

**CITY OF CLEVELAND HEIGHTS  
BOARD OF ZONING APPEALS  
MINUTES  
January 17, 2024**

**MEMBERS PRESENT**

Thomas Zych	Chair
Ben Hoen	Vice Chair
Gayle Lewin	
Liza Wolf	

**STAFF PRESENT**

Karen Knittel	Assistant Planning Director
Christy Lee	Recording Secretary
Lee Crumrine	Assistant Law Director
Nicole Blunk	City Planner I

**CALL TO ORDER**

The meeting was called to order at 7:00 p.m. All members were present and so there was a quorum.

**APPROVAL OF THE MINUTES**

Approval of the Minutes of the December 20, 2023, Public Meeting was held until next for approval for all members that attended.

**Election of Board of Zoning Appeals Officers**

Thomas Zych was nominated to continue to be Chair of the Board of Zoning Appeals motion passed 4-0.

Benjamin Hoen was nominated to remain Vice Chair of the Board of Zoning Appeals motion passed 4-0.

**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 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(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. The 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

Assistant Law Director Crumrine swore in all who intended to speak.

Mrs. Lewin recused herself from Cal No. 3575.

Staff Report January 3, 2024, was entered into the recorded hearing with no objection.

PowerPoint Presentation was given on the following:

**Cal. No. 3575 V. Whiting, 2489 Coventry Rd.**, "AA" Single-Family, requests variance to Schedule 1121.12(a)(10) to permit the installation of pool equipment in the front yard of a corner lot.

If approved, conditions should include:

1. Variance 3575 is granted to permit the installation of pool equipment in the front yard, 51.1" from the North Park Boulevard public right of way and 106.8' from the Coventry Road public right of way, as shown on the drawings submitted with the BZA application;
2. Landscape Plan to screen the equipment, approved by the Zoning Administrator;
3. Receipt of a Building Permit; and
4. Complete construction within 24 months of the effective date of this variance.

Ms. Wolf asked why wasn't this included in the original plan for the property.

Ms. Blunk that would be better answered by the applicant.

Mr. Zych asked if this location was considered a front yard because of the way defined in the zoning code.

Ms. Blunk replied "Yes".

Katie V. Gillette 12205 Larchmere Blvd, affirm the oath. Ms. Gillette gave an additional overview of the project for consideration due to the front yard definition per the zoning code.

Application date December 13, 2023, was submitted Ms. Gillette affirmed that it was true and correct therefore hearing no objections it was submitted into the record.

Mr. Zych asked for clarification on pool equipment.

Ms. Gillette Pumps, pipes but mostly pumps, heaters, it's both a pool and a spa heater as well.

The were no additional questions from staff or the public, therefore Mr. Zych asked if there was a motion on the floor.

**Mr. Hoen Regarding Cal. No. 3575 V. Whiting, 2489 Coventry Rd., "AA"**

Single-Family, requests variance to Schedule 1121.12(a)(10) to permit the installation of pool equipment in the front yard of a corner lot. After reviewing the application and other submissions, and hearing the evidence under oath, the Board finds and concludes special conditions/circumstances exist that are peculiar to the land structure involved and are generally applicable to other land structures in the same Zoning District in particular the property is an oversized code conforming lot, however, because it's on the corner the side and rear lots are treated under the code as front lots and the purpose of this project is to place the pool equipment in a functional location on the side rear lot. The variance is insubstantial and is the minimum necessary to make possible the reasonable use of the land structure as demonstrated by the fact that this is considered a rear side yard. The essential character of the neighborhood would not be substantially altered as a result of the variance. The variance would not adversely affect the delivery of government services and the property owner testified that purchased the property without Knowledge of the zoning restriction. Without the variance, the already underway project which was previously approved to build a pool would be non-functional without the equipment. Therefore, I move to grant the variance request with the following conditions

1. Variance 3575 is granted to permit the installation of pool equipment in the front yard, 51.1" from the North Park Boulevard public right of way and 106.8' from the Coventry Road public right of way, as shown on the drawings submitted with the BZA application;
2. Landscape Plan to screen the equipment, approved by the Zoning Administrator;
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 Ms. Wolf motion carried 3-0 as Ms. Lewin had recused herself from the vote.

Assistant Law Director Crumrine swore in all who intended to speak.

Mr. Zych made a note that two emails had been sent regarding Cal. No. 3576 and therefore would be entered into the record from Ms. Lamb dated December 19, 2023, Email dated December 26, 2023, from Falck-Ytter. This email too would be entered into the record.

Mr. Zych Staff Report January 3, 2024, therefore hearing no objection it was entered into the record.

Ms. Blunk PowerPoint Presentation:

**Subject: Cal. No. 3576 Fairmount Montessori Association Inc., 17412  
Shelburne Rd., 'AA' SingleFamily**, request a variance to Schedule 1153.03(3) to permit the construction of two (2) additions to the primary structure, one of which being located less than fifty (50) feet from the side property line.

If approved, conditions should include:

1. Variance 3576 is granted to permit the construction of two (2) additions to the primary structure, one of which being located 31 feet from the side property boundary, as shown on the drawings submitted with the BZA application.;
2. Approval from the Architectural Board of Review;
3. Approval of a Landscape Plan by the Zoning Administrator;
4. Receipt of a Building Permit; and
5. Complete construction within 36 months of the effective date of this variance

Mr. Zych asked to re-review the pictures from the PowerPoint to clarify where the addition encroaches on the 55-foot setback.

Ms. Wolf asked if the parcel had been combined.

Ms. Blunk "Yes".

There was an application submitted on December 18, 2023, and to the best of Mr. Payne's knowledge, it was accurate and true, therefore hearing no objection it was entered into the record.

David Payne 10690 Mayfield Rd, Chesterland, Ohio affirmed the oath. Mr. Payne went on to clarify any additional questions regarding the setback and the joining of the property to create more functional space as well as adding a gate.

Ms. Wolf the current structure is not being used as anything.

Mr. Payne "Correct".

Ms. Lewin the addition that is in question today is currently a 2-story and the house is as well. So there will not be any additional height added.

Mr. Payne "Correct".

There were no additional questions from the Staff or the Public.

Ms. Lewin Regarding **Subject: Cal. No. 3576 Fairmount Montessori Association Inc., 17412 Shelburne Rd.**, 'AA' SingleFamily, request a variance to Schedule 1153.03(3) to permit the construction of two (2) additions to the primary structure, one of which being located less than fifty (50) feet from the side property line. After reviewing the application and other submissions, and hearing the evidence under oath, the Board finds and concludes that special conditions and circumstances exist that are peculiar to the land structure involved and are not generally applicable to other land structures in the same Zoning District, in particular, that this is a school that already has a variance and is a conditionally permitted use of the property. The variance is insubstantial to make possible the reasonable use of the land structure as demonstrated by the fact that they're doing the renovations to the additions to maintain the nature of the original structure. The essential character of the neighborhood would not be substantially altered as a result of the variance and/or adjoining properties would not suffer a substantial detriment as a result of the variance because it's already being used as a school and we have received letters in support of this project. The property owner testified that the purchased the property without knowledge of the zoning restriction because this property has been part of this district's general use for many years. The variance would not adversely affect the delivery of government services. the granting of the variance requested will not confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district. If granted, the variance shall have the following conditions:

1. Variance 3576 is granted to permit the construction of two (2) additions to the primary structure, one of which being located 31 feet from the side property boundary, as shown on the drawings submitted with the BZA application.;
2. Approval from the Architectural Board of Review;
3. Approval of a Landscape Plan by the Zoning Administrator;
4. Receipt of a Building Permit; and
5. Complete construction within 36 months of the effective date of this variance

Ms. Lewin added that the original variance that was granted to the property should be returned to the Board of Zoning Appeals if any additional changes are continuing that request.

MS. Knittel asked if she meant an additional changes to the structure.

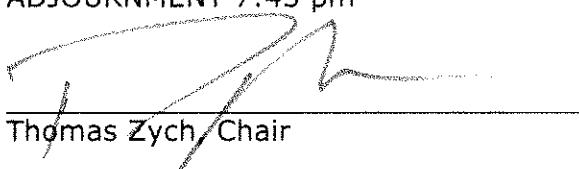
Ms. Lewin "Yes".

The motion was seconded by Mr. Hoen motion carried 4 -0.

OLD BUSINESS C2X Zoning Amendment was passed by the Council, Zoning Map changed as well.

NEW BUSINESS

ADJOURNMENT 7:43 pm

  
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Thomas Zych, Chair

  
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Karen Knittel, Secretary