



**AGENDA**  
**REGULAR MEETING OF THE CITY OF CLEVELAND'S**  
**BOARD OF ZONING APPEALS**  
**TUESDAY, AUGUST 8, 2023, AT 12:00 PM**  
**CLEVELAND MUNICIPAL BUILDING 190 CHURCH STREET NE**

**Welcome and Roll Call of Members**

**1. Minutes**

July 11, 2023, Regular Meeting

**2. Public Hearings**

**3. Old Business**

**4. New Business**

- a. Request by Magen Smith and Richard Beal for approval of a conditional use permit for property located at 331 Keith St. NW (Tax Map 049K Group E Parcel 010.09) and located within the CH Highway Commercial Zoning District

**5. Staff Report**

**6. Board Member Reports**

**7. Adjourn**



**MINUTES**  
**REGULAR MEETING OF THE CITY OF CLEVELAND'S**  
**BOARD OF ZONING APPEALS**  
**TUESDAY, JULY 11, 2023, AT 12:00 PM**  
**CLEVELAND MUNICIPAL BUILDING 190 CHURCH STREET NE**

The regular meeting of the Board of Zoning Appeals was called to order by Charlotte Peak, Chairperson, at 12:00 P.M.

Members present included Charlotte Peak, Ed Brown, Clint Taylor, Matthew Coleman, and Dan Moore.

There were no members absent.

Staff present included Robert Varnell, Director of Planning, Darla Jenkins, Administrative Coordinator, Joel Prince, Planner/Code Inspection Supervisor, and Erica Bevis, Planner..

Legal Counsel included John Kimball, Attorney for the City of Cleveland.

Others present included Omar Chavaro, Nora Soto, Israel Chavaro, Hortorcia de Jesus, Samantha Chaveraro of Chaveros Auto Sales, Wes Robbins of CT Properties, Jim Metzger, Kim Sanchez of Valley Paws Boutique.

**The minutes of the June 13, 2023, regular meeting were presented for approval.**

*Clint Taylor made a motion to approve the June 13, 2023 minutes. Matthew Coleman seconded the motion. A vote of 5-0 passed the motion. Yes-5 No-0 Absent-0*

**There were no Public Hearings.**

**There was no Old Business.**

**In New Business,**

- a. Request by Omar Chavero for approval of a conditional use permit for property located at 431 Inman St. W (Tax Map 049N**

**Group K Parcel 001.00) and located within the MU Mixed Use Zoning District**

Robert Varnell stated this property is zoned mixed use. The use in question is conditional use that is auto sales. Auto sales is allowed by right in commercial highway. But those uses in mixed use are conditional. Some work was done at the site and that's what tipped staff off. When a new sign goes up or work is done on the site, you work through the city to permit that. We sent them a letter to tell them to stop. First and foremost, the conditional use permit comes into play. I remind people when they call to go through this process before you spend any money because you never know which direction it will go. And you can see staff recommendation. We have consistently recommended against auto sales in the downtown central business district and mixed-use area. This site is unique and sat empty for an amount of time. It used to be a carwash. In its current condition there's not a lot of uses for the property. But going through as a staff, we stay consistent that would probably fit better in the commercial highway corridor.

Matthew Coleman stated when he read this, he thought about the CBD (Central Business District) arguments in the past. Is that coming into play here?

Robert Varnell stated yes, it is. It's what is the vision of the downtown and how does it progress to something that's a little different than auto sales to things that have been traditionally along that corridor. Also, what fits in downtown and what doesn't?

Matthew Coleman asked if there had been any progress with the city...?

Robert Varnell stated well yes. Obviously, we have the intersection at Inman Street closed and will continue as we run new conduit under the road for new traffic lights with mast arms that cost \$150,000 (one hundred and fifty thousand dollars) a piece. We are slowly moving in that direction. Recently, the city was awarded a grant to build a bridge on Third Street which will eventually take traffic in a different pattern...the through traffic and make Inman

more of a downtown corridor. It's also a focus but shouldn't derail businesses in the meantime.

Charlotte Peak stated in her opinion we can't consider the division of CBD (Cleveland Business District) or how this has changed in the ordinances. Is it a conditional use variance that's allowed in mixed use area? I, for one, thinks its great that we are getting businesses that are wanting to come on Inman Street next to the homeless.

Dan Moore stated it's currently a homeless motel right there.

Charlotte Peak stated more power to anyone to bring a business in the downtown if we have the ability to grant a variance in this case. It's a rental right? So, you are just renting it. So, it's not that it's going to be a car lot for a hundred (100) years. It's a conditional use variance and this stays with the applicant only. It does not continue to the next renter.

Robert Varnell stated that's correct.

Clint Taylor stated it's not grandfathered for the owners, it's a onetime....

Robert Varnell stated that's it. If a new owner, new business name, they would be required to go though the process.

Charlotte Peak stated she did have a comment. This is a conditional variance. You guys, Wes and Mr. Metzger, when you rent, you need to tell them what the rules are. You can't put fences up in the city, you can't put signage up in the city, you can't do anything in the city without a permit and going through site review. They should have done this first and then done all that instead of spending money because they could have come here and we would have said no, we're not going to allow the conditional use permit, and they spent all that money on your property....and they can't take it down because its yours now. Anyway, try to educate the tenants in the future so they don't go backwards. Most people don't know that. And you have to stop what you're doing now, go through all the site review and permitting process for your sign.

Get your fences approved and all that. This is a conditional use permit only. But that doesn't mean you can do your car lot until the city tells you that you can.

*Dan Moore made a motion to approve item a. and Clint Taylor seconded the motion. A motion passed with a vote of 5-0. Yes-5 No-0 Absent-0*

**b. Request by Valley Paws Boutique for approval of a conditional use permit for property located at 2975 20<sup>th</sup> St. NE (Tax Map 050 Parcel 020.01) and located within the CG General Commercial Zoning District.**

Robert Valley stated this is a site that was zoned light industrial and went through the rezoning process to be zoned general commercial. This type of use wasn't always a conditional use permit. Due to the issues in other parts, we wanted to make sure there was a public process. There will be over night boarding. This property is surrounded by mostly warehouse uses. There is one (1) residence and we have not heard from them or anyone else on this request. We've put signage out to advertise all the way back to when it was rezoned originally. We have not had any questions or comments from that neighbor.

We do feel a landscaping buffer needs to be included along that line even though the house is zoned light industrial. Somebody does live in it so I would like to protect them a little bit. The plan for these folks is to use the existing structure and add on to it. They are going to do grooming and boarding. We recommend approval.

Charlotte Peak asked if you are going to require them to do a buffer zone or is that during site review?

Robert Varnell stated he would like the board to include that because the buffers are based on use, there's a question of the zoning so I would like it to be a caveat of what we are doing today.

Dan Moore asked how detailed?

Robert Varnell stated a type B buffer is what we would consider.

Charlotte Peak stated so like evergreen trees? No fencing?

Robert Varnell stated yes, and they can do a fence. They have options.

Matthew Coleman asked has anyone made an effort to knock on that door and contact the neighbor?

Robert Varnell stated he believed the applicants have and indeed gone to them. The city has not from our perspective.

Kim Sanchez stated yes, my husband has gone multiple times and after the last zoning meeting here, I went. They were home and every time we go, they refuse to answer the door. We have gone multiple times, knocked on the door to let them know what our plan is. They do have a couple of big dogs themselves. We had already talked about putting up a six (6) to seven (7) foot tall property fence for the noise and safety. Safety for their dogs and safety for our dogs.

Charlotte Peaks asked if their property was fenced.

Kim Sanchez stated yes, it is. And I believe they have like an actual electric fence, the kind that you can hear buzzing. I haven't been able to ask them since they don't come to the door. Yes, they do have a chain link fence around the property right now.

Matthew Coleman asked John Kimball a question. We just dealt with this in city court. Do you see anything that could minimize that issue from coming up again?

John Kimball stated no but what the owners need to understand is they are not exempt from the city's noise provision of the code. Their neighbor could, just like that other case, complain about excessive barking all during the night. That neighbor went to all of the steps to cut down all of the complaints except for from one (1) neighbor. They still have some complaints from one (1) neighbor, but the other neighbors are somewhat happy because they put in not only a fence but trees as well as some other sound device or

something. Now they don't board dogs on the weekends. I don't know if they keep them at night or not. I don't think they do. When she was here last time, you know you've made an effort to talk to these people and they don't come to the door, but that doesn't mean they won't start complaining once you have dogs barking. Are you going to put in any kind of sound barriers inside the building?

Kim Sanchez stated so the building originally is going to be our current store. That and the grooming and day play is our main focus. Boarding will be very minimal. If it is, there will be somebody staying there. And I've been doing it for seven (7) years. I prefer to do free boarding where they are not locked in crates. Now if you have an aggressive dog, you have to have them in a locked area.

John Kimball stated I can tell you one of the issues that the owner of the kennel did in that case as I recall they modified their procedures and let so many dogs go out at a time. They did a lot of things to placate their neighbors. They had multiple residential neighbors. You have potentially one (1).

Kim Sanchez stated, and we know that a lot of boarding facilities around here, take fifty (50) plus dogs a day. That is not something we are interested in. We are hoping to have it on a much smaller scale. Maybe an area for smaller dogs and an area for much larger dogs with people monitoring and taking care of them.

Charlotte Peak asked if they were renting or owning the property?

Kim Sanchez stated the facility in question, we own the property.

Dan Moore made a motion to approve item b. subject to the type B buffer and Matthew Coleman seconded the motion. A vote of 5-0 passed the motion. Yes-5 No=0 Absent-0

**There was no Staff Report.**

**There was no Director's Report.**

**The meeting was adjourned at 12:16 P.M.**



## **Staff Report**

**Case: BZA 2023-10 331 Keith St. NW** (see **Appendix** for case materials)

**August 8, 2023**

### **City of Cleveland Board of Zoning Appeals**

Applicant: Magen Smith and Richard Beal  
Site Address: 331 Keith St. NW  
Tax Map: 049K E 010.09  
Area: 2.27 Acres  
Current Zone: CH Highway Commercial  
Requested Variance: Request for approval of a conditional use permit for storage units.  
Sewer/Water: Yes  
Council District: District 1 – Marsha McKenzie

#### **PLANNING & DEVELOPMENT**

### **1. Site Zoning History**

This property is zoned CH Highway Commercial. The lot is surrounded by CH Highway Commercial Zoning and residential zoning along the west property line. The lot currently contains several self-storage units. The current zoning dictates that storage units are a conditional use in the CH Highway Commercial Zoning District.

### **2. Site Analysis**

The 2.27-acre site is located at 331 Keith St. NW. The current ordinance requires a conditional use permit for storage units within the CH Highway Commercial Zoning District. The applicant is proposing to add additional storage units to the approximately 1 acre of vacant land at the north end of the property.

### **3. Staff Findings**

Keith St. is classified as a principal arterial street. No traffic impacts to residential areas



are anticipated and no additional traffic is expected to create a negative impact. The proposed warehouse fits within the district and any lighting is assumed to be within the character of the zone. The proposed additional storage units will be required to go through the city's internal review process and meet all setbacks, parking, density requirements, etc. Additional architectural aspects will be required per conditional use requirements for warehouse structures in CH. No environmental impacts are anticipated.

#### **4. Staff Recommendation**

**APPROVE**

# APPENDIX

## PROPOSED PLAT/LOT LAYOUT

