

**BOARD OF ZONING APPEALS
CITY OF WILLOUGHBY
OCTOBER 23, 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 7:02 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 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

September 25, 2019

October 9, 2019 -Canceled

Mr. Palmer moved to accept the Public Hearing meeting minutes of September 25, 2019 as submitted and Mr. Merhar seconded.

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

Motion Carried: Approved

OLD BUSINESS

Mr. Palmer moved to untable Old Business for Mr. Teriaca, 4285 Buckeye Ave., Willoughby, OH 44094 and Mr. Ross seconded.

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

Motion Carried: Untabled

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Chairman Ralston informed the Board that Mr. Teriaca has worked with the Building Department and has corrected his fence violation.

Rob Teriaca
4285 Buckeye Ave.

Solid Fence

Mr. Palmer moved to permanently table the appeal for the Teriaca residence, 4285 Buckeye Ave., Willoughby, OH 44094 and Mr. Merhar seconded.

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

Motion Carried: Permanently tabled

NEW BUSINESS

Bryan & Melanie Baker
38001 Parkway Blvd.

Accessory structure in rear yard

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

Chairman Ralston asked if there was anyone who wished to speak for this appeal. Mr. Baker, 38001 Parkway Blvd., Willoughby, OH 44094 was sworn in to speak for this appeal.

Mr. Baker said he would like a larger shed to store his outdoor items that will no longer fit into his garage. He has a rather large yard and a large mower. He said he has three children and needs the extra space.

Mr. Palmer asked if he garage was attached to his home, and was this is the only accessory structure in the yard and Mr. Baker said yes to both.

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

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

Mr. Palmer moved to grant a variance to C.O. 1131.11(d) and allow an accessory structure in the rear yard instead of the non-allowable structure with an attached garage and to allow 240 sq. ft. in lieu of the allowable 200 sq. ft.; citing C.O. 1109.09(b) for Baker residence, 38001 Parkway Blvd., Willoughby, OH 44094 and Mr. Merhar seconded.

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

Motion Carried: Approved

Zeppe's Tavern **Addition and Patio in the front yard**
5680 SOM Center Rd.
(Rep.- Leon Sampat, LS Architects, Joe Ciresi, President/CEO)

Chairman Ralston stated the applicant cited practical difficulty numbers 1, 2 and 3 on the application for appeal and noted all items that were in the packet.

Chairman Ralston asked if there was anyone who wished to speak for this appeal. Mr. Sampat of LS Architects, 22082 Lorain Rd., Fairview Park, OH agent for Zeppe's Tavern was sworn in to speak for this appeal.

Mr. Sampat said they are proposing a 985 sq. ft. patio addition, which was designed to minimize the front yard setback, but the patio is encroaching. They have provided screening and a landscape buffer for the patio.

Mr. Sampat said in regard to the parking variance they were just given an easement for the entire lot today. This 21-page document was sent to Mrs. Grinstead today, 10/23/19 at 4:15 via email (in record as Exhibit "A"), which was not enough time for the Law Director or Board members to review. Additional copies were given to the Board members. They are considering all three parcels from Heinen's down the Zeppe's parcel a cross access easement.

Chairman Ralston explained that this document should have been presented with the application for appeal so the validity of the easement could have been confirmed. Mr. Sampat said they were not even aware of this document until that time. Chairman Ralston is not sure if they can take this easement into account at this time and suggested moving forward with the other items.

Mr. Sampat said Starbucks is a morning and afternoon facility. Zeppe's does serve lunch, but their main business will be in the evening. The two uses together are offsetting in regard to the parking issue.

Mr. Palmer asked how the city determines the number of parking spaces for this structure of 161 spaces. Mrs. Karen Brooks, Zoning Code Inspector said it was the number of spaces shown on that parcel. Mr. Palmer said the zoning requirement is by parcel unless there is some other governing document and Mrs. Brooks said that is correct. Mr. Palmer asked if the next step would be to validate the easement (Exhibit "A"). Mr. Lucas said yes, if the reciprocal easement obviates the parking deficiency, then there would be no need for a variance.

Mr. Sampat said the landscape space they are providing is 16.5% of the required 20% because of the patio addition. They have provided landscaping within the patio addition itself of approximately 300 sq. ft. for a total of 17%.

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Mr. Sampat said they held the building structure because they have added the covered patio addition. He said they staggered the covered patio to be within the setback line (showed Board on rendering). Because of the grade change they need a retaining wall to support the outdoor patio which has caused a need for the variance. The vertical retaining wall is 4' high.

Chairman Ralston asked if there was anyone who wished to speak for this appeal. Mr. Ciresi, 2867 Fowler Dr., Willoughby Hills, OH, President/CEO for Zeppe's Tavern was sworn in to speak for this appeal.

Mr. Ciresi said he has met with his landscapers and is going to make the outdoor patio beautiful. Their goal is not to see the concrete wall. They will be installing hedges and pines around it. He will be obtaining architectural bids in the spring.

Mr. Palmer asked if he will be having any outdoor entertainment and Mr. Ciresi said no outdoor live music. There will be speakers facing in toward the building with dinner type music. He said they are 80% food driven and will be more of a family establishment. There will be no bike nights held at this location.

There was some discussion on how the front yard is determined. The Board determined there were a few items that needed to be researched before a decision could be made.

Mr. Palmer moved to table the appeal and recess the public hearing for Zeppe's Tavern, 5680 SOM Center Rd., Willoughby, OH 44094 and Mr. Tomaselli seconded.

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

Motion Carried: Tabled

Sheetz, Inc.
6035 SOM Center Rd.
(Rep.- David Mastrostefano, PE, Kevin Detroy, Esq.)

Fueling center and convenience store

Chairman Ralston stated the applicant cited practical difficulty numbers 1, 3, 4, 5, 6, 7, 8 and 9 on the application for appeal and noted all items that were in the packet.

Chairman Ralston asked if there was anyone who wished to speak for this appeal. Mr. Detroy, Esq., Dinsmore & Shohl LLP, 255 East Fifth Street, Suite 1900, Cincinnati, OH 45202 for Sheetz, Inc. was sworn in to speak for this appeal.

Mr. Detroy said they are here to request a variance for C.O. 1141.06 for setback requirements. He said the setback requirements in this case are 20' and they asking for variances along Maplegrove and SOM Center Rd. He said they addressed each practical difficulty factor in their application and read a few of them into record.

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Chairman Ralston said they are here for setback variance because of the required parking. He asked if the footprint for Sheetz is larger than the existing footprint of the previous tenant.

Chairman Ralston asked if there was anyone who wished to speak for this appeal. Mr. Mastrostefano, PE for Sheetz, Inc., 5600 5th Ave., Altoona, PA 16602 was sworn in to speak for this appeal.

Mr. Mastrostefano said the footprint is a bit larger than the existing impervious footprint of Eat'n Park. Mr. Palmer said it looks like they have enough room to achieve the 20' setback. He asked if they could get within a 5' variance request and Mr. Mastrostefano said he doesn't believe they can.

Mr. Mastrostefano showed the Board the site plan and explained that they have three roads on this corner lot that are considered front yard setbacks. He also explained where the underground storage tanks are located. The existing entrances will remain as they are for the existing site, furthest from the intersection. They are utilizing the right in, right out off of SOM Center Rd., so the delivery trucks need to enter via Commerce Circle.

He said this is a fueling station and they model their sites with the larger semi and tanker trucks to be sure they can navigate the site without incident. The setbacks will provide adequate travel lane widths for these large vehicles, as well as customers with large commercial vehicles with trailers etc. He said to minimize the front curb line along Maplegrove would encroach upon being able to make that circulation around the fuel island canopy to deliver fuel. The fuel must be dropped from the passenger side of the vehicle, which is a requirement. If it is required to be less than what is shown, they would have to angle the fuel island pumps, which increases the width of the canopy, which then encroaches the travel lanes on the east and west sides, which would require them to push those outward. The average Sheetz store is approximately 6,000 sq. ft. and this store is considerably smaller to fit the site.

Mr. Mastrostefano said they would be providing landscaping around the entire facility that meets the city code and leaving the existing tree line along SOM Center Rd. He also noted that the existing site does not have any storm water management, but as a part of their redevelopment of this site they will be incorporating storm water management as required.

Mr. Mastrostefano said they have a corner vestibule which fronts both Maplegrove and SOM Center Rds. which are the main entrances. They also have a public entrance door on the Commerce side of the facility for a total of three entrances.

There was some discussion on other options to move parking. Mr. Mastrostefano said his concern would be for the safety of the customers to minimize interaction with vehicles. He said the facility is also a retail restaurant with indoor and outdoor seating. There was some discussion on precedent.

Chairman Ralston asked if they could redesign the site comply with city setbacks. Mr. Mastrostefano said if they had to eliminate parking spaces in front of the store and redesign the site they would not do the project.

Mr. Detroy addressed the issue of precedent. He said precedent is only a relevant issue to the extent that the circumstances in two cases are the same. He said the relevant factors in their case is these are necessary for them

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to make a site workable. It would adversely impact any of the neighbors. They will still be providing landscape buffering that would be fully compliant. This site is ideal for Sheetz with the exception of the one issue.

There was more discussion on redesigning or modeling the site. Mr. Palmer asked if they could get to a 10 ft. setback on Maplegrove. Chairman Ralston said they can vote this evening or table it so they could look at other options.

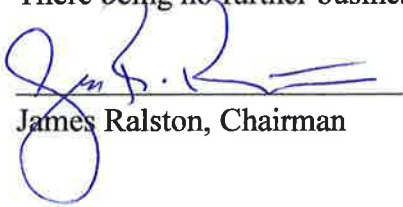
Mr. Detroy said they would like to be tabled and return at the next meeting.

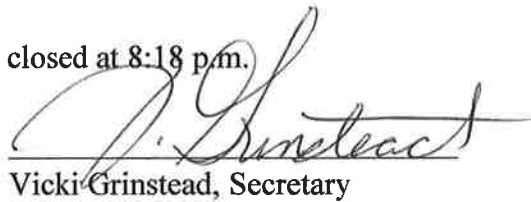
Mr. Palmer moved to table the appeal and recess the public hearing for Sheetz, Inc., 6035 SOM Center Rd., Willoughby, OH 44094 and Mr. Merhar seconded.

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

Motion Carried: Tabled

There being no further business the regular meeting closed at 8:18 p.m.


James Ralston, Chairman


Vicki Grinstead, Secretary