

**BOARD OF ZONING APPEALS
CITY OF WILLOUGHBY
JULY 10, 2019
PUBLIC HEARING MEETING
MINUTES**

PRESENT: Joe Palmer; Mike Merhar; Mike Ross; Angelo Tomaselli; James Ralston, Chairman

ABSENT: None

OTHERS: Michael Lucas, Law Director; Vicki Grinstead, Secretary

Chairman Ralston called the regular meeting to order at 7:00 p.m.

Chairman Ralston advised the participants of their right to be heard in person or by attorney present and/or proffer evidence present and examine witnesses and the subpoena of evidence and/or witnesses. Chairman Ralston advised the participants that the board has five members of which a majority of the board is needed to grant an appeal. Chairman Ralston stated that all five members of the board are present this evening and the applicants need a majority or three votes to pass their appeals. If an appeal is denied the applicant has thirty days to file an appeal with the Lake County Court of Common Pleas.

The appeal application, the letter of the meeting notification, the letter of non-compliance and the list of names and addresses of adjoining property owners within the required distant of the appellant were noted into the record.

MINUTES

June 26, 2019

Mr. Tomaselli moved to accept the Regular meeting minutes of June 26, 2019 as submitted and Mr. Palmer seconded.

ROLL CALL: Yeas: Mr. Merhar; Mr. Ross; Mr. Tomaselli; Mr. Palmer; Chairman Ralston
Nays: None
Absent: None

Motion Carried: Approved

OLD BUSINESS

Barbara Snyder-Carson
4070 St. Clair Ave.

Fence

This item will remain tabled.

NEW BUSINESS

GearTec, Inc.
4245 Hamann Parkway
(Rep.- John Grazia, President and Mark Bailey, Contractor)

**Addition to rear of building for an
outdoor storage canopy**

**City of Willoughby
Board of Zoning Appeals
Public Hearing Meeting Minutes
July 10, 2019**

Chairman Ralston stated the applicant cited practical difficulty numbers 1, 3 and 8 on the application for appeal and noted all items that were in the packet.

Chairman Ralston asked if anyone wished to speak for this appeal. Mr. Grazia, 10338 Loreto Ridge Dr., Kirtland, OH 44094 was sworn in to speak for his appeal.

Mr. Grazia said they would like to have more storage for their parts and other items and keep them out of the weather, because have run out of room in the interior of the building. The addition will be an enclosed canopy which will be installed to the end of the existing concrete pad. He stated the property behind them is owned by the city and is a buffer between the business and adjacent residences.

Mr. Grazia said they currently store items outside and believes the steel addition would be aesthetically more pleasing for the neighborhood because these items would be stored inside the canopy addition. The interior will have bumpers against the poles to prevent any damage from machinery and the exterior will be sided. The trees and brush will not be disturbed.

Chairman Ralston asked if there was anyone else who wished to speak for this appeal and there was no one.

Chairman Ralston asked if anyone wished to speak against this appeal and there was no one.

Mr. Palmer moved to grant a variance to C.O. 1145.05 and allow an additional encroachment of 27.33 ft. from the existing 60 ft. setback for a total encroachment of 87.33 ft. of the required 100 ft. setback, citing C.O. 1109.09(b) for GearTec Inc., 4245 Hamann Parkway, Willoughby, OH 44094 and Mr. Merhar seconded.

ROLL CALL: Yeas: Mr. Ross; Mr. Tomaselli; Mr. Palmer; Mr. Merhar; Chairman Ralston
 Nays: None
 Absent: None

Motion Carried: Approved

William Dawson
38125 Highgate Bluff
(Rep.- Dave Novak, Barrington Consulting Group)

New home, S/L 10/front yard depth
PPN#27-B-041-C-00-010-0

Chairman Ralston stated the applicant cited practical difficulty numbers 1 through 9 on the application for appeal and noted all items that were in the packet.

Chairman Ralston asked if anyone wished to speak for this appeal. Mr. Novak of Barrington Consulting Group, 9114 Tyler Blvd., Mentor, OH 44060 was sworn in to speak for his appeal for S/L 10 and S/L 11.

Mr. Novak said both lots are identical and the hard ship is the existing slope, which is very severe. If they were building the homes at the normal 40' setback, the basement floor would be 7 ft. above the existing ground. The

**City of Willoughby
Board of Zoning Appeals
Public Hearing Meeting Minutes
July 10, 2019**

basement will still be above the ground but only by 3 ft. They have researched other home types but are limited due to the side yard setback restrictions.

Chairman Ralston's concern is that the driveway will be at a more severe slope. Mr. Novak said they took that into consideration and they have kept it at 5-6% and would never exceed 8%. Mr. Novak said he would stipulate they would not exceed an 8% grade on the driveway.

There was a brief discussion on how these homes will look with the existing homes on the street. Mr. Ross asked if he did not obtain this variance would these lots be unbuildable and Mr. Novak said that is correct. There was a brief discussion in regard to changing the garage elevation.

Chairman Ralston asked if there was anyone else who wished to speak for this appeal and there was no one.

Chairman Ralston asked if anyone wished to speak against this appeal. Mr. Dixon, 38120 Highgate Bluff Lane, Willoughby, OH 44094 was sworn in to speak against this appeal.

Mr. Dixon showed the Board a google map rendering (in record 7-10-19). Mr. Dixon's home is next to S/L 10, 38125 Highgate Bluff Lane. All of the other homes are 40' and he does understand the reason for the request for the variance. He's concerned there's not enough room for two homes because of the erosion factor in the rear properties. He is concerned about how the proposed homes would look aesthetically and S/L 10 would appear close to his front property.

Chairman Ralston asked if anyone else who wished to speak against this appeal and there was no one.

Mr. Novak is speaking in rebuttal to the opposition. Mr. Novak addressed the comment that the Mr. Dixon didn't believe the two proposed homes would fit on the two lots, and that the subdivision was designed to include these two homes. Mr. Novak said as a stipulation for S/L 10, 38125 Highgate Bluff Lane they could install the garage on the right hand side, so it is opposite of Mr. Dixon's home. Mr. Dixon said he agreed with this compromise.

Chairman Ralston asked if there was anyone else who wished to speak for this appeal and there was no one.

Chairman Ralston asked if anyone else who wished to speak against this appeal and there was no one.

Mr. Palmer moved to grant a variance to C.O. 1131.06 and allow a 30 ft. front yard setback of the required 40 ft., further stipulating the garage will be switched to the right hand side of the home and that the driveway have a maximum grade of 8%; citing C.O. 1109.09(b) for William Dawson for the property located at 38125 Highgate Bluff (S/L 10), Willoughby, OH 44094 and Mr. Merhar seconded.

ROLL CALL: Yeas: Mr. Tomaselli; Mr. Palmer; Mr. Ross
 Nays: None
 Absent: Mr. Merhar; Chairman Ralston

Motion Carried: Approved

**City of Willoughby
Board of Zoning Appeals
Public Hearing Meeting Minutes
July 10, 2019**

William Dawson
38135 Highgate Bluff
(Rep.- Dave Novak, Barrington Consulting Group)

**New home, S/L 11/front yard depth
PPN#27-B-041-C-00-011-0**

Mr. Palmer moved to grant a variance to C.O. 1131.06 and allow a 30 ft. front yard setback of the required 40 ft., further stipulating a maximum grade of 8% for the driveway; citing C.O. 1109.09(b) for William Dawson for the property located at 38135 Highgate Bluff (S/L 11), Willoughby, OH 44094 and Mr. Merhar seconded.

ROLL CALL: Yeas: Mr. Tomaselli; Mr. Palmer; Mr. Ross
 Nays: None
 Absent: Mr. Merhar; Chairman Ralston

Motion Carried: Approved

Heather Justin
2132 Lost Nation Rd./Unit #1

**Nail Salon in Limited Industrial
Zone District**

Chairman Ralston noted there was a typo on the agenda for the address; corrected from 2131 to 2132 Lost Nation Rd. Chairman Ralston stated the applicant cited practical difficulty number 3 on the application for appeal and noted all items that were in the packet.

Chairman Ralston asked if anyone wished to speak for this appeal. Ms. Justin, 37074 Clearway Dr., Eastlake, OH 44095 was sworn in to speak for this appeal.

Ms. Justin stated she was the previous tenant in the same unit and owned a dog grooming business for six years. She had invested money in some remodeling and would like to continue to rent the space for a nail salon. Ms. Justin said she received a Planning Commission Conditional Use Permit for the previous grooming business. She will employ 2-3 nail technicians and in the future hopes to hire an esthetician. She will have three manicure tables, two pedicure chairs and she also has a room for the future esthetician. She has four parking spaces near her unit and additional parking in the rear of the property.

Chairman Ralston asked if there was anyone else who wished to speak for this appeal and there was no one.

Chairman Ralston asked if anyone wished to speak against this appeal. Mr. Greg Patt, 38005 Brown Ave., Willoughby, OH 44094 was sworn in to speak against this appeal.

Mr. Patt said this is not a permitted or conditional use in Light Industrial. He believes the BZA does not have the right to bypass the zoning process. He believes this should have to be before the Planning Commission and City Council.

Chairman Ralston asked if anyone else wished to speak against this appeal and there was no one.

**City of Willoughby
Board of Zoning Appeals
Public Hearing Meeting Minutes
July 10, 2019**

Ms. Justin is speaking in rebuttal to Mr. Patt's comments. She stated six years ago she did obtain a Conditional Use Permit for the grooming salon at the same location.

Mr. Lucas stated the BZA can grant a use variance. The Ohio State Supreme Court standard for a use variance is an unnecessary hardship and is limited to this particular site only. It is not a permitted use that Planning and Zoning or Council would implement over a particular district. Mr. Lucas said this should be granted with caution because it has a higher standard of proof. This use variance (nail salon) will be allowed only at this property and not for the whole district.

Mr. Merhar moved to grant a variance to C.O. 1145.03 to allow a non-permitted use of a nail salon for Heather Justin for the property located at 2132 Lost Nation Rd./Unit #1, Willoughby, OH 44094; citing C.O. 1109.09(b) and Mr. Palmer seconded.

ROLL CALL: Yeas: Mr. Palmer; Mr. Merhar; Mr. Ross; Mr. Tomaselli
 Nays: Chairman Ralston
 Absent: None

Motion Carried: Approved

Twentieth Century Construction
32870 Brighton Path
(Rep.- Chris Mulchin, Twentieth Century Construction)

New home, S/L 2/rear yard depth

Chairman Ralston stated the applicant cited practical difficulty numbers 1, 3 and 4 on the application for appeal and noted all items that were in the packet.

Chairman Ralston asked if anyone wished to speak for this appeal. Mr. Mulchin, 2167 Mentor Ave., Painesville Twsp., OH was sworn in to speak for this appeal.

Mr. Mulchin said they are asking for a very minimal variance. The clients that have purchased this home love it where it is.

Chairman Ralston asked if there was anyone else who wished to speak for this appeal and there was no one.

Chairman Ralston asked if anyone wished to speak against this appeal and there was no one.

Mr. Merhar moved to grant a variance to C.O. 1131.06 and allow a 38.19 ft. setback instead of the required 38.77 ft. setback; citing C.O. 1109.09(b) for Twentieth Century Construction for the property located at 32870 Brighton Path S/L 2, Willoughby, OH 44094 and Mr. Palmer seconded.

ROLL CALL: Yeas: Mr. Merhar; Mr. Ross; Mr. Tomaselli; Mr. Palmer; Chairman Ralston
 Nays: None
 Absent: None

**City of Willoughby
Board of Zoning Appeals
Public Hearing Meeting Minutes
July 10, 2019**

Motion Carried: Approved

CubeSmart

31581 Euclid Ave.
(Rep.- Norm Kotoch, NAK Management)

Two new storage buildings

Chairman Ralston stated the applicant cited practical difficulty numbers 1 through 9 on the application for appeal and noted all items that were in the packet.

Chairman Ralston asked if anyone wished to speak for this appeal. Mr. Kotoch of NAK Management, 7607 Ellington Place, Mentor, OH 44060 was sworn in to speak for this appeal.

Mr. Kotoch said this property has been a storage facility for over thirty years. He said there is a demand for climate controlled self-storage in this area. The front building, which is a brick bungalow, is in disrepair and an eye sore. They would like to improve the site with a new building that will have an attractive retail look with a storefront. The climate controlled storage units can only be accessed from inside the building. The existing brick bungalow and the office to the east will be demolished. There is very little traffic and no demands on city services.

Chairman Ralston asked if there was anyone else who wished to speak for this appeal and there was no one.

Chairman Ralston asked if anyone wished to speak against this appeal and there was no one.

Mr. Merhar moved to grant a variance to C.O. 1167.03(d) to expand an existing non-conforming use to include climate controlled mini self-storage; citing C.O. 1109.09(b) for CubeSmart, 31581 Euclid Ave., Willoughby, OH 44094 and Mr. Palmer seconded.

ROLL CALL: Yeas: Mr. Ross; Mr. Tomaselli; Mr. Palmer; Mr. Merhar; Chairman Ralston
 Nays: None
 Absent: None

Motion Carried: Approved

Stephen T. Rae
4320 Center St.

Rooming House

Chairman Ralston stated the applicant cited practical difficulty numbers 1 through 9 on the application for appeal and noted all items that were in the packet.

Chairman Ralston asked if anyone wished to speak for this appeal. Michael Rae, Esq., 6501 Durham Ct., Mentor, OH 44060 was sworn in to speak for his appeal.

**City of Willoughby
Board of Zoning Appeals
Public Hearing Meeting Minutes
July 10, 2019**

Mr. Michael Rae said his brother is client Stephen Rae, owner of 4320 Center St., Willoughby, OH which is zoned Residential multi-family. The home has six bedrooms with a living room. He said the housing code states the house can have up to fourteen family members; two per room. Mr. S. Rae has seven non-related tenants at this time; two couples and three individuals, which are all present this evening. The original submittal stated eight, but Mr. Bernstein has since moved out. Ms. M. Rae's stated Mr. S. Rae's proposal to the Board is he would like to keep the seven tenants he currently has, but as they move out he will not replace them and once he is down to four that is all he will allow to reside there. Mr. M. Rae read the nine practical difficulty favors presented with the application (already in record).

Chairman Ralston said the Board is not here to discriminate and they are here to look at the Zoning Code as it is written.

Mr. Palmer asked for clarification of Mr. Lucas's letter. Mr. Lucas stated Mr. S. Rae is permitted to have four unrelated individuals to meet the definition of family and thereby constitute a permitted use under Single Family Dwelling. Mr. Lucas wrote his letter based on the eight tenants that were originally living in the dwelling, but once tenant has since moved out. Mr. S. Rae has asked for an additional three unrelated individuals to reside above the maximum permitted four. Mr. Lucas said as each individual vacates the property, he would require notification from Mr. S. Rae to the city Building Department. Once it reaches three subsequent vacates, and four unrelated individuals are left, the variance, for that limited period of time will expire. He will then be limited, thereafter to four unrelated individuals as the code requires and Mr. M. Rae agreed.

Chairman Ralston asked if there was anyone else who wished to speak for this appeal. Mr. Stephen Rae, 7130 Bay Point Cove, Mentor, OH 44060 and owner of the property in question, was sworn in to speak for this appeal.

Mr. Palmer said he is a neighbor of Mr. S. Rae's property and he does not have any issues with his property. Mr. Palmer wanted to make sure Mr. S. Rae understands what was previously discussed above and Mr. S. Rae stated he understood. There was some discussion on inspection and registration. Mr. Merhar asked if there were contracts or month to months leases for his tenants. Mr. M. Rae said they are month to month.

Chairman Ralston asked if there was anyone else who wished to speak for this appeal. Mr. Greg Patt, 38005 Brown Ave., Willoughby, OH 44094. Mr. Patt stated that he knows Mr. S. Rae is a good landlord and the properties he owns are kept up. Mr. Patt is sensitive to the need for affordable housing.

Chairman Ralston asked if there was anyone else who wished to speak for this appeal. Joe Lariccia, 4320 Center St., Willoughby, OH 44094. Mr. Lariccia is a tenant of Mr. S. Rae's for the past two years and said he is a good landlord. Mr. Lariccia keeps up with all the maintenance of the home. He said everyone gets along and helps maintain the interior of the home.

Chairman Ralston asked if there was anyone else who wished to speak for this appeal and there was no one.

Chairman Ralston asked if anyone wished to speak against this appeal. Mr. Richard Legan, 8253 Kirtland-Chardon Rd., Kirtland, OH 44094 was sworn in to speak against this appeal.

Mr. Legan was the former owner of the Center St. property. He sold the property to Mr. S. Rae as a 3-bedroom single family residence because he also owns the property next door. His is concerned it could change the

**City of Willoughby
Board of Zoning Appeals
Public Hearing Meeting Minutes
July 10, 2019**

character of the neighborhood. There is an existing rooming house across the street from the VFW, but he does not have an issue with it because it was existing and was well taken care. The owner also lived on the premises. Mr. Legan is against the boarding house, but not the current tenants.

Mr. M. Rae in rebuttal to Mr. Legan's opposition. Mr. M. Rae believes the compromise of the three subsequent vacates and having only four tenants in the future will alleviate Mr. Legans concerns.

There was some discussion on the interior changes of the home over the years.

Mr. Lucas suggested adding to the motion the following: within one week of the vacant, of each tenant, the Building Department must be notified.

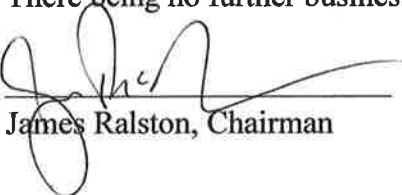
Chairman Ralston asked if anyone else wished to speak against this appeal and there was no one.

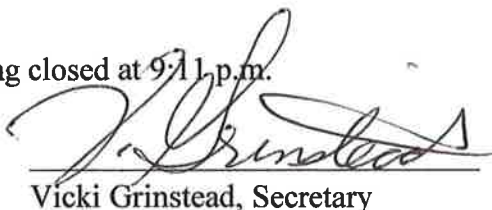
Mr. Palmer moved to grant a variance to C.O. 1135.03 and allow, on a temporary basis, three additional non-related family members to occupy this structure, with the understanding that the variance applies to the seven specifically named individuals that were on the application, less Mr. Bernstein, and that upon vacate by any of the other seven named individuals that Mr. Stephen Rae notify the Building Department Director, Mr. Darryl Keller and no further letting above 4 unrelated individuals will be permitted in accordance with the definition of family; citing C.O. 1109.09(b) for the property located at 4320 Center St., Willoughby, OH 44094 and Mr. Merhar seconded.

ROLL CALL: Yeas: Mr. Ross; Mr. Palmer;
 Nays: Mr. Merhar; Mr. Tomaselli; Chairman Ralston
 Absent: None

Motion Carried: Denied

There being no further business the regular meeting closed at 9:11 p.m.


James Ralston, Chairman


Vicki Grinstead, Secretary