

**BOARD OF ZONING APPEALS
CITY OF WILLOUGHBY
MARCH 11, 2020
PUBLIC HEARING MEETING
MINUTES**

PRESENT: Joe Palmer; Mike Merhar; Mike Ross; Phil Davis; 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 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.

Chairman Ralston said he will be changing the order of the agenda for purposes of expediency. He asked the audience to be respectful during the proceedings. He said if you are here this evening with a group of people for a particular agenda item to please have a spokesperson.

MINUTES

January 8, 2020

Mr. Palmer moved to accept the Board of Zoning Appeals Public Hearing meeting minutes of January 8, 2020 as submitted and Mr. Merhar seconded.

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

Motion Carried: Approved

OLD BUSINESS

None

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NEW BUSINESS

Rebecca & Drew Puckrin
4396 River St.

**Accessory garage and
concrete driveway**

Chairman Ralston stated the applicant cited practical difficulty numbers 2, 3, 4, 6 and 8 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. Drew Puckrin, 4396 River St., Willoughby, OH 44094 was sworn in to speak for this appeal.

Mr. Puckrin said the reason they want the three car garage is because their home is very old and the basement/cellar is damp and cannot be used for storage. The two car garage will house both of their vehicles. The smaller garage will be utilized for storage of extra items they cannot store in the home. He said the other reason for the garage is they have walnut trees on the property and they have done damage to their vehicles.

Mr. Palmer asked if he could attach the garage to the home. Mr. Puckrin said he didn't think this was possible because of the way the home was constructed. He said it would also pose a problem with parking in the back of the home. Mr. Palmer said if it was attached to the existing home he could, by ordinance, have a larger garage. There was a brief discussion on this item. Mr. Palmer asked Mr. Puckrin asked if he would like to table his appeal and consider this option. Mr. Puckrin said no because of the added expense and he would like the Board to vote on the current proposal.

Mr. Palmer said the Board has approved some three car garages in the area, but have been on larger lots.

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(e) and allow a 773 sq. ft. detached garage structure instead of the allowable 600 sq. ft., citing C.O. 1109.09(b) for the Puckrin Residence, 4396 River St., Willoughby, OH 44094 and Mr. Merhar seconded.

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

Motion Carried: Approved

Spirits in Willoughby
3872 Erie St.
(Rep.- Jessica Ruff, Ruff Neon Signs, Jay Byram, Owner)

Ground sign, front setback

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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. Ms. Ruff of Ruff Neon Signs, 295 W. Prospect St., Painesville, OH 44077 and Mr. Jay Byram, 4509 Center St., Willoughby, OH 44094 were sworn in to speak for this appeal.

Ms. Ruff said they are proposing an illuminated ground sign. She said they obtained a previous approval before the Board of Zoning Appeals, but have redesigned the sign to include a brick base and brick pillars. She said they did do a site survey and found they would need a 5 ft. variance, that would be 2 ft. back from the sidewalk and 35 ft. back from the center of the street (Exhibit "A" renderings in record 3-11-20). She said the signage will not cause any obstructions for vehicles.

Mr. Ross said they previously approved the size of the sign and asked if that has changed. Ms. Ruff said the size of the sign is now smaller; it was approximately 60" and is now 36". They reduced the size of the sign itself because they added the brick to incorporate the look of the building. Mr. Merhar asked if it is closer to the road and Ms. Ruff said yes. She said when they presented the original sign the original dimensions they had were incorrect. She said Mrs. Brooks of the Building Department assisted them with the measurements for this new sign.

Chairman Ralston asked if the calculations are based on the current sidewalk or the new sidewalk once the road construction is complete. Ms. Ruff said based on the current sidewalk. Mr. Byram said they are assuming it will be in the same location. There was a brief discussion on this item.

Mr. Merhar asked if there is any way to move the sign back further. Ms. Ruff said there are bushes in the way. Mr. Byram said there are bocce courts right there.

Mr. Davis asked Mr. Lucas, if this was approved would it set a precedent. Mr. Lucas said every application for a variance or appeal is fact sensitive, and with rare exception, has there been applications that are identical in every way with reference to a prior application. He said this would not set a precedent because this application is very fact sensitive.

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. 1163.05(a)(3) and allow a proposed sign setback 2 ft. from the front lot line instead of the required 7 ft., creating a 5 ft. encroachment; citing C.O. 1109.09(b) for Spirits in Willoughby, 3872 Erie St., Willoughby, OH 44094 and Mr. Merhar seconded.

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

Motion Carried: Approved

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Zeppe's Tavern

5680 SOM Center Rd.

(Rep.- Leon Sampat, LS Architects, Joe Ciresi, Owner)

Outdoor patio

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 said the Board has received letters from residents in opposition to the proposal. Chairman Ralston noted the names and addresses and all are in the record (Exhibit "A").

Chairman Ralston asked if there was anyone who wished to speak for this appeal. Mr. Ciresi, Owner of Zeppe's Tavern, 2867 Fowler Dr., Willoughby Hills, OH 44094 was sworn in to speak for this appeal.

Mr. Ciresi is the President and owner of Zeppe's Tavern. Mr. Ciresi said his family is part of the community and hopes for a favorable outcome and hopes to be an asset to the community. He gave some background on the staff and their salaries. He said they will be an upscale food establishment. He said 75-85% of their business is food and not alcohol. He said his Sunday liquor license was approved overwhelmingly by the residents and said this speaks to the fact that they are in support of his restaurant.

Mr. Ciresi said since the last meeting of the Board he has hired a sound company who did a sound study, which he presented to the Board. (in record as Exhibit "B"). The study, done by DRW & Associates, addresses how the sound would impact the Halle Estate and other surrounding neighborhoods. He said the company recommended changing their design from the sound barrier fence to a brick and mortar wall which will help alleviate the sound. Chairman Ralston said, for the record, the noise concerns report is from DRW & Associates Inc., 9261 Ravenna Rd./B-5, Twinsburg, OH 44087, dated November 28, 2019 by Joel Kurtz. Mr. Palmer said they would commit to keep the sound levels below 75 decibels. Mr. Ciresi said he would cooperate with keeping the noise levels down.

Mr. Merhar said noise levels are not before the Board, he said what is before the Board is if the patio is allowed where it is proposed. The Planning Commission addresses that during the Conditional Use Permit portion. There was a brief discussion on this.

Mr. Ross asked in addition to the existing foliage will they be adding more vegetation at the street and Mr. Ciresi said yes, a considerable amount more.

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. Todd Cipollo, Esq. of Ranallo and Aveni and Counsel for the Halle Estate Condominium Board was sworn in to speak for this appeal.

Mr. Cipollo said they presented a letter to the Board, dated November 13, 2019 which was referenced by Chairman Ralston in Exhibit "A". He said not much has changed since they wrote this letter and read a few of the previous paragraphs from said letter. He said Zeppe's cannot establish a practical difficulty based on the city's ordinance.

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He said this is the only restaurant in the city that is adjacent to an abutting residential neighborhood. He said the patio is 109' to the nearest dwelling, not the property line. He said there is an inside stage where there will be live music, with garage doors that open up near these homes. He said they can operate this restaurant without the outdoor patio. He believes this variance should be denied because it is a use variance. He believes Mr. Ciresi has not proved an undue hardship. Mr. Cipollo said there is also no enforcement for the decibel levels for the 75 decibel level the applicant presented.

Chairman Ralston asked if there was anyone who wished to speak against this appeal: Ms. Ann Light, 34690 Parkview Lane, Willoughby, OH 44094 was sworn in to speak for this appeal.

Ms. Light said all of their bedrooms face the proposed patio and does not know how they will control the noise if this is approved. She wonders why a "family" restaurant needs to be open until 2:00 a.m. on the weekends.

Chairman Ralston asked if there was anyone who wished to speak against this appeal: Mr. Bruce Weitman, 34756 Parkview Lane, Willoughby, OH 44094 was sworn in to speak for this appeal.

Mr. Weitman stated the residents of Halle Pointe do not mind the Zeppe's restaurant opening. He said they maintain their properties to keep their home values up. He said no one would want a patio 1,000 ft. from them where beverages are being served and said believes this would set a precedent. He said they want to encroach on their quality of life for profit.

Chairman Ralston asked if there was anyone who wished to speak against this appeal: Ms. Barbara Herringshaw, 34560 Parkview Lane, Willoughby, OH 44094 was sworn in to speak for this appeal.

Ms. Herringshaw is worried the cigarette smoke from the patio will drift over to their homes. She said parking and traffic was not a problem while it was a fitness center. She also asked when deliveries would be done and what street would they be entering on.

Chairman Ralston asked if there was anyone who wished to speak against this appeal: Mr. Glenn Cvar, 5800 Ridgeview Lane, Willoughby, OH 44094 was sworn in to speak for this appeal.

Mr. Cvar said his concern is lighting and has not heard how they would light the outdoor patio or how bright it would be. He said the people in the apartments across from the Panini's restaurant can hear the music, and it is much further away than their homes would be from this proposed patio.

Chairman Ralston said many of these issues would be addressed during the Conditional Use Permitting process of the next Planning Commission meeting. He said these are two separate Boards and they address different items.

Chairman Ralston asked if there was anyone who wished to speak against this appeal: Ms. Margaret Bynane, 34750 Parkview Lane/Unit A, Willoughby, OH 44094 was sworn in to speak for this appeal.

Ms. Bynane read C.O. 1109.01(e). She said having an outdoor patio within 140' of her property will diminish her property value.

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Chairman Ralston asked if there was anyone who wished to speak against this appeal: Mr. Ethan Walker, 5796 Ridgeview Lane/Unit B, Willoughby, OH 44094 was sworn in to speak for this appeal.

Mr. Walker asked if the 75 decibel noise level would be inside or outside of the patio. Mr. Palmer read an excerpt from the sound study by DRW & Associates that stated “Zeppe’s is committed to keeping sound levels emitted from this property, including those emitted from the outdoor dining patio, at or below 75 dBA recorded at 50 feet from the patio wall. Mr. Walker said he does not trust this report.

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

Chairman Ralston asked if there was anyone who wished to speak in favor in rebuttal. Mr. Palmer summarized the resident concerns for Mr. Ciresi to address. 1) Open until 2:00 a.m. 2) Diminished property values 3) No other businesses in the city within 1,000’ ft. of a residence 4) Smoking 5) Light pollution 6) Noise. Mr. Ciresi said if they have live music indoors all doors and windows will be closed. The lighting will be a soft lighting. He cannot comment on other restaurants being within 1,000 ft. He said they will never have live music outside and Panini’s has no sound barrier. Mr. Ciresi said he cannot imagine smoking would be an issue because not many people smoke anymore. He said they would probably have a designated smoking area, and would be conscious of this and do the right thing in regard to the resident concerns.

Mr. Ross asked if any of the other restaurants do not have patios. Mr. Ciresi said all the full service restaurants have patios. Mr. Ross asked if he had looked into the economic impact would be if he did not have the patio. He said yes, he needs that additional revenue based on the arrangements he has made with his landlord. He said he did not foresee the patio being an issue at the time he made these arrangements and if he cannot have the patio he cannot open. He said patios are critical in the hospitality business.

Mr. Palmer asked him to address the diminished home value concerns. Mr. Ciresi said he lives in Willoughby Hills behind three restaurants that have patios and has no issues with noise and his property values have only gone up.

Chairman Ralston asked if there was anyone who wished to speak in opposition in rebuttal: Mr. Cipollo said any other locations are not applicable because this patio will be 109’ from an adjacent neighborhood. He said Mr. Ciresi is seeking a variance of a 100% prohibition where the restaurant will open until at least until midnight and possibly 2:00 a.m. adjacent to a residential neighborhood. He said Mr. Ciresi’s home is not adjacent to the three restaurant/patios he referenced earlier.

Mr. Palmer moved to grant a variance to C.O. 1141.05 Principal Building Yard Requirements and allow a non-permitted patio considered in a front yard adjacent to a main street instead of the non-allowable location, and as presented in the renderings shown by Mr. Ciresi with the brick sound barrier citing C.O. 1109.09(b) for Zeppe’s Tavern, 5680 SOM Center Rd., Willoughby, OH 44094 and Mr. Merhar seconded.

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

Motion Carried: Denied

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Board of Zoning Appeals

**Election – 2020
Chairman
Vice Chairman
Secretary**

Mr. Merhar moved to nominate Mr. Palmer as Chairman of the Board of Zoning Appeals for year 2020 and Mr. Ross seconded. There were no other nominations for Chairman.

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

Motion Carried: APPROVED

Mr. Merhar moved to elect Mr. Palmer for Chairman of the Board of Zoning Appeals for year 2020 and Mr. Ross seconded.

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

Motion Carried: APPROVED

Mr. Merhar moved to nominate Mr. Ross as Vice Chairman of the Board of Zoning Appeals for year 2020 and Mr. Palmer seconded. There were no other nominations for Vice Chairman.

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

Motion Carried: APPROVED

Mr. Palmer moved to elect Mr. Ross for Vice Chairman of the Board of Zoning Appeals for year 2020 and Mr. Merhar seconded.

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

Motion Carried: APPROVED

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Mr. Palmer moved to nominate Mrs. Grinstead as Secretary of the Board of Zoning Appeals for year 2020 and Mr. Merhar seconded. There were no other nominations for Secretary.

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

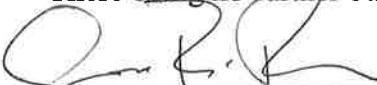
Motion Carried: APPROVED

Mr. Palmer moved to elect Mrs. Grinstead for Secretary of the Board of Zoning Appeals for year 2020 and Mr. Merhar seconded.

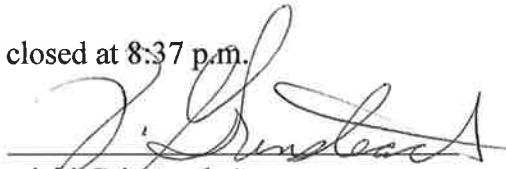
ROLL CALL: Yeas: Mr. Ross; Mr. Davis; Mr. Palmer; Mr. Merhar; Chairman Ralston
 Nays: None
 Absent: None

Motion Carried: APPROVED

There being no further business the regular meeting closed at 8:37 p.m.



James Ralston, Chairman



Vicki Grinstead, Secretary