

**BOARD OF ZONING APPEALS
JANUARY 12, 2009**

9:30

Calendar No. 08-229:

4114 Memphis Avenue

Ward 15

Brian Cummins

9 Notices

Frank Lizanich, owner, and Rita Jackson, tenant, appeal to change use from one dwelling unit and a store to one dwelling unit and a day care an existing two-story building located on an 80' x 120' corner lot in a Multi-Family District at 4114 Memphis Avenue; subject to the limitations of Section 337.08(e), the day care abuts a Two-Family District and is required to be 15 feet from any adjoining premises in a residence district not used for a similar purpose; and two off-street parking spaces are required, one for each two staff members and other employees, according to the provisions of Section 349.04(c) of the Codified Ordinances. (Filed 12-11-08)

9:30

Calendar No. 08-230:

4686 Pearl Road

Ward 16

Kevin Kelley

12 Notices

4700 Pearl Road Limited Partnership and Victor Kassouf appeal to use a 74' x 30' portion of a building as an auto repair garage, expanding the limited repair garage use granted in Board of Zoning Appeals Calendar No. 90-104 for the premises in a Local Retail Business District at 4686 Pearl Road; the auto repair garage not being permitted under Section 343.01 but first permitted in a Semi-Industry District, provided that it is 100 feet away from a residence district; and the proposed expansion of a nonconforming use requires the Board of Zoning Appeals approval. as stated in Section 359.01 of the Codified Ordinances. (Filed 12-15-08)

9:30

Calendar No. 08-231:

Appeal of Amer Abuaun

772 East 152nd Street

Ward 10

Roosevelt Coats

Amer Abuaun, owner, appeals under Section 329.02 of the Cleveland Codified Ordinances from the decision of the Deputy Commissioner of Park Maintenance and Properties, that Parcel Number 115-09-004, a vacant lot at 772 East 152nd Street, was in violation of the Cleveland Codified Ordinance Section 209.01, where no owner or person in possession or control of any lot or land within the city shall fail to keep such lot or land free of refuse, etc. as noted in Section 209.01 and that the city's vacant lot crew abated the nuisance and the owner was billed for the service by the Department of Parks, Recreation and Properties. (Filed 12-16-08)

9:30

Calendar No. 08-232:

Appeal of Amer Abuaun

776 East 152nd Street

Ward 10

Roosevelt Coats

Amer Abuaun, owner, appeals under Section 329.02 of the Cleveland Codified Ordinances from the decision of the Deputy Commissioner of Park Maintenance and Properties, that Parcel Number 115-09-005, a vacant lot at 776 East 152nd Street, was in violation of the Cleveland Codified Ordinance Section 209.01, where no owner or person in possession or control of any lot or land within the city shall fail to keep such lot or land free of refuse, etc. as noted in Section 209.01 and that the city's vacant lot crew abated the nuisance and the owner was billed for the service by the Department of Parks, Recreation and Properties. (Filed 12-16-08)

9:30
Calendar No. 08-233:

Appeal of Amer Abuaun
780 East 152nd Street

Ward 10
Roosevelt Coats

Amer Abuaun, owner, appeals under Section 329.02 of the Cleveland Codified Ordinances from the decision of the Deputy Commissioner of Park Maintenance and Properties, that Parcel Number 115-09-006, a vacant lot at 780 East 152nd Street, was in violation of the Cleveland Codified Ordinance Section 209.01, where no owner or person in possession or control of any lot or land within the city shall fail to keep such lot or land free of refuse, etc. as noted in Section 209.01 and that the city's vacant lot crew abated the nuisance and the owner was billed for the service by the Department of Parks, Recreation and Properties. (Filed 12-16-08)

9:30
Calendar No. 08-234:

Appeal of Amer Abuaun
784 East 152nd Street

Ward 10
Roosevelt Coats

Amer Abuaun, owner, appeals under Section 329.02 of the Cleveland Codified Ordinances from the decision of the Deputy Commissioner of Park Maintenance and Properties, that Parcel Number 115-09-007, a vacant lot at 784 East 152nd Street, was in violation of the Cleveland Codified Ordinance Section 209.01, where no owner or person in possession or control of any lot or land within the city shall fail to keep such lot or land free of refuse, etc. as noted in Section 209.01 and that the city's vacant lot crew abated the nuisance and the owner was billed for the service by the Department of Parks, Recreation and Properties. (Filed 12-16-08)

POSTPONED FROM NOVEMBER 17, 2008

10:30
Calendar No. 08-185:

3264 Scranton Road

Ward 14
Joseph Santiago
13 Notices

Fethi Betlhouane, owner, appeals to build an addition for a drive-through at an existing store in a two-story mixed use building located on a 52.10' x 127.85' corner lot in a Multi-Family District; the lot size being contrary to Section 347.16(f) and a minimum lot width of 80 feet and lot area of not less than 12, 000 square feet for a drive-through establishment; no spaces are proposed and one is required between the last station and public right-of-way according to Section 347.16(d)(1); no landscaping is proposed contrary to Sections 352.08 through 352.11 and a required 8 foot wide landscaping strip (75 percent year-round opacity) on the north, west, and south sides of the property to separate a Local Retail Business use from the abutting Residential District; and no expansion of an existing nonconforming use shall be permitted except as a variance under the terms of Chapter 329, and no substitution or other change in such nonconforming use to other than a conforming use shall be permitted except by special permit from the Board of Zoning Appeals. Such special permit may be issued only if the Board finds after public hearing that such change is no more harmful or objectionable than the previous nonconforming use in floor or other space occupied, in volume of trade or production, in kind of goods sold or produced, in daily hours or other period of use, in the type or number of persons to occupy or be attracted to the premises or in any other characteristic of the new use as compared with the previous use, as stated in Section 359.01(a) of the Codified Ordinances. (Filed 10-10-08; no testimony taken.)

First postponement requested by applicant's architect for time to meet with the local development corporation and the neighboring community about the project.

POSTPONED FROM DECEMBER 15, 2008

10:30

Calendar No. 08-209:

3965 West 25th Street

Ward 15

Brian Cummins

25 Notices

Rockport Lands Ltd., owner, and T-Mobile Corporation, prospective lessee, appeal to erect a 170 foot high monopole telecommunications tower on an approximate 53' x 744' irregular shaped parcel in a General Industry District at 3965 West 25th Street; subject to Section 354.05(a), a new telecommunications tower shall not be approved unless an affidavit is submitted by the applicant attesting that placement of an antenna(s) on an existing tower, building, utility pole or other structure where permitted is made infeasible by one or more of the following conditions: (1) No existing towers or other suitable structures are located within the geographic area requiring service. (2) Existing towers or other structures suitably located are not of sufficient height or are not of sufficient structural strength and cannot be reasonably altered to meet the applicant's engineering requirements. (3) Co-location would cause electromagnetic interference between the proposed and existing antennas and that such interference cannot be prevented at reasonable cost. (4) Applicant has made reasonable offer to co-locate on one or more suitably located towers or other structures, but the owner of such structure or structures or the owner of the telecommunications equipment thereon has refused permission for co-location. No such affidavit has been submitted. The proposed 170 foot tall tower is approximately 350 feet from a residential district and 400 feet from a Landmark District, contrary to Section 354.06(b) that requires it to be located a distance equal to three times the height of the tower as stated in the Codified Ordinances.

(Filed 11-18-08; testimony taken.)

First postponement taken by the Board for additional information about the project from the Councilman, the neighboring community and City Planning.

POSTPONED FROM DECEMBER 22, 2008

10:30

Calendar No. 08-218:

1313 East 85th Street

Ward 7

Tuan J. Dow

5 Notices

Leonard Chrusinski, owner, and Alma Smith, tenant, appeal to erect a 5' x 37' L-shaped, wolmanized wooden wheelchair ramp at the front of a two family dwelling on a 38' x 116' parcel, located in a Multi-Family District at 1311-1313 East 85th Street; and the proposed ramp is contrary to Section 357.13, not being a permitted encroachment under the provisions of the Yards and Courts Regulations in the Codified Ordinances. (Filed 12-2-08; testimony taken.)

First postponement granted to applicants for time to improve upon the accuracy of the plan for the project.