

RESOLUTION NO.: 79 -2015
INTRODUCED BY: Alexander

**A RESOLUTION REVERSING THE RECOMMENDATION OF
THE ZONING BOARD OF APPEALS WITH RESPECT TO THE
REQUEST FOR A VARIANCE TO PERMIT ONE ADDITIONAL
UNRELATED PERSON TO LIVE IN A SINGLE-FAMILY HOME
AT 391 CARY JAY BOULEVARD AND DENYING THE
VARIANCE.**

WHEREAS, the Diocese of Cleveland Facilities Services Corporation (the “applicant”), for property located at 391 Cary Jay Boulevard in the City of Richmond Heights, filed an application with the Zoning Board of Appeals (Case No. 813) requesting a variance to Sections 1123.04(c) and 1123.05(k) of the City’s Planning and Zoning Code to permit six unrelated persons to live in a single-family home in a “Single-Family Residential” zoning district in the City rather than the five unrelated persons permitted by the Code; and

WHEREAS, pursuant to Section 1185.06 of the Planning and Zoning Code, at its July 15, 2015 regular meeting the Zoning Board of Appeals recommended that this Council grant the variance based upon the reasons set forth in the minutes of the Board; and

WHEREAS, this matter was heard *de novo* by the Planning and Zoning Committee of City Council at its regular meeting on August 11, 2015, at which time evidence was presented and arguments were made by the applicant’s representatives, the applicant’s attorney, neighboring property owners to 391 Cary Jay Boulevard, and City staff with respect to the variance request, and that meeting was also a joint meeting with the Council Committee-of-the-Whole so that the Council as a whole heard first-hand the evidence and arguments of the interested parties; and

WHEREAS, at its August 11, 2015 meeting, the Planning and Zoning Committee of Council, after hearing all the evidence and arguments presented by the interested parties, voted 3 to 0 to recommend to the Council as a whole to reverse the recommendation of the Zoning Board of Appeals and, therefore, deny the requested variance;

NOW, THEREFORE, Be It Resolved by the Council of the City of Richmond Heights, State of Ohio, that:

Section 1: This Council finds that the action of the Zoning Board of Appeals in recommending the grant of the variance requested by the Diocese of Cleveland Facilities Services Corporation from Codified Ordinance Sections 1123.04(c) and 1123.05(k) in

order to permit one additional unrelated person to live in a single-family home at 391 Cary Jay Boulevard is not supported by a preponderance of reliable, substantial and probative evidence and the applicant failed to demonstrate practical difficulties in complying with the five person maximum and, therefore, the variance is hereby reversed.

Section 2: This Council denies the variance request of the Diocese of Cleveland Facilities Services Corporation based upon the findings in Section 1 of this Resolution and the following conclusions of fact:

- (a) The City of Richmond Heights has not granted any prior variances for an additional unrelated person to live in a single-family home in the City that would exceed the five unrelated persons permitted to so reside in a single-family home which regulation is based upon the City's legitimate health, safety and general welfare interests to maintain single-family neighborhoods in the City as single-family/single-household living situations that have a lesser impact upon neighboring properties since the individual interests of unrelated persons are not conducive to acting as a cohesive single-family or single housekeeping unit and the five unrelated person limit is a rational limitation which furthers that interest -- e.g. unrelated persons generally have a larger number of personal vehicles than family members in a household which increases the need for parking and the number of vehicle trips to and from the home;
- (b) The proposed group home with six unrelated persons will require three staff persons to care for the six unrelated persons in the home 24 hours per day and 365 days per year which, according to the applicant, will be divided into three, eight-hour shifts during a day and necessarily require at least six vehicles to be on the premises for a period of approximately 15 minutes, according to the applicant, three times per day, as well as any van or other vehicles necessary to transport the residents of the home and any vehicles of family members of the residents who may be visiting at any given time. The current nonconforming driveway and parking area at the site that are larger than the current Code regulations permit are, according to the applicant, not large enough to accommodate the number of vehicles for parking and turnaround purposes; and
- (c) The testimony of neighboring owners is that the location of the subject property is at the confluence of Cary Jay Boulevard, Royal Oak Boulevard and Euclid-Chagrin Parkway – a very busy intersection without sidewalks– and the additional traffic and on-street parking from this proposed group home will only contribute

to the congestion and adverse impact upon traffic safety at that intersection.

Section 3: The Clerk is instructed to mail a copy of this Resolution to the applicant by certified mail, return receipt requested.

Section 4: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of the Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 5: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

PASSED: _____

David H. Roche, Mayor

APPROVED: _____

ATTEST: _____

Betsy Traben
Clerk of Council

Eloise Cotton-Henry
President of Council

