENT:

Jessica Cohen	Chair
Michael Gaynier	Vice Chair
Leonard Horowitz	
Adam Howe	
Anthony Mattox, Jr.	
Jeffrey Rink	
Jessica Wobig	

STAFF PRESENT:

Eric Zamft	Planning Director
Karen Knittel	Assistant Planning Director
Alix Nouredine	Assistant Director of Law
Christy Lee	Recording Secretary

CALL TO ORDER

Jessica Cohen called the meeting to order at 7:05 p.m. She welcomed the audience to the June 29, 2021, Special WebEx meeting of the Cleveland Heights Planning Commission. Thank you to everyone who is in attendance including those from the public and our guest Kathryn Hexter. MS. Cohen asked if there were any changes to the minutes, there was one change that needed to be made, it was noted to the recording secretary for corrections and the minutes stood as accepted into the record. Ms. Cohen preceded said the purpose of tonight's meeting will be to start thinking of how the Planning process will become more proactive and innovative in their thinking with the zoning code. How to be more responsive to the residents in the community by looking at the zoning code through more of a racial equity lens. She went on to thank the Planning Director for his input and experience with these particular matters. She went on to formally introduce the speaker for the evening Kathryn Hexter who is a retired director of the Cleveland State University Center of Community planning and development. Ms. Cohen further went on to say that she hopes that this will allow for the Planning Commission and the City of Cleveland Heights to have a better view of how to improve on the Zoning codes and other racially charged topics that are now brought to the forefront of the community.

Kathryn Hexter Thanked the Planning Commission and the City of Cleveland Heights for the opportunity to speak with them this evening, she went to give more details about her expertise in this subject matter and how she hopes that this will help the City of Cleveland Heights and the Planning Commission to have a better understanding as to Zoning Codes and Equity Planning and how they affect the community.

Ms. Cohen interjected that she wanted to let those that are present from the public that this is just a presentation to the Planning Commission.

the current parking issues that we are experiencing within the City of Cleveland Heights and how we can improve the issue that we are facing. Mr. Zamft reviewed the proposed zoning text amendments. Mr. Zamft reviewed the zoning amendment process:

- 1.) Introduction of amending ordinance to Council by staff- June 7, 2021
- 2.) Referral by Council to Planning Commission – June 7, 2021
- 3.) Planning Commission consideration and recommendations – Introductory discussion
- 4.) Public hearing at Council- TBD (depending on Commission recommendation and Council summer schedule)
- 5.) Action by Council – TBD depending on Commission recommendation and Council summer schedule and ending with opportunities for public comment.

He made the public aware that this information will be available on the Cleveland Heights Website, and that all comments can also be sent to the Planning Department directly.

Ms. Cohen thanked Mr. Zamft and noted that the Planning Commission has seen zoning changes before however, none have moved as quickly as this, mentioning that there have been cases that have been held up due to the current zoning amendments and this would truly help with getting thing moving and in the right direction as well as to improve how we handle these matters from a zoning perspective. Ms. Cohen asked Mr. Zamft if he could elaborate on the possible new zoning code for garages.

Eric Zamft stated that he's spoken with staff regarding that particular change and that this change would eliminate a lot of hurtles that residents face building a garage to meet their needs. He gave several examples of the complicated situation that residents have faced and how having the new zoning codes would help rectify some of these issues.

Ms. Cohen agreed that this would improve how certain projects are viewed and approved.

Anthony Mattox asked how we define a junk vehicle within the code.

Eric Zamft although that part of the code is minor in terms of change, however, it is something that we need to pay attention to, but it's referred to in Code Section 1161.08. He stated that they add a clearer definition as to what a "junk vehicle" is classified as.

Anthony Mattox stated that he appreciated that because he has been presented with that question often and wanted to how to correctly answer.

Mr. Horowitz commentated that it appears that you are completely getting rid of the requirement for a garage on residential property is that correct and is possible that you can give an example.

Mr. Zamft responded that he is correct and that a garage should not be the only means of parking on a residential property. This is one of the many reasons why we have the proposal of the possible changes to the code. At its core, what the proposal is trying to accomplish, is because as of now no matter what size lot you have no matter how many cars you have to have a 2-car garage on your property. Some residents have only one car some have no car and some have 3-cars. But the reality, what people end up doing is they use their garages for other purposes. Especially because detached garages that were built a long time ago have less ability to severe as multi spaces, as opposed to, an attached garage. It's now very common for people to pull in and walk right into their homes, but having this out structure very often leads to people storing things there, making it a shop,

workout place, and additional storage. Mr. Zamft address there will be those who feel that the known character of Cleveland Heights' charm with the historic garages will be lost with the proposed changes and that neighbors will park their vehicles all over their property. He said that is why we need to ensure that when the changes are made that we take all concerns and make the most efficient changes for the community as a whole.

Mr. Horowitz also addressed a couple of other things that he was concerned with, however, he wanted to be considerate of time. He wanted to know if he can speak with the Planning Department about his other concerns.

Alix Nouredine interjected that Mr. Horowitz should not view his concerns or question as monopolizing time, that he should view it as a discussion amongst the entire commission regarding his concerns, and stated that this platform provides the basis for that is the best forum to engage in that conversation and debate.

Mr. Horowitz raised a question in regards to 1121 (e).

Karen Knittel interjected that often people are trying to allow space for both vehicles, but also have space for storage. She pointed out that the code talks about the floor area of a garage, but it doesn't make a distinction between parking space and your space that is used for storage.

Mr. Horowitz ok, thanks for that. Also, I wanted to have clarification on fence regulations and setbacks.

Karen Knittel stated there had been talks about the setbacks of the fence placement however there is nothing in the Code. At times, when a variance is granted a specific setback from the street may be included as a condition and also the Architectural Board of Review considers fences in front and corner side yards and may include a setback requirement.

Ms. Cohen interjected that she too has been asked questions regarding the setback and regulation for fences as well, especially for properties that are on corners.

Anthony Mattox asked if we are now viewing garages and carriage houses the same.

Eric Zamft responded "No" those will remain separate.

Anthony Mattox Thank you.

Mr. Horowitz asked for clarification on parking pads when garages are no longer functional, and he raised the question of the deterioration of the property.

Ms. Wobig asked about the impact of not requiring garages on those who are purchasing property through a short sale, or foreclosure, specifically asking how the value of the property would now be impacted if we allow garages to be removed.

Ms. Cohen bought up an example of a tree falling on a garage, and relying on the code that their garage would be replaced. But also, she has encountered how someone that has a 40-foot standard lot where they are just trying to get more use of their home and not the

garage. Ms. Cohen went on to ask that in these situations is it possible for planning and legal to put their head together to come up with a solution that would benefit both cases.

Ms. Wobig interjected that consideration should be given to whether the garage provides character to the home for example is it a historic property, and should that be protected.

Mr. Horowitz mentioned that there has been an increase in some companies purchasing single-family homes, especially in areas like Cleveland Heights. He raised the concerns about how will we monitor and ensure that the integrity of Cleveland Heights is kept with these larger companies purchasing these properties and the possible changes to the codes. Eric Zamft expressed that this tension is not a surprise, and said he knows that we have a long road ahead of us in dealing with the presented mandates. That is why we have plans to work closely with the legal staff to have a cohesive plan to accommodate all.

Mr. Rink stated that he hasn't had my conversations about this particular information that we've received on these code changes and that we need to slow down and take the time needed to make the best choices for the community as a whole.

Anthony Mattox agreed with Mr. Rink and said that we need to take more time and explore all options regarding this section of the code with changes with garages.

Alix Nouredine expressed that the expectations are leveled in regards to this matter, that homeowners regardless of whether it's a holding company or other owners are held to the same standards across the board, so impeding an intent requirement essentially would be very difficult in practice and the code can't discriminate against particular homeowners. Mr. Nouredine went on to say that it may be complicated and difficult to impose these particular requirements that this commission is currently discussing

Ms. Cohen asked if there is another part of the code for a person who wants to expand their home.

Alix Nouredine that is provided by the code by way of a variance, someone that is presented with that sort of difficulties requests the variance is needed. He added that there are housing code requirements, separate from zoning codes as well along with building codes but those codes don't say per se if a garage is required or not required, it may set for the building called parameters or particular materials or size or even upkeep of the structure, but it doesn't say whether the structure is mandated by the code.

Ms. Cohen so can we say that the variance, which I believe is where the confusion lies is that they're not able to grant that variance for some reason, so can we isolate that part and focus on trying to allow for some type of innovative expansion and construction then, how the variances could be passed. The message that we seem to receive from BZA is that often they're unable to grant the variance because of the code.

Alix Nouredine, I would refer to planning staff with concern, I was under the impression that it was a volume base issue and that the applications were very similar in nature, Mr. Nouredine stated that he was unaware that there are particular difficulties in granting variances, but that he would again refer to the Planning Department.

Karen Knittel went on to explain the variance process in greater detail of how variances are granted or possibly denied.

Eric Zamft gave further input as to why this change is needed and would help with granting more variances in particularly with garages.

Ms. Cohen asked if there's a definition available to clarify "practical difficulty".

Karen Knittel reviewed the definition of practical difficulty from the zoning code and gave examples of conditions. Ms. Cohen interjected that she had a couple of questions however she was going to give the floor to Mr. Nouredine.

Alix Nouredine added the definition of practical difficulty is derived from case law and state law involving essentially fifth the amendment and property rights as they pertain to government approval.

Ms. Cohen so those factors come from case law Ohio case law. Alix Nouredine "Yes". Ms. Cohen but they are in our code. Ms. Knittel "yes" and there on every Board of Zoning Appeals Application.

Ms. Cohen technically because they are in our code, and I understand that we might want to consider litigation, by changing the statutory piece, however, if we change the code we're changing the governing statute.

Alix Nouredine stated that this would need more research because we want to be consistent.

Ms. Cohen asked the staff if it was possible to work on having a more expansive definition of practical difficulty. And also, if we can talk more in-depth about the variance process and the codes for garages.

Eric Zamft "yes" that would be great. This would allow us to expand on ideas, concerns, and changes that we are looking to address as a Board, and department to better serve the community.

Ms. Cohen noted that Council will not be met on this issue until August. She asked if it was possible for the Planning Commission to meet on August 14, 2021, to further discuss this topic.

Eric Zamft mentioned that Chapter 1109 has specific timeframes

Ms. Cohen which is a 60-day limit that is why we should have an additional meeting, could we possibly call a special meeting.

Alix Nouredine "correct" there is a 60-day limit. Unless the time is extended by counsel or "yes" you can call a special meeting.

Eric Zamft asked Mr. Nouredine would it be worth wild to just go ahead and schedule that special meeting and if need be cancel if necessary.

Alix Nouredine stated that he will defer to the Commission on that, but as long as it's a meeting outside of the regularly scheduled meeting notice is not an issue.

Mr. Gaynier asked if they were referring to the cases that have come before zoning or the Architectural Board of Review because of the zoning. He asked would it be possible for the commission to have a representative sample of these cases that the approval was not granted so that we can see exactly what was proposed in a given situation versus the required code and how it turned out that the homeowner opted not to make the improvement because they couldn't get an approval.

Ms. Cohen that shouldn't be an issue considering that it's a public record.
Eric Zamft "yes" that's a great idea and would help give a better understanding of the project amendment.

Ms. Cohen asked if there were any other questions or concerns that they wanted to address.

Ms. Wobig asked if the zoning code addresses having a space or a secondary accessory building, not a carriage house, not a garage that may be used for other purposes that comply with the residential or zoning district. For example, if I wanted to use my garage as a workspace and it complies with size and scale is there space for that, or is that something that could be considered as well.

Karen Knittel actually, we've seen many of these cases before the Board of Zoning Appeals. Usually, they're adding that space onto the garage and it ends up that the garage either is covering too much area in the yard or if it's a two-story garage then there's a height variance needed because garages are accessory buildings that have a maximum height of 15-feet.

Anthony Mattox clarification so there isn't any building in the backyard that can go above 15-feet. Karen Knittel responded that accessory buildings by code have a maximum height of 15-feet.

Ms. Cohen thanked the Commission for a great discussion. Ms. Cohen then inquired if Planning Commission would return to an in-person meeting starting July 2021.

Alix Nouredine at this time remote meeting will end as of July 1, 2021, unless changed by Council, but as of now, we will begin in-person meeting as of July 1, 2021.

There was no New Business. There was no Old Business.
The meeting adjourned at 8:55 PM.



Jessica Cohen, Chair



Eric Zamft, Secretary