

**BOARD OF ZONING APPEALS  
CITY OF WILLOUGHBY  
NOVEMBER 13, 2019  
PUBLIC HEARING MEETING  
MINUTES**

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

**ABSENT:** Angelo Tomaselli

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

**Chairman Ralston called the regular meeting to order at 7:01 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 not 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. All of the applicants wished to proceed with their appeals.

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**

**October 23, 2019**

Mr. Merhar moved to accept the Board of Zoning Appeals Public Hearing meeting minutes of October 23, 2019 as submitted and Mr. Ross seconded.

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

**Motion Carried: Approved**

**OLD BUSINESS**

Mr. Merhar moved to untable the Old Business for Zeppe's Tavern, 5680 SOM Center Rd., Willoughby, OH 44094 and Mr. Ross seconded.

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

**Motion Carried: Untabled**

**City of Willoughby  
Board of Zoning Appeals  
Public Hearing Meeting Minutes  
November 13, 2019**

**Zeppe's Tavern**

5680 SOM Center Rd.

(Rep.- Leon Sampat, LS Architects)

**Addition and Patio in the front yard**

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

Mr. Ciresi said he has had conversations with quite a few Willoughby residents who are in favor of Zeppe's Tavern. He said he wanted to clarify that they are a food establishment. He said he was handed a petition from a resident in Ward 4 in favor of Zeppe's (in record 11-13-19, Exhibit "A"). He also said they obtained their Sunday liquor license on November 5, 2019. He also noted that his accountant estimated that Zeppe's would generate approximately \$50,000 in additional tax revenue annually for the city and will create 50-70 new jobs locally.

Mr. Ciresi said to address the noise concerns he has researched products to mitigate the noise. He is willing to install an attractive sound barrier. It is supposed to reduce the noise by approximately 98%. It looks like wood fencing and is insulated. He said the fencing is expensive, but he is willing to spend the money to bring peace of mind to the adjacent neighborhood. He mentioned that Panini's has a similar situation and has no landscaping or barrier to block the noise and there have been no issues with the residents directly across the street.

He said Zeppe's will not exceed 80-89% decibels, which is equivalent to the traffic on Rt. 91, and they will not even come close to generating that much noise. He said Zeppe's would not exceed 75 decibels, which is equivalent to a vacuum cleaner.

Mr. Merhar said the Board's concern at the last meeting was the parking and if the reciprocal easement agreement was valid.

Mr. Lucas has reviewed the reciprocal easement agreement prepared by Robert Ranallo on 9/10/1984. It was between Pine Ridge Shopping Center and Heinen's Inc. and was recorded on 9/10/1984 and dealt with all the vacant land surrounding the shopping center and three parcels; Parcels A, B and C. It provided available parking by easement on all three lots, interchangeably. It was also subject to those rights under the easement being assigned to successors and interests. Mr. Lucas said the appeal for a variance of C.O. 1161.04 which requires a total of 249, which Zeppe's provided 161 of those spaces, leaving a deficit of 87 spaces is no longer required because of the reciprocal easement agreement and the three available lots (Parcels A, B and C).

Mr. Palmer asked Mr. Ciresi if there will be any music on the outdoor patio. Mr. Ciresi said yes there will be, but will be under 75 decibels. The speakers will be facing south, away from the neighboring homes and will be kept at a conversational level. There will be no live music outside. He may have live music indoors and will keep the doors closed. Mr. Ralston said this issue will be before the Planning Commission. Mr. Palmer said the variances before the Board are for landscaping and setback issues. Mr. Ciresi said they will add a lot of landscaping.

Chairman Ralston said the variances before the Board as previously stated are the only things the Board will hear the public on. The noise issue is not what is before this Board and they can only deal with these items.

**City of Willoughby  
Board of Zoning Appeals  
Public Hearing Meeting Minutes  
November 13, 2019**

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. Palmer asked if there was a lighting plan on the patio. Mr. Sampat said dim lit table and floor lighting. There will be no overhead lighting, but there will be some soft landscape lighting. There are no lights above the proposed wall. Mr. Palmer asked if there was any backlit signage on the north side of the walls or above the patio. Mr. Sampat said no they originally proposed a 5' high wood board-on-board fence, but hearing the concerns of the neighbors they are now proposing an 8' high dense filled molded vinyl fence which has an SCC rating of 26.

Mr. Ross said even if they remove the patio they still outside of the landscape area at approximately 1,300 sq. ft. and Mr. Sampat said yes, the site was non-conforming already.

Chairman Ralston asked if there was anyone who wished to speak for this appeal. Mr. Pat Sirpilla of Deville Development, 3951 Convenience Circle, Canton, OH was sworn in to speak for this appeal.

Mr. Sirpilla said he has worked with Mr. Ciresi and they only obtain quality tenants for their Class A retail centers. He said when they met with Mr. Ciresi they were impressed with his quality, pricing and attention to detail and are excited to have him as a tenant in Willoughby. He went on to say that Mr. Ciresi is spending more money than he would need to, to accommodate the adjacent homeowners. He believes the request for the area is reasonable.

Chairman Ralston asked where the fence will be located. Mr. Sampat said it will be 3 ft. away from the edge of the patio.

Chairman Ralston asked if there was anyone who wished to speak for this appeal. Mr. John Ranbacher Esq. for Deville Development, 6545 Market Ave. N, N. Canton, OH was sworn in to speak for this appeal.

Mr. Ranbacher said the property, in regard to the landscaping, is non-conforming at approximately 18%. Since there is abundant parking they would be willing utilize some of the existing parking spaces and make them into green spaces. He understands the front yard setback issue but they have a viable business owner. It is not desirable to their client to not have the patio. He would ask the Board to approve the variances.

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. Mr. Jim Aveni, Esq. of Ranallo & Aveni, 6685 Beta Dr., Mayfield Village, OH, representing the Halle Pointe Condominium Homeowners Association was sworn in to speak against this appeal.

Mr. Aveni submitted into record a letter summarizing the arguments of their client (in record 11-13-19, Exhibit "B"). He said his clients do not oppose the Zeppe's Tavern at this location. The only opposition is to C.O. 1145.05(a) which prohibits any structure erected in the front yard. There is an error on page 2, second paragraph which states "less than 50 *feet* from backyards..."; it should be 50 *yards*.

**City of Willoughby  
Board of Zoning Appeals  
Public Hearing Meeting Minutes  
November 13, 2019**

Mr. Aveni said the City of Willoughby has codified ordinances which address the Duncan Factors and he read them into record from the letter (Exhibit "B"). He said in regard to C.O. 1109.09(b)(4) they would argue that the noise would substantially alter the essential the character of the neighborhood and should be before the Board. There are nine units whose master bedrooms and living rooms would be affected by the noise from the proposed patio.

Mr. Aveni said the barrier Mr. Ciresi presented, and said would reduce the noise by 90% and would not exceed 75 decibels, was not shown in the plans submitted. They also do not know if a variance would be required for this fencing. The residents have no way to evaluate these claims. The reference to the Panini's is not a fair comparison as the deck is behind that property and not as close to the neighboring properties. His concern about the fence is how is the noise from the patio going to be enforced even with the fence. He also wanted clarification of how much of the fence will actually be above the elevation of the patio. He said no study has been submitted to verify the effectiveness of the proposed sound barrier.

Mr. Aveni said Mr. Ranbacher stated it would not be economically viable for the restaurant if the variance was not granted, but no there is no evidence submitted to support this statement.

Chairman Ralston asked if there was anyone who wished to speak against this appeal. Mr. Ethan Walker, 5679 Beachview Lane/Unit #B, Willoughby, OH was sworn in to speak against this appeal.

Mr. Walker said he would like to give a scientific viewpoint. He said the owner of Zeppe's wants to serve alcohol in his restaurant. Chairman Ralston asked Mr. Walker to focus on what was before the Board which is not the liquor license. Mr. Walker said he did research on consuming alcoholic beverages and alcoholic outlet density. He would look at the benefits and harm of alcohol. Chairman Ralston again told Mr. Walker the Board is here to grant/deny variances for the outdoor patio. Mr. Walker said there is a significant difference in the profits of a business that does not sell alcohol vs. a restaurant that does. Mr. Walker said if there was no patio it would be better for the community.

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

Mr. Ciresi wanted to address Mr. Aveni's comments. He said he does have all the statistics and facts on the sound barrier, but did not present them because the Board did not want to discuss the noise issue.

There was more discussion on what can be considered by the Board in regard to C.O. 1109.09

Mr. Ciresi said this patio is critical to his bottom line and cannot operate without it. Mr. Sampat said the elevations for the patio are the finished floor is 3 ft. at the west end and 4 ft. at the east end of the north side. Arborvitaes would cover the concrete wall and the fence will be above that. Chairman Ralston said if you are looking at it from Halle Drive it will basically be a 12 ft. high fence.

Mr. Palmer asked if the HOA has had any discussion on the patio with Mr. Ciresi.

Chairman Ralston asked if there was anyone who wished to speak against this appeal. Ms. Patricia Albanese 34610/Unit A, Parkview Lane, Willoughby, OH was sworn in to speak against this appeal.

**City of Willoughby  
Board of Zoning Appeals  
Public Hearing Meeting Minutes  
November 13, 2019**

Ms. Albanese is opposed to the outdoor patio and lives directly behind when the patio will be installed. She spoke with Mr. Ciresi and explained what the neighbors felt about the patio. She said it would not only bring noise, but what type of patrons it would attract. Her main concern was motorcycles. They were also concerned about the indoor live music.

Mr. Ciresi said they only have a bike night at one location in Newbury and have no intention of doing that at this location or any other of his current locations. He is trying to find a compromise and that is why he would invest in the sound barrier fencing and landscaping. They would shut the garage doors when they have indoor live music.

Mr. Ciresi has asked to have his appeal tabled for this evening.

Chairman Ralston urged the applicant to have elevations to show the Board at the next scheduled meeting.

Mr. Palmer moved to table the appeal, per the applicant's request, for Zeppe's Tavern, 5680 SOM Center Rd., Willoughby, OH 44094 and Mr. Merhar seconded.

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

**Motion Carried:    Tabled**

Mr. Palmer moved to untable the Old Business for Sheetz, Inc., 6035 SOM Center Rd., Willoughby, OH 44094 and Mr. Ross seconded.

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

**Motion Carried:    Untabled**

**Sheetz, Inc.**

6035 SOM Center Rd.

(Rep.- Kevin Detroy, Esq., Dinsmore and Shohl)

**Fueling center and convenience store**

Chairman Ralston asked if there was anyone who wished to speak for this appeal. Mr. Kevin Detroy, Esq., Dinsmore and Shohl, 255 E. 5<sup>th</sup>, Suite 1900, Cincinnati, OH 45202 for Sheetz, Inc. was sworn in to speak for this appeal.

Mr. Detroy said they have two variance requests that were for setback encroachments; one for a 2 ft. setback encroachment along Commerce Circle and the other was a 15 ft. setback encroachment along Maplegrove. The

**City of Willoughby  
Board of Zoning Appeals  
Public Hearing Meeting Minutes  
November 13, 2019**

Board has expressed concerns about the extent of the proposed setback along Maplegrove and asked if they could amend their plan to a 10 ft. of the required 20 ft. setback, which they have done. They previously submitted new renderings with these changes for the Board (dated 11-6-19). He said all of the improvements had to be moved, which was a significant effort.

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. 1141.05 and allow a non-permitted structure in what is considered a front yard instead of the non-allowable use; citing C.O. 1109.09(b) for Sheetz, Inc., 6035 SOM Center Rd., Willoughby, OH 44094 and Mr. Merhar seconded.

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

**Motion Carried:    Approved**

Mr. Palmer moved to grant a variance to C.O.1141.06 and allow a 10 ft. encroachment instead of the 20 ft. setback requirement along Maplegrove and allow an 18 ft. setback or a 2 ft. encroachment instead of the required 20 ft. setback on Commerce Circle; citing C.O. 1109.09(b) for Sheetz, Inc., 6035 SOM Center Rd., Willoughby, OH 44094 and Mr. Merhar seconded.

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

**Motion Carried:    Approved**

**NEW BUSINESS**

**Susan & Neil Talevski**  
2800 Reeves Rd.

**Accessory parking**

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. Neil Talevski was sworn in to speak for this appeal.

**City of Willoughby  
Board of Zoning Appeals  
Public Hearing Meeting Minutes  
November 13, 2019**

Mr. Talevski said when they built the home there was already a construction curb cut with an apron installed, possibly from when Strumbly Ct. was being constructed, but they did not utilize it because they were filling in their back yard. He said the property has a very large slope and could not use the curb cut because there were heavy trucks bringing in fill for the property. He said they cannot have any other accessory parking on the side or rear of the property because of the severe slope. The home is also located on a sharp curve, which also has trees blocking their view and is dangerous trying to back out. Strumbly Ct. is also directly across the street from their drive.

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(a) and allow a u-shaped driveway addition instead of the non-allowable addition which may create accessory parking; citing C.O. 1109.09(b) for the Talevski residence, 2800 Reeves Rd., Willoughby, OH 44094 and Mr. Merhar seconded.

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

**Motion Carried:    Approved**

**Spirits in Willoughby**

**Illuminated freestanding ground sign**

3872 Erie St.

(Rep.- Jessica Ruff, Ruff Neon Signs)

Chairman Ralston stated the applicant cited practical difficulty number 1 and 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. Ms. Ruff of Ruff Neon Signs, 295 W. Prospect St., Painesville, was sworn in to speak for this appeal.

Ms. Ruff said they are proposing a 30' monument sign that is double sided. There is an existing sign on the property that was there when the owner purchased the property and he just replaced the face on that sign. She said Spirits in Willoughby currently only has wall signage and coming from the railroad tracks to the restaurant there is no visibility. Ms. Ruff said she pulled up the auditor's site and there are three parcels and the existing sign is on one parcel and this sign will be on another parcel.

Mr. Palmer asked how many entrances to the property and Ms. Ruff said they are two. Mr. Ross confirmed there are three parcels on the auditor's site but they are all owned by the same person.

Mr. Ross asked if the proposed sign will impede any traffic exiting the property and Ms. Ruff said no. The sign is 42 ft. back from the center of the street and 20 ft. from the existing curb.

**City of Willoughby  
Board of Zoning Appeals  
Public Hearing Meeting Minutes  
November 13, 2019**

There was discussion on whether two signs are allowed since there are two businesses. Mr. Lucas said the letter of noncompliance says the existing sign says it is nonconforming/illegal. If a sign is nonconforming it is not illegal and believes that language is there because of the absence of any significant records.

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

Mr. Patt has been on several boards for the City of Willoughby and he believes this was measured incorrectly. He said he can't believe that 30 sq. ft. is the maximum for a ground sign.

Mr. Lucas did clarify that the Building Department was correct in their calculations of this sign according to C.O. 1163.05.

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. 1163.04(f) and allow a proposed sign of 63 sq. ft. instead of the allowable 30 sq. ft.; citing C.O. 1109.09(b) for Spirits in Willoughby, 3872 Erie St., Willoughby, OH 44094 and Mr. Merhar seconded.

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

**Motion Carried:    Approved**

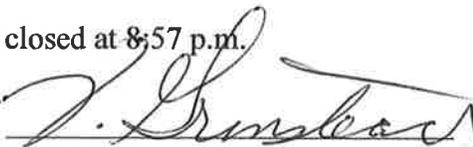
Mr. Palmer moved to grant a variance to C.O. 1163.05(a)(2) and allow a second freestanding sign on the parcel because of the separate business use, instead of the required use of one sign allowed per project or development; citing C.O. 1109.09(b) for Spirits in Willoughby, 3872 Erie St., Willoughby, OH 44094 and Mr. Merhar seconded.

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

**Motion Carried:    Approved**

There being no further business the regular meeting closed at 8:57 p.m.

  
James Ralston, Chairman

  
Vicki Grinstead, Secretary