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Board of Zoning Appeals

Documenter name: Susan Porter

Agency: [Cleveland Board of Zoning Appeals](#)

Date: June 12, 2023

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Summary

- Providing a thought-out plan that includes support from all stakeholders in the community seems to help overcome the issues faced in getting plans approved by the city, based on cases the board approved. The appellant in Calendar No. 23-078 provided a presentation, as well as support from community members and Chief City Planner Maurice Ruelens.
- The board listened to the input from all stakeholders; the input from community members appears to be important as they make their decisions regarding each project.
- “Appellant” means the person or party asking for the appeal.

Follow-Up Questions

- Former Chair Kelley Britt has retired. How long will it take to fill the empty board position?
- How many properties in Cleveland have abandoned fuel tanks left in the ground?
- How many local gas stations are planning on actively providing electric vehicle (EV) charging stations?

Notes

The Board of Zoning Appeals is a five-member body responsible for hearing appeals from individuals who are requesting exceptions or variances for city ordinances regarding land use and building requirements or from individuals who are questioning the appropriateness of orders made by city officials.

As part of the board’s enhanced public notification practices, it will be using yard signs to

notify surrounding property owners of a request for a variance to the [zoning code](#). A city staff person will place the yard signs, in a tree lawn area when available, containing information about the requested variance, case number, address, meeting date and time and location.

Board members present:

- ~~Kelley Britt (Chair)~~ Chair Kelley Britt has retired, as announced by Board Secretary Elizabeth Kukla
- Terri Hamilton-Brown
- Nina Holzer
- Alanna Faith
- Priscila Rocha

Other city officials:

- Kukla
- Maurice Ruelens, Chief City Planner
- Adam Davenport, Chief City Planner

The agenda is [here](#).

Calendar No. 23-073: 4169 East 116th Street. Ward 2 Kevin Bishop

Item 23-073 Dismissed without objection due to appellant's absence.

Testimonial Investments proposes to establish use as a residential facility for a maximum of five residents in a B1 Two-Family Residential District. The applicant appeals for relief from the strict application of the following sections of the Cleveland Codified Ordinances:

1. Section 337.23(a), which states that “residential facility” means a publicly or privately operated home or facility, licensed pursuant to state law, that provides accommodations, supervision, and personal care services to any of the following: (a) one (1) or two (2) unrelated persons with mental illness; (b) one (1) or two (2) unrelated adults who are receiving residential state supplement payments as defined in the Ohio Revised Code; or (c) three (3) to sixteen (16) unrelated adults.
1. Section 337.03, which states that residential facility use must be at least 1,000 feet from an existing residential facility use. The proposed use is within 1,000 feet of another residential facility at 4151 East 119th St.

Calendar No. 23-075: 627 East 115 Street. Ward 9 Kevin Conwell

Item 23-075 Dismissed without objection due to appellant's absence.

Team Hustle Management proposes to establish use as a residential facility for five occupants in an A1 One-Family Residential District. The applicant appeals for relief from the strict application of the following sections of the Cleveland Codified Ordinances:

1. Section 325.571, which states that “residential facility” means a publicly or privately operated home or facility, licensed pursuant to state law, that provides accommodations, supervision, and personal care services to any of the following: (a) one (1) or two (2) unrelated persons with mental illness; (b) one (1) or two (2) unrelated adults who are receiving residential state supplement payments as defined in the Ohio Revised Code; or (c) three (3) to sixteen (16) unrelated adults.

2. Section 337.03(h), which states that a residential facility, as defined in Chapter 325 of this Zoning Code, for one (1) to five (5) unrelated persons, is not permitted if located less than one thousand (1,000) feet from another residential facility. Proposed residential facility use is within one thousand (1,000) feet of another residential facility at 635 East 120th St.

Calendar No. 23-078: 4680 Lee Road. Ward 1 Joseph Jones

Item 23-078 approved with the following conditions:

- **Plan for bicycle parking**
- **Letter of support from Council Member Jones**

Lewis Vereese is seeking to change the use from a beauty salon to a restaurant in a B1 Two-Family District. The owner appeals for relief from the strict application of the following sections of the Cleveland Codified Ordinances:

1. Section 337.03, which states that a restaurant is not permitted in a Two-Family District but is first permitted in Local Retail District per sections 343.01.
2. Section 359.01(a), which states that substitution of nonconforming use requires Board of Zoning Appeals approval.
 - Vereese provided a presentation to show the Board of Zoning Appeals how his improvements of the property enhance the local community.
 - Ms. Brooks, representing a nearby church, expressed concern regarding parking. A board member asked Vereese how many parking spots there

will be. He said 12. He also noted that there was no street parking. A board member inquired as to how many people the restaurant would seat. He said there would be seating for 10 to 12 people.

Calendar No. 23-079: 8700 Blaine Ave. Ward 7 Stephanie Howse
Postponed until June 26, 2023

At the request of the city, this item has been postponed until June 26.

Kingdom Builders Transitional Housing Program proposes to establish use as a transitional housing program for up to 36 formerly incarcerated males, administrative offices, dining and common areas in a C1 Multi-Family Residential District. The owner appeals for relief from the strict application of the following sections of the Cleveland Codified Ordinances:

1. Section 337.08(e)(8), which states that a charitable institution not for correctional purposes must be at least 15 feet away from any adjoining premises in a Residence District not used for a similar purpose where six to eight feet are proposed.
2. Section 337.23(a)(6), which states that accessory off-street parking spaces for uses in a Residence District must be in the rear half of the lot: all of the proposed accessory off-street parking is located in the front half of the lot.
3. Section 352.08 through 352.12, which states that a six-foot-wide landscaped transition strip providing 50% year-round opacity is required where the institutional use abuts the Two-Family residential zoning district; no transition strip is proposed.

Calendar No. 23-080: 566 East 103rd Street Ward 10 Anthony Hairston
Postponed until July 17, 2023

As requested of the appellant, this item has been postponed until July 17.

Dentrice Whitt proposes to establish use as a residential facility for six occupants in an A1 One-Family Residential District. The owner appeals for relief from the strict application of the following sections of the Cleveland Codified Ordinances:

1. Section 325.571, which states that “residential facility” means a publicly or privately operated home or facility, licensed pursuant to state law, that provides accommodations, supervision, and personal care services to any of the following:
(a) one (1) or two (2) unrelated persons with mental illness; (b) one (1) or two (2)

unrelated adults who are receiving residential state supplement payments as defined in the Ohio Revised Code; or (c) three (3) to sixteen (16) unrelated adults.

2. Section 337.02(h), which states that a residential facility, as defined in Chapter 325 of the Zoning Code, for (6) unrelated persons, is not permitted in a One-Family zoning district but is first permitted in a Multi-Family zoning district per Section 337.08(g).

Calendar No. 23-081: 7305 /7321 Superior Ave. Ward 7 Stephanie Howse
Item 23-081 approved unanimously.

Chuck Wheeler, owner, proposes to construct a new “tunnel” car wash in C1 Multi-Family Zoning District. The owner appeals for relief from the strict application of the following sections of the Cleveland Codified Ordinances:

1. Section 337.08, which states that a car wash is not permitted in a Multi-Family Residential District but is first permitted in a General Retail District 343.11 (b)(2)(l)(2).
 - Wheeler provided a brief history of the property since 1995, when he purchased it. It has had many different uses. He would like to improve the property by building a tunnel carwash.
 - The carwash would create approximately five to six jobs. He would hire both adults and youth.
 - The carwash would be open seven days a week from 7 a.m. – 8 p.m.. It will have two lanes and 10 vacuums.
 - There were questions regarding the entrance and exit for the carwash. Board Member Rocha suggested that Wheeler work with the city to improve traffic flow.
 - Ruelens said that signage can help with traffic flow as well.
 - This project has the full support of Ruelens and the St. Clair Superior Community Development Corp. (CDC).

Calendar No. 23-082: 15432 St. Clair Ave. Ward 8 Michael Polensek
Item 23-082 postponed until July 24, 2023

Postponed to give appellant time to meet with stakeholders (city officials, CDC, etc.)

Demetrius Davis proposes to pave the rear section of the property and use it for storage of equipment for a grass cutting, snow plowing and concrete company in a C2 Local Retail Business District. The owner appeals for relief from the strict application of the following sections of the Cleveland Codified Ordinances:

1. Section 345.03, which states storage is first permitted in a Semi-Industry District; actual location is in a Local Retail Business District.
 - The business owner, Davis, was unable to attend the meeting. Charles Hubbard acted as the appellant since he is the one who leases the building from Davis to run his business.
 - Council Member Michael Polensek provided a letter to the board stating that he does not support the project.
 - Planner Adam Davenport, as well as the board, decided that the appellants needed to talk more with community members and the city to work out a feasible plan to move forward.

Calendar No. 23-091: 15707 Eldamere Ave.

Ward 1 Joseph Jones

Postponed until July 10, 2023

Postponed to allow time for property owner to provide updated plans.

Jamal Warith, owner, proposes to construct a new two-story, 2,100-square-foot single-family residence with an attached garage in a B1 Two-Family Residential District. The owner appeals for relief from the strict application of the following sections of the Cleveland Codified Ordinances:

1. Section 357.08 (b)(1), which states that the depth of the required rear yard shall in no case be less than 20 feet or be less than the height of the main building.
2. Section 357.09 (b)(2), which states that the required interior side yard is 3 feet, where the proposed interior side yard is 1 foot.
 - This project is opposed by the owners of an adjacent property, Carol Pesko-Reznak and her sister Karen.
 - The main objection is the distance between the proposed garage and the neighboring property line. The city has defined that the distance between an “attached garage and the property line is three feet (3’). The distance between a proposed detached garage and the neighboring property line is 18 inches.
 - Chief City Planner Ruelens suggested that since there is five feet (5’) between the other side of the house and neighboring property, the owner could consider moving the entire structure over two feet (2’). This solution would eliminate the issue.

POSTPONED FROM MAY 8

Calendar No. 23-045: 4975 Rocky River Dr. Ward 17 Charles Slife

Denied by a split vote: Faith – No, Brown – Yes, Holzer – Yes, Rocha – No

In the case of a split vote, the appeal will be denied.

KAMMS Enterprises LLC proposes to expand the convenience store to include a new gas island and canopy in a Local Retail Zoning District. The appellant seeks relief from the strict application of the following sections of the Cleveland Codified Ordinances:

1. Section 345.01, which states that a Gas Station is not permitted in Local Retail District; first permitted in General Retail District if not less than 100 feet from a Residential District or a solid board-on-board fence between lot and residential district, plus required landscaping of 8-foot-wide transition strip. The subject lot abuts a One-Family District. Landscaping detail was not provided.
2. Section 357.07(a), which states that a 25-foot specific setback is required along Rocky River Drive; parking space is within this setback.
3. Section 341.02(b), which states that City Planning Commission approval is required.

*Note: Lot consolidation is required.

POSTPONED FROM APRIL 3 AT THE REQUEST OF THE APPELLANT. POSTPONED FROM MAY 8 TO ALLOW TIME FOR THE APPELLANT TO CONSIDER MEETING WITH THE CITY PLANNING COMMISSION AND REVISING THE DRAWINGS. TESTIMONY TAKEN.

- The three main concerns about the proposal:
 - Environmental health concerns (gas leaks and benzene exposure).
 - Crime (armed robberies.)
 - Traffic (will attract more cars).
- There were a couple of notable arguments about the appeal of this item, one is regarding investments:
 - The appellant's attorney said that the business owner will be investing millions of dollars into the property.
 - Patrick Lipaj lives across the street from the property. He said he would have never purchased the home if he had known it would become a gas station.
- The second major argument was the future vision of the Rocky River community. Slife pushed back regarding the idea that the planned Rocky

River corridor is aspirational and not reality. Slife, as well as Rosemary Mudry (West Park Kamm's Corner CDC) said that all ongoing plans for the corridor revolve around the area being more pedestrian-friendly and not supporting businesses whose purpose is to attract automobiles. Davenport also said that future plans for the Rocky River Corridor did not include an influx of gasoline- powered vehicles.

- The owner knew the property was not zoned as a gas station before he bought it in 2021.

POSTPONED FROM MAY 8

Calendar No. 23-066: 1862 W. 44th Street. Ward 3 Kerry McCormack
Approved–Holzer recused herself. Rocha, Brown and Faith voted in favor of the project.

Maria Nosse, owner, proposes to create one split-paver parking space at an existing single-family residence in a B1 Two-Family Residential District. The owner appeals for relief from the strict application of the following sections of the Cleveland Codified Ordinances:

1. Section 337.23(a), which states that all parking spaces shall be located on the rear half of a lot.
2. Section 349.04, which states that one parking space is required for each dwelling and no parking is provided.
3. Section 349.05(a), which states that no parking space shall be located within 10 feet of any wall of a residential building that contains ground floor windows, while in this project all parking spaces shall be located behind the building setback line.
4. Section 349.07, which states that all parking surfaces and maneuvering areas must be graded with an asphaltic or concrete surface and properly drained within the lot area.

POSTPONED FROM MAY 8 AT THE REQUEST OF THE APPELLANT TO ALLOW TIME TO EXPLORE REVISING HER PLANS. Testimony Taken

- There was little discussion regarding the project.
- The appellant assured the board that the intention was to remove all impermeable surfaces from the property.
- A brick walkway from the sidewalk to the front door will be installed.

POSTPONED FROM MAY 15

Calendar No. 23-071: 3763 West 136 Street Ward 16 Brian Kazy

Approved – Unanimous approval with conditions.

Jessica Rodriguez, owner, proposes to establish an in-home salon business located in an A1 One-Family Residential District. The owner appeals for relief from the strict application of the following section of the Cleveland Codified Ordinances:

1. Section 337.23(a)(2), which states that customary home occupation for gain carried on in the main building or in a rear building accessory thereto and requiring only customary home equipment is permitted in a Residence District only if no nonresident help is employed for that purpose, no trading in merchandise is carried on, and no personal physical service is performed. POSTPONED FROM MAY 15 TO ALLOW TIME FOR THE APPELLANT TO MEET WITH BELLAIRE PURITAS CDC. TESTIMONY TAKEN.
 - Project is fully supported by Council Member Kazy, as well as by Melissa Miller (Puritas CDC).
 - There are two conditions attached to the approval:
 - Only by appointment, and one (1) client at a time.
 - Clients must use the appellant's driveway to park while getting services.

RESCHEDULED FROM JUNE 26 (MOVED UP DUE TO ADMINISTRATIVE ERROR)

Calendar No. 23-085, 86, 87, 88, 89

4475, 4479, 4481, 4485, 4489 West 128th St. Ward 16 Brian Kazy

Approved – Unanimous decision.

Greater Cleveland Habitat for Humanity proposes to erect a single-family residence with a one-story frame detached garage in a Residential Attached 2 District. The owner appeals for relief from the strict application of the following sections of the Cleveland Codified Ordinances:

5. Section 337.031(a), which states a single-family residence is not a permitted use in Residential Attached Townhouse districts. (Filed May 9, 2023)

- Habitat for Humanity's spokesperson, Joseph Gabbard, said that the organization purchased the property in 2019. Since that time they have had extensive sewer infrastructure completed. It wasn't until 2023 when they were working with the city on permitting that they learned that single-family homes were not permitted (in 2012 the property had been rezoned for 12 townhomes.)
- This project has the full support of Kazy, Miller, and Davenport.

If you believe anything in these notes is inaccurate, please email us at clDOCUMENTERS@gmail.com with "Correction Request" in the subject line.