

**CITY OF CLEVELAND HEIGHTS  
BOARD OF ZONING APPEALS  
MINUTES  
September 18, 2024**

**MEMBERS PRESENT**

Thomas Zych	Chair
Benjamin Hoen	Vice Chair
Graig Kluge	
Elchanan Stern	
Liza Wolf	

**STAFF PRESENT**

H. Lee Crumrine	Assistant Law Director
Karen Knittel	Assistant Planning Director
Christy Lee	Recording Secretary
Xavier Yozwiak	Planner / Zoning Inspector

**CALL TO ORDER**

The meeting was called to order at 7:00 p.m.

**APPROVAL OF THE MINUTES**

Ms. Wolf motioned to approve the Minutes of August 21, 2024. Mr. Hoen seconded the motion. The minutes were approved with no objections (Mr. Kluge abstained).

**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 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 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. 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**

**Cal. No. 3588 Alpha Omega One Construction Co., 1704 Lee Rd., "A" Single-Family,**  
requests variance:

- A.** to Code Section 1121.12(a)(8) to permit the driveway to be less than the minimum 3 feet from the side property line; and
- B.** to Code Section 1121.12(c)(2) to permit the side yard coverage to be greater than the maximum of sixty percent (60%).

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

After hearing no objections, the staff report dated September 13, 2024, was entered into the record.

Mr. Yozwiak reviewed the staff report using a PowerPoint Presentation.

Mr. Yozwiak confirmed to Ms. Wolf that the distances of existing and proposed driveway to the side property line.

Ms. Knittel responded to a question from Mr. Zych and said there are no records that show that a garage existed at the property, but that she suspected there was one at some point based on the condition of the rear yard.

Mr. Yozwiak responded to Ms. Wolf and said that is likely that nearby properties shown in the staff report had a side-yard coverage greater than sixty percent.

Mr. Pittman (1704 Lee Rd., Alpha Omega One Construction Co. owner) came forward to describe his statement of practical difficulty.

Mr. Zych entered Mr. Pittman's application into the record.

Mr. Pittman said the existing driveway is extremely tight, even for smaller vehicles. He said there was no way to do anything smaller.

Mr. Pittman told Mr. Kluge that there were other houses with garages in the rear yard and that that was standard on the street.

Ms. Wolf had a brief discussion about the width of driveway and the size of standard vehicles. Mr. Pittman said he would be driving standard vehicles. Mr. Yozwiak said the standard parking space elsewhere in the zoning code is 9 feet wide.

There was no other public comment.

Mr. Hoen stated that regarding Cal. No. 3588 Alpha Omega One Construction Co., 1704 Lee Rd., he moved to grant the application for a variance with conditions:

- A. to Code Section 1121.12(a)(8) to permit the driveway to be less than the minimum 3 feet from the side property line; and
- B. to Code Section 1121.12(c)(2) to permit the side yard coverage to be greater than the maximum of sixty percent (60%).

After reviewing the application and other submissions, hearing the evidence under oath, the Board finds and concludes:

- Special conditions/circumstances exist which are peculiar to the land/structure because it would be a practical difficulty to lay the driveway anywhere on the property in a way that would be code-conforming; the area between the house and the neighbor's house is barely enough space to fit a functional driveway; a code-conforming setback would create a situation that the driveway would be inoperable and a car would not be able to pass the houses cleanly; and there is little side-yard to utilize to create a space for the driveway which causes the side yard coverage to exceed the requirements.

If granted, the variance shall have the following conditions:

1. Calendar No. 3588 is granted:
  - a. to Code Section 1121.12(a)(8) to permit the driveway to be 1'-0" from the side property line as shown on the revised drawings received by the Planning Department on 8/27/2024; and
  - b. to Code Section 1121.12(c)(2) to permit the side yard coverage to be 78 percent as shown on the revised drawings received by the Planning Department on 8/27/2024;

2. Receipt of a Building Permit; and
3. Complete construction within 24 months of the effective date of this variance.

Ms. Wolf seconded the motion. The motion carried unanimously (5-0).

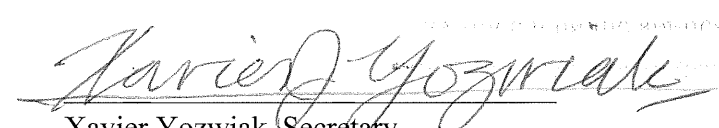
### **OLD BUSINESS**

Ms. Knittel said that the applicant from the August BZA case (Cal. No. 3586 S. Mastroianni, 3237 E Fairfax Rd.) reached an agreement with his neighbor.

### **NEW BUSINESS**

Mr. Zych noted to the Board the conflict of interest legislation recently introduced by Mayor Serin. Mr. Zych commented that the practices described by the legislation seemed similar to the practices the Board already follows.

The meeting is adjourned at 7:27 PM.

  
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Thomas Zych, Chair  
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Xavier Yozwiak, Secretary