Cleveland Board of Zoning Appeals

Monday November 6, 2023 at 9:30 AM

**PLEASE MUTE YOUR MICROPHONE**

Alanna Faith, Board Chair
Elizabeth Kukla, Secretary
Cleveland Board of Zoning Appeals  
November 6, 2023

Preamble

IN COMPLIANCE WITH NOTIFICATION REQUIREMENTS OF THE CITY’S OPEN MEETING LAW, AND SECTION 101.021 OF THE CODIFIED ORDINANCES OF CLEVELAND, OHIO, 1976, NOTICE OF THIS MEETING HAS BEEN PUBLICLY POSTED.

All BOARDS AND COMMISSIONS UNDER THE PURVIEW OF THE CITY PLANNING DEPARTMENT CONDUCTS ITS MEETINGS ACCORDING TO ROBERT’S RULES OF ORDER. ACTIONS DURING THE MEETING WILL BE TAKEN BY VOICE VOTE. ABSTENTIONS FROM ANY VOTE DUE TO A CONFLICT OF INTEREST SHOULD BE STATED FOR THE RECORD PRIOR TO THE TAKING OF ANY VOTE.

IN ORDER TO ENSURE THAT EVERYONE PARTICIPATING IN THE MEETING HAVE THE OPPORTUNITY TO BE HEARD, WE ASK THAT YOU USE THE RAISE HAND FEATURE BEFORE ASKING A QUESTION OR MAKING A COMMENT. THE RAISE HAND FEATURE CAN BE FOUND IN THE PARTICIPANTS PANEL ON THE DESKTOP AND MOBILE VERSION AND ACTIVATED BY CLICKING THE HAND ICON. PLEASE WAIT FOR THE CHAIR OR FACILITATOR TO RECOGNIZE YOU AND BE SURE TO SELECT UNMUTE AND ANNOUNCE YOURSELF BEFORE YOU SPEAK. WHEN FINISHED SPEAKING, PLEASE LOWER YOUR HAND BY CLICKING ON THE RAISE HAND ICON AGAIN AND MUTE YOUR MICROPHONE.

WE WILL ALSO BE UTILIZING THE CHAT FEATURE TO COMMUNICATE WITH PARTICIPANTS. THE CHAT FEATURE CAN BE ACTIVATED BY CLICKING THE CHAT BUTTON LOCATED ON THE BOTTOM OF THE WEBEX SCREEN.

CALL-IN USERS CAN UNMUTE BY USING *6
Cleveland Board of Zoning Appeals
November 6, 2023

Preamble

ALL MEETING ACTIVITY IS BEING RECORDED VIA THE WEBEX PLATFORM. THESE PROCEEDINGS ARE ALSO BEING LIVE STREAMED VIA YOUTUBE FOR PUBLIC VIEW.

WE HAVE PROVIDED A LINK TO THE MEETING FOR THOSE WHO WISH TO SPEAK ON A PARTICULAR CASE VIA OUR WEBSITE AND EMAIL.

ALL REQUESTS TO SPEAK ON A PARTICULAR MATTER HAVE BEEN CONSIDERED.

WE HAVE ALSO RECEIVED EMAILS FROM THOSE WHO HAVE PROVIDED WRITTEN COMMENT ON A PARTICULAR MATTER.
Call to Order & Roll Call
NONE TODAY
Kimberly Glass proposes to establish use as Day Care for up to 12 children in a B1 Two-Family Residential District. The owner appeals for relief from the strict application of the following section of the Cleveland Codified Ordinances:

1. Section 337.02(g)(3)(C) which states Day Care use in Residential District permitted only if located not less than thirty (30) feet from any adjoining premises in a Residence District not used for a similar purpose, and if approved by the Board of Zoning Appeals after public notice and public hearing to determine if adequate yard spaces and other safeguards to preserve the character of the neighborhood are provided, and if in the judgment of the Board such building and uses are appropriately located and designed and will meet a community need without adversely affecting the neighborhood.
SWEARING IN ALL WHO ARE PRESENT FOR THIS CASE:

DO YOU SWEAR OR AFFIRM THAT THE TESTIMONY YOU ARE ABOUT TO GIVE IS THE WHOLE TRUTH AND NOTHING BUT THE TRUTH?

Please Raise Your Hand.
Reply with I DO, YOUR NAME and YOUR ADDRESS.
HISTORY OF THE PROPERTY
LEGAL STANDARD

Madam Chair, Members of the Board, Appellant is requesting a use variance from the requirements of the zoning code.

To obtain the use variance, Appellant must prove that denying the request:

1. Will result in an unnecessary hardship particular to the property such that there will be no economically feasible use of the property without the variance;
2. Will deprive the Appellant of substantial property rights; and
3. That granting the variance will not be contrary to the purpose and intent of the zoning code.
TYPE A - Home Child Day Care

2019 W. 103rd Street, Cleveland, OH 44102
Public Hearing

Calendar No. 22-179: 15225 Industrial Pkwy. Ward 16

Old Dominion Freight Line Inc., owner, proposes to install a ten (10) foot tall electrified fence in an A3 General Industry District. The owner appeals for relief from the strict application of the following section of the Cleveland Codified Ordinances:

1. Section 358.05(a)(1) which states in General Industry Districts, fences in actual front yards and in actual side street yards shall not exceed six (6) feet in height; proposed fence is ten (10) feet high in front yard area.
SWEARING IN ALL WHO ARE PRESENT FOR THIS CASE:

DO YOU SWEAR OR AFFIRM THAT THE TESTIMONY YOU ARE ABOUT TO GIVE IS THE WHOLE TRUTH AND NOTHING BUT THE TRUTH?

Please Raise Your Hand.
Reply with I DO, YOUR NAME and YOUR ADDRESS.
HISTORY OF THE PROPERTY
Madam Chair, Members of the Board, Appellant is requesting an area variance from the fencing requirements of the zoning code.

To obtain the area variance, Appellant must prove that denying the request:

1. Will create a **practical difficulty** not generally shared by other land or buildings in the same district;
2. Will deprive the Appellant of substantial property rights; and
3. That granting the variance will not be contrary to the purpose and intent of the zoning code.
Calendar No. 22-179: 15225 Industrial Pkwy. Ward 16
Public Hearing

Calendar No. 22-180: 1923 Willey Avenue Ward 3

Wiley Hill LLC., proposes to erect a three story, 21 unit apartment building and 22 car parking lot in a K4 Semi-Industry District and an Urban Form Overlay District. The applicant appeals for relief from the strict application of the following sections of the Cleveland Codified Ordinances:

1. Section 348.04(d)(1)(A) which states front setback on principal street is limited to maximum 8 feet and a front setback of 13 to 23 feet is proposed.
2. Section 348.04(d)(2)(A) which states a buildout equal to 80% of the principal street frontage (Wiley Ave.) is required and approximately 57% frontage buildout is proposed.
3. Section 341.02 which approval of the City Planning Commission/Department is required.
SWEARING IN ALL WHO ARE PRESENT FOR THIS CASE:

DO YOU SWEAR OR AFFIRM THAT THE TESTIMONY YOU ARE ABOUT TO GIVE IS THE WHOLE TRUTH AND NOTHING BUT THE TRUTH?

Please Raise Your Hand.
Reply with I DO, YOUR NAME and YOUR ADDRESS.
Public Hearing

Calendar No. 22-180: 1923 Willey Avenue

Ward 3

HISTORY OF THE PROPERTY
Public Hearing

Calendar No. 22-180: 1923 Willey Avenue Ward 3

LEGAL STANDARD

Madam Chair, Members of the Board, Appellant is requesting area variances from the maximum setback and required buildout requirements of the zoning code.

To obtain the area variances, Appellant must prove that denying the request:

1. Will create a **practical difficulty** not generally shared by other land or buildings in the same district;
2. Will deprive the Appellant of substantial property rights; and
3. That granting the variances will not be contrary to the purpose and intent of the zoning code.
Calendar No. 22-180: 1923 Willey Avenue Ward 3
Edward Turk, Jr., proposes to establish use as Motor Vehicle Service Garage in a C1 Local Retail Business District. The owner appeals for relief from the strict application of the following sections of the Cleveland Codified Ordinances:

1. Section 325.487 which states “Motor vehicle service garage” means a building or part thereof in which the motor vehicle servicing and repairs performed are limited to “minor repair” of motor vehicles as defined in Section 325.483.

2. Section 325.483 which states “motor vehicle minor repair” means repairs and servicing that produce relatively low levels of noise, vibration and fumes and, more specifically, include the following types of repairs to motor vehicles of a gross vehicle weight of no more than six thousand (6000) pounds: (a) "Motor vehicle maintenance" as defined in 325.482; (b) Air conditioning, starting and charging service; (c) Brake repair and replacement; (d) Engine oil changes, fluids replacement; (e) Exhaust system repair and replacement; (f) Automotive electrical work other than audio sound system installation; (g) Shock absorber, spring, and strut replacement; (h) Upholstery work; (i) Tire balancing, tire installation; wheel alignment; (j) Windshield and glass installation; (k) Tune-ups, diagnostics; spark plug replacement, emission control service; and (l) Other repairs of a similar nature with respect to impacts on nearby properties.

3. Section 343.01 which states Motor Vehicles Service Garage is not permitted in a Local Retail Business District, first permitted in a General Retail Business District. Note: Variance for Motor Vehicle Service Garage use was granted in BZA Calendar No. 17-349, but subsequent required permit was not obtained.
SWEARING IN ALL WHO ARE PRESENT FOR THIS CASE:

DO YOU SWEAR OR AFFIRM THAT THE TESTIMONY YOU ARE ABOUT TO GIVE IS THE WHOLE TRUTH AND NOTHING BUT THE TRUTH?

Please Raise Your Hand.
Reply with I DO, YOUR NAME and YOUR ADDRESS.
HISTORY OF THE PROPERTY
LEGAL STANDARD

Madam Chair, Members of the Board, Appellant is requesting a use variance from the motor vehicle service garage requirements of the zoning code.

To obtain the use variance, Appellant must prove that denying the request:

1. Will result in an unnecessary hardship particular to the property such that there will be no economically feasible use of the property without the variance;
2. Will deprive the Appellant of substantial property rights; and
3. That granting the variance will not be contrary to the purpose and intent of the zoning code.

Note: This variance was previously granted in 2017, but the permit was never obtained.
Hello. I am writing in opposition of the variance requests for a motor vehicle service garage at 6101 St. Clair Ave. in Cleveland per the notice received regarding Calendar No. 23-144. I own 6030 & 6034 Carry Ave. as well as 1133 Norwood Rd. The requested use is no longer appropriate for the General Retail Business District and particular location. Neighborhoods evolve and so do the highest and best use of commercial properties throughout the City. Additionally, the property is seemingly functioning as a used car lot which I’m guessing is also not a permitted use.

Thank you for the opportunity to submit a comment.

Sincerely,
Michael Rastatter
216.258.4273
Old Business
1. Cal. No. 23-170: 2035 West 18 St. (AF,TB,NH,PR)
2. Cal. No. 23-176: 13922 Tyler Ave. (AF, TB, NH, PR)
3. Cal. No. 23-173: 1772 W. 50th St. (AF,PR,NH,PR,AW)*
4. Cal. No. 23-154: 2148 West 11 St. (AF,PR,NH)*
5. Cal. No. 23-155: 2150 West 11 St. (AF,PR,NH)*
6. Cal. No. 23-128: 3119 West 50th St. (AF,NH,PR,AW)*
7. Cal. No. 23-082: 15432 St. Clair Ave. (AF,NH, PR, AW)*
8. Cal. No. 22-232: 12503 Kinsman Ave. (KB, TB, AF, NH)*
9. Cal. No. 22-018: 4420 East 156 St. (KB,TB,AF,MB)* REMINDER SENT
10. Cal. No. 21-203: 8502 Hough Ave. (KB,TB,AF,MB) PENDING LAND BANK
11. Cal. No. 21-175: 780 London Rd. (KB, TB, AF, MB) *pending land bank*

**AFFIRMATION (s):**

BZA23-061: 3272 Fulton Road—Cleveland Investment Corp. was granted variances to change use to three family residential on May 1. They need more time to complete the full architectural drawings due to unforeseen circumstances.

BZA22-144:1720-1736 Columbus - Go Life Columbus was granted variances to establish use as 45 apartments with retail on the first floor on October 24, 2022. The full architectural drawings are taking longer than expected.

**REHEARING REQUEST: NONE.**

**POSTPONING UPCOMING CASE:**

**MISC:**

~ Items received
* Pending the receipt of requested information by the Board.
*** Request for Rehearing/Reconsideration.
Adjournment