

**BOARD OF ZONING APPEALS
CITY OF WILLOUGHBY
MAY 11, 2022
PUBLIC HEARING MEETING
MINUTES**

PRESENT: Phil Davis; Mike Ross; Mike Maniche; Joe Palmer, Chairman

ABSENT: Bruce Shade

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

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

Chairman Palmer 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 Palmer advised the participants that the board has five members of which a majority of the board is needed to grant an appeal. Chairman Palmer 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(s) 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 Palmer asked all of the applicants present if they wished to proceed with their appeals with only three members present and all applicants said yes.

MINUTES

April 27, 2022

Mr. Maniche moved to accept the Board of Zoning Appeals Public Hearing meeting minutes of April 27, 2022 as submitted and Mr. Ross seconded.

ROLL CALL: Yeas: Mr. Maniche; Mr. Ross; Mr. Palmer, Chairman
Nays: None
Absent: Mr. Shade
Abstain: Mr. Davis

Motion Carried: Approved

OLD BUSINESS

Barry Young
2077 Canterbury Dr.

Fence

Mr. Ross moved to untable Old Business for the Young residence, 2077 Canterbury Dr., Willoughby, OH 44094 and Mr. Davis seconded.

**City of Willoughby
Board of Zoning Appeals
Public Hearing Meeting Minutes
May 11, 2022**

ROLL CALL: Yeas: Mr. Ross; Mr. Davis; Mr. Maniche; Mr. Palmer, Chairman
 Nays: None
 Absent: Mr. Shade

Motion Carried: Untabled

Chairman Palmer stated the applicant cited no practical difficulty numbers on the application for appeal and noted all items that were in the packet.

Chairman Palmer asked if anyone wished to speak for this appeal. Mr. Young, 2077 Canterbury Dr., Willoughby, OH 44094 was sworn in to speak for the appeal.

Mr. Young said the renderings he provided shows that he has no privacy in this area. He said there is no right-of-way where is says it needs to be 3' and is the side of his house.

Chairman Palmer said with the shape of his yard it is tough to determine where the front, side and back yards exist.

Mr. Davis said the site plan says it is 50% open and the letter of Non-Compliance says it does not have 40% open. Chairman asked Mr. Young if he knew how wide the boards are on the picket fence and he did not. Mr. Young said he originally chose the solid fence with the lattice top (A), but then changed his mind to the fence (B) with openings throughout. Chairman Palmer asked if he agreed that this is not 50% open and Mr. Young agreed. The Chairman explained if this fence had a 4" vertical slat then there would have to be the same space between each board to be considered 50% open. Mr. Young feels that is what is he requesting even though it does not offer much privacy. Chairman Palmer said without dimensions of the fence or building plans it is tough for them to know what they are granting a variance to. He said they have the rendering but no dimensional data. He would like him to provide the width of each vertical board will be and spacing. The other part is the location itself. He asked if he had any other examples of this style fencing within his neighborhood and he did not.

Mr. Young asked to have his appeal tabled to obtain the information requested by the board.

Mr. Ross moved to table the variance per the applicant's request for the Young residence, 2077 Canterbury Dr., Willoughby, OH 44094 and Mr. Maniche seconded.

ROLL CALL: Yeas: Mr. Davis; Mr. Maniche; Mr. Ross; Mr. Palmer, Chairman
 Nays: None
 Absent: Mr. Shade

Motion Carried: Tabled

Dale & Denise Fross
5341 Harmony Lane

Detached garage

**City of Willoughby
Board of Zoning Appeals
Public Hearing Meeting Minutes
May 11, 2022**

Mr. Ross moved to untable Old Business for the Fross residence, 5341 Harmony Lane, Willoughby, OH 44094 and Mr. Maniche seconded.

ROLL CALL: Yeas: Mr. Maniche; Mr. Ross; Mr. Davis; Mr. Palmer, Chairman
 Nays: None
 Absent: Mr. Shade

Motion Carried: Untabled

Chairman Palmer reiterated what the variance was for the board. He said they discussed the mean height and have accepted what the applicant has proposed for this appeal which is 16'.5".

Chairman Palmer asked if anyone wished to speak for this appeal. Mr. Fross, 5341 Harmony Lane, Willoughby, OH 44094 was sworn in to speak for this appeal.

Mr. Fross submitted in record renderings of the property and the condition of the location (in record 5-11-22) and pictures of the former shed. He reiterated he has quite a bit of equipment to store and large vehicles he would like to house. He said he reduced his variance by 26% of what he originally proposed. He said the 850' requested by the board is a 29'x29' and this will not accommodate his equipment and this size he is proposing is a necessity. He said it is difficult to access the attic in the home which is in a closet and requires a ladder. He would like to put up a mezzanine with a set of stairs for ease of access. Chairman Palmer said he could put stairs on the exterior and not count as interior space, but Mr. Fross did not wish to entertain that idea for security and safety reasons. The chairman also suggested a lean-to that would not count as interior space and Mr. Fross understood.

Chairman Palmer said he asked them to revise their submission to stay within the 800'-850' range and they resubmitted with 960'. Chairman Palmer said the board does not like to set a precedent and has not approved a garage this large and asked if would still like to proceed and Mr. Fross said yes.

Mr. Ross said the square footage of the house is 1,192 and this garage is not much smaller than the home. He said it seems big for this area. Mr. Fross said a lot of people have 3-car garages nowadays. Mr. Ross said but they are attached to the home. Mr. Fross said it will add value to the home.

Chairman Palmer asked if there was anyone else who wished to speak for this appeal. Mrs. Fross, 5341 Harmony Lane, Willoughby, OH 44094 was sworn in to speak for this appeal.

Mrs. Fross said she misunderstood at the last meeting and thought the Chairman said 960' instead of 850' and this is why they went for this size. There was more discussion on an exterior staircase. She asked if there was any leeway on this and Chairman Palmer said no, he has offered 800'-850'. He said they could add a lean-to off this garage. Mr. Fross does not wish to do the lean-to and wants his stuff to be indoors because of break-ins in the area.

**City of Willoughby
Board of Zoning Appeals
Public Hearing Meeting Minutes
May 11, 2022**

Chairman Palmer asked if there was anyone else who wished to speak for this appeal., Mr. Bill DeRose, 5325 Harmony, Willoughby, OH 44094 was sworn in to speak for this appeal.

Mr. DeRose said this would set a precedent, but they need to adjust the ordinance as neighborhoods grow. Mr. Fross is a great neighbor, and he does not think this is fair.

Chairman Palmer asked if there was anyone else who wished to speak for this appeal (x3) and there was no one.

Chairman Palmer asked if there was anyone who wished to speak against this appeal (x3) and there was no one.

Mr. Davis asked Mr. Fross if he would amend his appeal for the garage to be 850 sq. ft. Mr. Fross said he would like to amend his appeal to 850 sq. ft.

Mr. Lucas said there are two issues before the board; one is the square footage, and the other is the mean height. Chairman Palmer said they agreed the 16'5" mean height was acceptable at the last meeting.

Mr. Fross asked about adding a cupola and Chairman Palmer said that is something he could ask the Building Department about.

Mr. Maniche moved to grant an amended variance request to C.O. 1131.10(d) to allow an 850' sq. ft. detached garage instead of the allowable 600 sq. ft. garage in an R-60 district; citing C.O. 1109.09(b) for the Fross residence, 5341 Harmony Lane, Willoughby, OH 44094 and Mr. Ross seconded.

ROLL CALL: Yeas: Mr. Ross; Mr. Davis; Mr. Maniche; Mr. Palmer, Chairman
 Nays: None
 Absent: Mr. Shade

Motion Carried: Approved

Mr. Maniche moved to grant a variance to C.O. 1131.09 to allow a 16'.5" mean height instead of the required 15' and is 2-stories instead of the required 1-story; citing C.O. 1109.09(b) the Fross residence, 5341 Harmony Lane, Willoughby, OH 44094 and Mr. Ross seconded.

ROLL CALL: Yeas: Mr. Maniche; Mr. Ross; Mr. Palmer, Chairman
 Nays: Mr. Davis
 Absent: Mr. Shade

Motion Carried: Approved

**City of Willoughby
Board of Zoning Appeals
Public Hearing Meeting Minutes
May 11, 2022**

NEW BUSINESS

Gerald Malnar, Owner
38232 Union St.
(Rep.- Joseph Cindric, Esq.)

Stairs and landing

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

Chairman Palmer asked if anyone wished to speak for this appeal. Mr. Cindric, 60 South Park Place, Painesville, OH, attorney for Mr. Malnar, 38232 Union St., Willoughby is representing the appeal and was sworn in to speak for this appeal.

Mr. Cindric said Mr. Malnar is the owner of the property which is a 2-story residential home that is rented out to tenants. Mr. Malnar would like to update the existing stairs. He would like it to be a fully enclosed and covered staircase. It is the access point for the second-floor tenant on the west side of the building. This is for safety and shelter from inclement weather. It will be a switch back staircase which will match the current vinyl siding, which will be aesthetically pleasing. He said C.O. 1131.10(a) strictly covers an unenclosed structure, and this will be an enclosed structure.

Chairman Palmer wanted confirmation that the existing staircase is 2'4 1/4" off the property line and the new staircase will be 2'7 3/4" off the property line and are bringing it in 3" and Mr. Cindric said that is correct.

Mr. Cindric explained each of the practical difficulty factors and why they apply to his client. His client is spending his own funds for the safety of the tenant, in addition to beautifying the area under the unenclosed statute. He requests that the board grant the variance to C.O. 1131.10 to allow the construction of this covered stairwell and landing.

Chairman Palmer asked if anyone wished to speak for this appeal. Mr. Malnar, 5266 Corduroy Rd., Mentor, OH, owner of the property located at 38232 Union St., Willoughby is representing the appeal and was sworn in to speak for this appeal.

Mr. Malnar said he used to have someone to clear the snow off the staircase at his rental property but could not find anyone this year and he had to do it. He said he is older and does not want to do that anymore. He is trying to make this staircase safer for his tenant, moving it in 3" from the property line and is investing \$15-20K in this property.

Mr. Davis asked if there was a door to the entrance of the staircase. Mr. Malnar said he has not had the whole working drawing completed yet. Mr. Davis said Mr. Cindric is saying it is an enclosed structure but without an entry door they are open stairs, on one side. Mr. Cindric said the code says unenclosed and his argument is it has a roof/covering. Chairman Palmer said there are walls and a roof but is not fully enclosed and Mr. Cindric said yes.

Chairman Palmer asked if there was anyone else who wished to speak for this appeal (x3) and there was no one.

**City of Willoughby
Board of Zoning Appeals
Public Hearing Meeting Minutes
May 11, 2022**

Chairman Palmer asked if there was anyone who wished to speak against this appeal (x3) and there was no one.

Mr. Ross moved to grant a variance to C.O. 1131.10(a) to allow a 2' 7 3/4" distance from the side yard lot line instead of the allowable 5' in distance; citing C.O. 1109.09(b) for the Malnar residence, 38232 Union St., Willoughby, OH 44094 and Mr. Maniche seconded.

ROLL CALL: Yeas: Mr. Maniche; Mr. Ross; Mr. Davis; Mr. Palmer, Chairman
 Nays: None
 Absent: Mr. Shade

Motion Carried: Approved

Chairman Palmer said Mr. Malnar must proceed to Design Review Board as his next step.

Chick-fil-A
35441 Euclid Ave.
(Jack Meaney, GBC Design)

**Landscaping and Parking
Setback Requirements**

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

Chairman Palmer asked if anyone wished to speak for this appeal. Mr. Meaney, 8734 Spruce Lane, Marshville, OH of GBC Design agent for Chick-fil-A, 35441 Euclid Ave., Willoughby, OH 44094 was sworn in to speak for this appeal.

Mr. Meaney addressed the 20% open space variance request. He said with the overall site they are at 17.5%. The reason they have not met the 20% is because they are trying to maximize as much of the site as they can for the drive thru queuing. They are also expanding their food delivery services and pick up services which take up parking spaces. The intent is to maximize as much of the parking and drive thru area and will help circulate the site. It will be safer for the customers and the Chick-fil-A employees. He said they would have to eliminate eleven parking spaces in order to meet the 20% landscaped open space requirement.

Mr. Meaney addressed the variance for parking lot landscaping and screening. He said regarding the 10' wide landscaped area in any horizontal direction would severely impact the drive thru area and parking. They would lose at least eight parking spaces to meet this requirement. They want to maximize the parking for in-store guests and the drive thru queuing. Chairman Palmer asked what size landscape islands they are proposing. Mr. Meaney said there are a few that are just under 8'-9' which are to the west. There is a small landscape island between Valvoline and Chick-fil-A's site. As far as the shade trees the landscape islands are not available to house these trees. Chairman Palmer said if they read into the motion that the horizontal islands were 8' would they be able to work with that and Mr. Meaney said yes, they can but he would have to verify those dimensions. He said if they could landscape other areas within the site, they would be willing to do that to help offset the shade tree requirement.

**City of Willoughby
Board of Zoning Appeals
Public Hearing Meeting Minutes
May 11, 2022**

Mr. Meaney addressed the variance reducing the parking setback on the westerly side from 5' to 0'. He said they now have a cross access agreement with the neighboring property owner for the expansion to the west. The parking setback would allow that continuous run of parking without a break and would help the site circulation. He said if they are granted the 0' setback they are not proposing any changes to the property line just west of the Valvoline and it will remain greenspace that separates the two properties.

Chairman Palmer said regarding C.O. 1161.12; he asked if they could obtain a commitment to provide 2" caliper trees in each island. Mr. Meaney said yes provided their landscape architect says the trees will thrive in these landscape islands. He said the joint agreement should be submitted to the Planning Commission at tomorrow evening's meeting and will be a stipulation of the motion.

Mr. Davis asked how many parking spaces are existing and how many are proposed. Mr. Meaney said they currently have sixty-one spaces and they have proposed, with the expansion to the west, one hundred and twelve.

Chairman Palmer asked if there was anyone else who wished to speak for this appeal (x3) and there was no one.

Chairman Palmer asked if there was anyone who wished to speak against this appeal (x3) and there was no one.

Mr. Ross moved to grant a variance to C.O. 1141.04 to allow 17,463 sq. ft. of open space per the rendering submitted, creating a deficit of 1,673 sq. ft. instead of the allowable 19, 136 sq. ft. or 20% of the size of the parcel; citing C.O. 1109.09(b) for Chick-fil-A, 35441 Euclid Ave., Willoughby, OH 44094 and Mr. Maniche seconded.

ROLL CALL: Yeas: Mr. Ross; Mr. Davis; Mr. Maniche; Mr. Palmer, Chairman
 Nays: None
 Absent: Mr. Shade

Motion Carried: Approved

Mr. Ross moved to grant a variance to C.O.1161.12 to allow an 8' minimum landscape island with horizontal dimension and at least one major shade tree having a clear truck height of at least 6' and a minimum caliper of 2" instead of the allowable 10' minimum; citing C.O. 1109.09(b) for Chick-fil-A, 35441 Euclid Ave., Willoughby, OH 44094 and Mr. Maniche seconded.

ROLL CALL: Yeas: Mr. Maniche; Mr. Ross; Mr. Palmer, Chairman
 Nays: Mr. Davis
 Absent: Mr. Shade

Motion Carried: Approved

Mr. Ross moved to grant a variance to C.O. 1141.06(b) to allow a 0' parking setback instead of the allowable 5' parking setback with a joint agreement to be provided to Planning Commission at their next meeting; citing C.O. 1109.09(b) for Chick-fil-A, 35441 Euclid Ave., Willoughby, OH 44094 and Mr. Maniche seconded.

**City of Willoughby
Board of Zoning Appeals
Public Hearing Meeting Minutes
May 11, 2022**

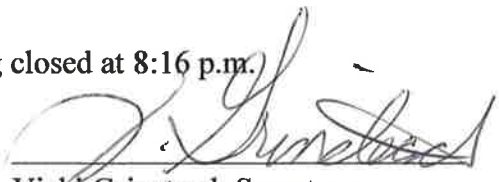
ROLL CALL: Yeas: Mr. Maniche; Mr. Ross; Mr. Davis; Mr. Palmer, Chairman
 Nays: None
 Absent: Mr. Shade

Motion Carried: Approved

There being no further business the regular meeting closed at 8:16 p.m.



Joe Palmer, Chairman



Vicki Grinstead, Secretary