

CLEVELAND BOARD OF ZONING APPEALS

CALENDAR NO. 08-211
3929 LORAIN AVENUE

RESOLUTION

MARCH 2, 2009

WHEREAS, Louis Bodnar Funeral Home, owner, appealed for a use variance and permission to construct an addition to an existing funeral home and expand the use to include a crematorium, located on a 50' x 106.50' corner lot in a Local Retail Business District at 3929 Lorain Avenue; subject to the limitations of Section 343.01, the proposed expansion of use is first permitted in a General Industry District as an accessory use or incidental to a permitted use, and only on special permit from the Board of Zoning Appeals when such use is within 300 feet of a Residence District, according to Sections 345.04(b)(5) of the Codified Ordinances.

WHEREAS, after public notice and written notice mailed to twenty-eight directly affected property owners, public hearings were held on December 22, 2008, January 26 and February 23, 2009.

WHEREAS, after due consideration of the testimony and other evidence submitted at the hearings, the Board finds that the appeal should be denied for the following reasons:

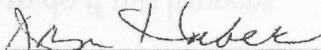
1. Original zoning for the first 100 feet of frontage along Lorain Avenue was changed to a Local Retail Business District in 1996 and the balance of the property is in split zoning between Semi-Industry to the east and a Two-Family District where it fronts on West 41st Street. The property is also within the boundary of the Lorain Avenue Historic Landmark District established in 1994. City permit records show that alterations were made to an existing funeral parlor in 1933 and with the zoning change in 1996, the business operation became a nonconforming use.
2. The proposed expansion to an existing nonconforming use would be located in proximity to a residential district, day care centers and a community garden. An unnecessary hardship was not demonstrated to support the addition of a crematorium that is first permitted in a General Industry District
3. Several residential and business owners adjacent to the property and from the surrounding community opposed the proposal because of health and environmental concerns over the emission of mercury. The Cleveland Department of Public Health presented findings that confirmed the legitimacy of concerns over the proposed crematorium in this location.
4. Granting of the variance would be contrary to the purpose and intent of the zoning ordinances by allowing a use that has a more harmful impact than the existing nonconforming use.
5. In being refused this appeal the owners will not suffer an unreasonable hardship since they are not denied any use of property not also denied other owners in that district similarly situated; now therefore,

BE IT RESOLVED that the decision of the Building and Housing Department is upheld and the appeal is denied.

Yeas: Dobbins, Donovan, Johnson, Myers, Shaver Washington

Nays:

Approved and adopted by the Board of Zoning Appeals March 2, 2009.



Jan Huber - Acting Secretary
Board of Zoning Appeals