

**CITY OF CLEVELAND HEIGHTS
BOARD OF ZONING APPEALS
MINUTES
June 18, 2025**

MEMBERS PRESENT

Thomas Zych	Chair
Benjamin Hoen	Vice Chair
Gayle Lewin	
Elchanan Stern	

STAFF PRESENT

Justin Hines	Assistant Law Director
Xavier Yozwiak	Planner / Zoning Inspector

CALL TO ORDER

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

APPROVAL OF THE MINUTES

Mr. Hoen motioned to approve the Minutes of May 21, 2025. Mr. Stern seconded the motion. The minutes were approved with no objections.

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. 3605 P. & C. Byrne, 1224 Oxford Rd., "A" Single-Family, requests variance:

- A. to Code Section 1121.08(b) to permit an attached garage with a second-floor living space to be less than 5 feet from the side lot line;
- B. to Code Section 1121.08(c) to permit an attached garage with a second-floor living space to be less than 30 feet from the rear lot line;
- C. to Code Section 1121.12(a)(8) to permit a driveway to be less than 3 feet from the side lot line; and
- D. to Code Section 1121.12(e)(2) to permit the garage floor area to be greater than 610 square feet.

Mr. Zych said that the applicant requested the case be continued to the July BZA meeting. Mr. Stern motioned to continue Cal. No. 3605 P. & C. Byrne, 1224 Oxford Rd by 30 days. Ms. Lewin seconded the motion. The motion carried without objection.

Cal. No. 3608 AVELLINO ACQUISITIONS LLC, 2725 Noble Rd., "MF-2" Multiple-Family, requests variance:

- A. to Code Section 1123.12(a)(1) to permit a parking area to be less than 5 feet from the side property line;
- B. to Code Section 1123.12(a)(1) to permit a parking area to be less than 10 feet from the rear property line;
- C. to Code Section 1123.12(a)(5) to permit a trash receptacle to be less than 15 feet from the side property line;
- D. to Code Section 1123.12(a)(5) to permit a trash receptacle to be less than 25 feet from the rear property line;
- E. to Code Section 1161.11(a) to permit 16 parking spaces to be less than 9 feet wide; and
- F. to Code Section 1166.06(a)(2) to permit no interior parking lot landscaping.

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

After hearing no objections, the staff report dated June 13, 2025, was entered into the record.

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

Ms. Lewin asked about the width of the existing parking spaces. Mr. Yozwiak said he would defer to the applicant during their testimony.

Mr. Stern asked about the undefined parking spaces and if people were parking there now. Mr. Yozwiak said that the people are parking in the approximate area of where the parking spaces will be. He added that it is the applicant's intention to clearly mark the spaces.

Mr. Yozwiak explained to Mr. Stern that the interior parking lot requirements would include replacing one of the proposed parking spaces with a landscaped bed and tree.

Mr. Yozwiak confirmed to Ms. Lewin that they would be permitted to replace the garage in the same place without a variance and that the variance was required because the applicant is replacing the garage with a parking lot, which is a new structure.

Ms. Mallory MacLennon (5247 Wilson Mills Rd #182, Richmond Heights, OH) came forward to describe the statement of practical difficulty.

Mr. Zych entered Ms. MacLennon's application into the record.

Ms. MacLennon explained that the garage was in disrepair. She said that the openings were very narrow and few tenants parking in the garage as a result.

Ms. MacLennon confirmed to Mr. Hoen that currently the garage has 16 parking spaces and 3 spaces will be lost for the placement of the dumpster. Ms. MacLennon further confirmed to Mr. Hoen that the dumpster currently blocks 3 spaces. Ms. MacLennon added that when the plan is implemented "No Parking" signs would be placed on the building where they do not want tenants to park. She said that right now only 4 tenants have cars.

Mr. Zych closed the public comment.

Ms. Lewin stated that regarding Cal. No. 3608 AVELLINO ACQUISITIONS LLC, 2725 Noble Rd., she moved to grant the application for a variance with conditions:

- A. to Code Section 1123.12(a)(1) to permit a parking area to be less than 5 feet from the side property line;
- B. to Code Section 1123.12(a)(1) to permit a parking area to be less than 10 feet from the rear property line;

- C. to Code Section 1123.12(a)(5) to permit a trash receptacle to be less than 15 feet from the side property line;
- D. to Code Section 1123.12(a)(5) to permit a trash receptacle to be less than 25 feet from the rear property line;
- E. to Code Section 1161.11(a) to permit 16 parking spaces to be less than 9 feet wide; and
- F. to Code Section 1166.06(a)(2) to permit no interior parking lot landscaping.

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 involved which are not generally applicable to other lands/structures in the same Zoning District, in particular that the parcel is a nonconforming parcel, has a unique shape, the shape of the existing parking lot is at unique angles which makes parking difficult, and the nonconforming size and shape of the property lends itself to unique parking difficulties,
- The property in question will not yield a reasonable return without the variance because the applicant cannot reasonably provide parking for their tenants with the current parking lot configuration, the existing parking garage, or any parking garage without variances;
- The essential character of the neighborhood would not be substantially altered as a result of the variance because there are plenty of other properties in the neighborhood without garages;
- The variance would not adversely affect the delivery of government services such as water, sewer, or trash pickup, in fact, it would improve trash pickup and make their trash receptacle more in compliance with the current zoning code;
- The applicant's predicament cannot feasibly be resolved through a method other than a variance because there is no other way that they can provide a reasonable parking solution for their tenants; and
- 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 because there are many other properties in this district that have 0-foot setbacks for their parking, such as the neighboring property directly that is already parking on the shared property line.

If granted, the variance shall have the following conditions:

1. Calendar No. 3608 is granted to:
 - A. to Code Section 1123.12(a)(1) to permit a parking area to be 0 feet from the side property line as shown on the drawing submitted to BZA;
 - B. to Code Section 1123.12(a)(1) to permit a parking area to be 3 feet from the rear property line as shown on the drawing submitted to BZA;
 - C. to Code Section 1123.12(a)(5) to permit a trash receptacle to be 5 feet to 11 feet from the side property line as shown on the drawing submitted to BZA;
 - D. to Code Section 1123.12(a)(5) to permit a trash receptacle to be 3 feet from the rear property line as shown on the drawing submitted to BZA;

- E. to Code Section 1161.11(a) to permit 16 parking spaces to be 8.5 feet wide as shown on the drawing submitted to BZA; and
- F. to Code Section 1166.06(a)(2) to permit no interior parking lot landscaping as shown on the drawing submitted to BZA.
- 2. Receipt of a Building Permit; and
- 3. Complete construction within 24 months of the effective date of this variance.

Mr. Stern seconded the motion. The motion carried unanimously.


OLD BUSINESS

There was no old business.

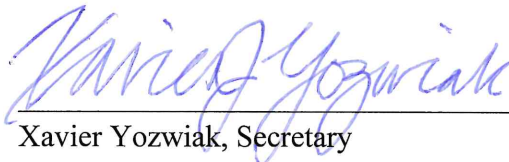
NEW BUSINESS

Mr. Yozwiak said that there will be cases at the next BZA meeting.

The meeting was adjourned at 7:31 p.m.



Thomas Zych, Chair



Xavier Yozwiak, Secretary