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Board of Zoning Appeals

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

Date: April 8, 2024

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Summary

- Tattoo artist granted variance to conduct business at East Side storefront.
- Franklin Boulevard neighbors appealed to the board not to grant TDG Franklin North LLC. a residential zoning district variance to continue their apartment project.
- Local business appealed for variance after receiving City of Cleveland violation.

Follow-Up Questions

- Why does the City of Cleveland split large lots into smaller parcels that may place purchasers into awkward placement on the lot, especially commercial parcels?
- What is the purpose of a variance for a business when the business owner does not own the location?
- Why can't individuals express unresolved property concerns to prevent variance approval at the Board of Zoning Appeals?

Notes

Board Members

- Nina Holzer
- Alanna Faith, chairperson
- Priscila Rocha
- Arleesha Wilson (absent)
- Terri Hamilton Brown

Also in attendance:

- Xavier Bay, city planner
- Liz Kukla, board secretary

Local Business Sales or No Sales

Calendar No. 24-038: 1055 Ivanhoe Rd. Ward 8
Violation Notice



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Violation Notice



Cleveland Notice of Violation was issued on Jan. 30 by the [Cleveland Department of Building and Housing](#), according to Holzer. Building and Housing issued the violation for failure to comply with the rule that new or used motor vehicle sales on a vacant lot or building is not permitted in a Local Retail Business District.

The Board of Zoning Appeals heard appellant and owner Jason Lewis of 216 Real Estate LLC regarding parcels used at [1055 Ivanhoe Rd. in Cleveland](#). Notice of Violation was issued to Lewis; he appeared to appeal the violation based on the ordinance of the [Charter of the City of Cleveland](#).

[The Board of Appeals chair, Alanna Faith](#), told Lewis, “You received a violation notice for your use of this property. Do you want to tell us what's going on?”

Lewis said he has had a used-car business registered with the state since 2018.

Lewis also said he purchased two [parcels](#) and wasn't sure of the land-use permissions

but figured that the developed area meant he'd be able to conduct business. He said he later was informed he needed a [variance](#).

Lewis said, "I purchased the location to continue providing service to used cars, which I've been doing since 2018."

Lewis said the place is fenced in and has security cameras. He said he learned there was a zoning change 30 to 40 years ago and that the area hasn't been rezoned.

He said, "I received a violation, and I'm just trying to go from here and see what I would need to do."

Faith requested clarification from Lewis regarding who he bought the parcels from. Lewis confirmed he bought one from a personal buyer and two others as commercial properties from the [City of Cleveland Land Bank](#).

Lewis said he checked on [Cuyahoga County's MyPlace website](#), which he said showed the parcels were commercial.

Faith asked, "When did you put the office trailer on the site?" Lewis said it was there when he obtained the properties.

Faith asked Lewis to explain the vehicles on the lots [in this photograph](#). Lewis said those are vehicles from my other lot currently at 6623 St. Clair Ave. He said he's been at that location six years, but the owner passed away and the lot is up for sale. "It's in his will to sell it, and I don't have that capital right now to purchase it," Lewis said.

Lewis said that's why he chose the Ivanhoe Road site, saying the streets have been redeveloped and it's a better area.

He added that he doesn't know how long the vehicles in the rear have been there. He said he's given those vehicle owners notice and has contacted police and other officials to help remove them.

Lewis said there are four parcels related to this case, and he owns three of them. The city owns the other, and he said he isn't using it for the business.

Kukla clarified the board does not have the authority to grant a variance in this case.

Rather, the board is just reviewing whether the city did something illegal, arbitrary or capricious in citing the violation.

The board staff does inform applicants that the process is to acquire a permit.

“When the inspector went out he found good evidence that a used car lot has never been fully established here,” Kukla said. “It’s possible that at one time there was a permit for a portion, but the inspector found good cause to cite the appellant.”

Board members discussed no one from the city being present to give testimony, perhaps because City Hall was closed for the total solar eclipse.

Faith asked Lewis if he would be comfortable with postponing a decision on the case given the fact that there’s no representative from the city at the meeting.

“So I think in all fairness to you we want to make sure that we can hear this case properly, so ... we’d like to postpone this to a future date,” Faith said.

The board postponed this to May 13.

Brown recommended Lewis go to City Hall and figure out what he needs to do to operate his business, since this case is merely to say whether the city’s violation is improper.

Next case:





Context Photo
 View of site and adjacent properties looking NE on Franklin Blvd

Calendar No. 24-042:

3210 Franklin Blvd.

Ward 3 Kerry McCormack

TDG Franklin North LLC., owner, proposes to construct a 3-story, 29-unit apartment building in a B1 Two-Family Residential Zoning District. The owner appeals for relief from the strict application of some sections of the Cleveland Codified Ordinances, which state that:

- An apartment building is not permitted in Two-Family Residential but first permitted in Multi-Family Residential
- A 5-foot side street setback is required (2.5 feet are proposed and proposed transformer is within the front setback)
- The maximum gross floor area permitted in a “B” Area District is ½ lot area or in this case 9,798 square feet and the appellant is proposing 25,850 square feet
- 29 parking spaces are required and 20 are proposed

Board members debated whether this case was ready for the board to hear based on discussion among meeting participants that some board members said seemed personal. Rocha said the board could still address the variances, while the developers and neighborhoods can work out personal property issues on their own time.

While some meeting participants said they had not had a chance to meet with the developer,

Westleigh Harper, the project’s architect, said there have been half a dozen community meetings for this project and the project team has spent a lot of time designing to respond to community requests.

Some residents spoke about parking concerns.

Xavier Bay, from Cleveland City Planning, said the department doesn’t see the parking as a big issue. The maximum gross square area here is a very typical variance, he said.

The board voted to approve the variance requests.

Calendar No. 24-020:

660 East 185th St.

Ward 8 Michael Polensek

3 Black Knights LLC., owner, proposes to establish tattooing use.

The owner appeals for relief from the strict application of the following sections of the Cleveland Codified Ordinances:

1. Section 343.01, which states that tattoo use is not permitted in a Local Retail Business District.
2. Section 343.11, which states that tattoo use is first permitted in the General Retail Business District, subject to the distance requirements of Section 347.12 (b).
3. Section 347.12(b), which states that tattoo use, when permitted in a particular zoning district, must also be 1,000 feet from residential districts and day care centers. Proposed use is abutting a residential district and is within 1,000 feet of a day care center at 620 E. 185th St.

The board approved the variances.

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