

**BOARD OF ZONING APPEALS
CITY OF WILLOUGHBY
JUNE 9, 2021
PUBLIC HEARING MEETING
MINUTES**

PRESENT: James Ralston; Mike Ross; Phil Davis; Joe Palmer, Chairman

ABSENT: Mike Maniche

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

Chairman Palmer called the regular meeting to order at 7:02 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 participant 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) have 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 appellants were noted into the record. Chairman Palmer asked each applicant if they would like to proceed with only four members present and all applicants agreed to proceed.

MINUTES

May 26, 2021

Mr. Ralston moved to accept the Board of Zoning Appeals Public Hearing meeting minutes of May 26, 2021 as submitted and Mr. Davis seconded.

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

Motion Carried: Approved

OLD BUSINESS

Christopher Roxas & Randy Jasinski

38960 Arcadia Circle

(Rep.- Charley Thiel-3rd Generation Home Improvements)

Garage addition

Mr. Ross moved to untable Old Business for the Roxas & Jasinski residence, 38960 Arcadia Circle, Willoughby, OH 44094 and Mr. Ralston seconded.

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

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Motion Carried: Untabled

Chairman Palmer asked if anyone wished to speak for this appeal. Ms. Thiel of 3rd Generation Home Improvements, agent for the Roxas & Jasinski residence, 38960 Arcadia Circle, Willoughby, OH 44094 was previously sworn in and will represent this appeal.

Ms. Thiel said she remeasured and had the original surveyors come to the property to survey the property for the garage addition, they were able to determine the edge of Firestone Way at the edge of the pavement is 19.72 feet. Chairman Palmer said the encroachment would be 7.28 feet and Mr. Thiel agreed.

Mr. Davis asked if Ms. Thiel recalled her testimony at the last meeting regarding the driveway being at least as long as the existing driveway facing Arcadia Circle. Ms. Thiel said she did and after reevaluating the garage addition, which was originally to be 10 feet wide, it will no longer be longer the original driveway. Mr. Davis agreed and said it will be considerably shorter. He said he made a site visit to the property and let the owner know he was there. The existing driveway is approximately 21 feet to the nearest edge of the sidewalk which can accommodate an automobile and will not interfere with pedestrian traffic on the sidewalk. Mr. Davis said this is what he is basing his assessment on.

Ms. Thiel said with the size of the garage they are asking for and being able to accommodate a vehicle being able to pull in from Firestone Way and turn right or left into the garage, believes they cannot make the driveway any longer. The main purpose of the garage is to store his cars indoors and said her client has no intention to park his cars in the driveway.

Mr. Davis said he voiced a concern at the previous meeting regarding backing out of a garage or even pulling straight out of the garage and not be able to see pedestrians and is a safety concern. Chairman Palmer said the shorter the driveway is there would be more chances to block the sidewalk.

Mr. Jasinski said the existing driveway on Arcadia barely accommodates a full-size pickup truck but pedestrian traffic is not an issue. He said they park in the street when they do not have enough room in the driveway and do not block the sidewalk.

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 moved to approve the variance to C.O. 1131.06 and allow a 19.72 ft. setback instead of the allowable 27' setback; citing C.O. 1109.09(b) for the Roxas & Jasinski residence, 38960 Arcadia Circle, Willoughby, OH 44094 and Mr. Ralston seconded.

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

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Motion Carried: Denied

Ms. Thiel asked why the Board denied the appeal. Chairman Palmer said if Ms. Thiel emailed the board secretary, he and the Board would be glad to give a reason behind the denial. Chairman Palmer said his biggest concern he had was the lack of clearance to have anyone use the driveway to park in.

NEW BUSINESS

Benjamin Swindell
38872 Comanche Trail
Willoughby, OH 44094

Recreational Vehicle

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

Mr. Ralston recused himself from this appeal. Chairman Palmer asked Mr. Swindell if he would like to proceed with only three members present and Mr. Swindell said he preferred to wait to have more members present and asked to have his appeal tabled.

Mr. Ross moved to table the appeal for the Swindell residence, 38872 Comanche Trail, Willoughby, OH 44094 per the applicant's request and Mr. Ralston seconded.

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

Motion Carried: Tabled

Thomas & Bridget Stenger
4574 Wood St.
Willoughby, OH 44094

Fence

Chairman Palmer stated the applicant cited practical difficulty number 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. Mrs. Bridget Stenger, 4574 Wood St. , Willoughby, OH 44094 was sworn in to speak for the appeal. Mr. Thomas Stenger, 4574 Wood St. , Willoughby, OH 44094 was sworn in to speak for the appeal.

Mrs. Stenger said the fence is for their dogs and safety. The fence goes around the back yard. They have a deck and would like the fence out around the deck. There is no sidewalk on that side of the street, so it does not impact

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any pedestrian traffic. They chose the larger shadowbox because of the size of their dog and is able to jump a smaller fence, but the bigger concern is the dog is blind and is concerned about his safety and the safety of pedestrians if they were to approach the yard.

Mr. Stenger said they did not want the fence coming out of the middle of the deck and have half the deck sticking out and half the deck enclosed and said it would not look aesthetically pleasing.

Mrs. Stenger said they have sketched the plan a couple ways and felt this was the most aesthetically pleasing plan. They also put in gates for emergency ingress/egress. Mr. Stenger said they looked in the neighborhood and fences of this type are fairly common.

Chairman Palmer said the dog can jump a 3' or 4' fence. Mr. Stenger said he has jumped a 4' chain link fence before.

Mr. Davis asked for example of fences in the area. Mr. Stenger gave a few examples of fences on corner lots in the area. Chairman Palmer said most of these fences were probably installed before the zoning regulations were put in place. He said the problem with driveways and a 6' fence is visibility for backing out of the driveway. Mr. Stenger said the fence is 10' back from the curb for visibility purposes. Chairman Palmer asked what type of material the fence will be made of. Mr. Stenger said pressure treated wood and will stain it to match the deck once it has had time to weather.

Mr. Ross asked if they would consider moving the fence back another 5' and both applicants said they are flexible. Mr. Ross said he is also concerned about visibility and safety. Chairman Palmer proposed the fence line on the Barber Ave. side be an extension of the house or deck line rather than moving it 10' or 15' etc. He explained they would need to amend their request for the fence to begin at the southwest corner of the deck and run parallel either with the deck line or the street line, then the fence would turn to follow the existing drawing. Mr. Ralston said for safety's sake he would prefer, as Mr. Ross stated earlier, have the fence run parallel to the house. Chairman Palmer agreed and said it would be approximately 30' from the right-of-way. Mr. and Mrs. Stenger both agree it would look nicer.

Mrs. Stenger asked to amend her appeal for the fence to start at the southwest corner of the deck and run parallel with the deck line extending to the driveway turning north. Mr. Ralston asked about the height requirements. Chairman Palmer said the applicant has agreed to move it back so they will read in the existing request but have moved the location away from the street.

Mr. Davis inquired about the openness of the fence. Chairman Palmer asked the applicants where they were purchasing the fence from, and Mr. Stenger said Lowes which is a shadowbox style which meets city code.

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. Ralston asked about the height requirements. Chairman Palmer said the applicant has agreed to move it back so they will read in the existing request but have moved the location away from the street. They have moved it

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to what would be considered the side yard, rather than a front corner yard and are at 6' in height. Mr. Ralston asked if they are exceeding the height. Chairman Palmer said there is a 4' requirement outside of the 25' right-of-way and they are now at 30'. He said since they are now attaching the fence to the deck and it is now in the back yard and Mr. Davis agreed. The deck will not have a fence in front of it on the Barber Ave. side and the applicants both agreed. Chairman Palmer clarified for the Board and applicants the two items that will be read into the motion which should state, the anchor point of the fence is the southwest corner of the deck extending in a parallel line with the deck and house toward the driveway and then heading north. The other item is the fencing material would a shadowbox style sourced from Lowes.

Mr. Davis moved to approve the variance to C.O. 1131.10(i)(2) to allow a 6' high fence located, as previously discussed, from the southwest corner of the deck running to the driveway and then north; shadowbox materials to be purchased from Lowes and the fence will be 6' high instead of the allowable 3' or 4' height in that area; citing C.O. 1109.09(b) for the Stenger residence, 4574 Wood St., Willoughby, OH 44094 and Mr. Ralston seconded.

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

Motion Carried: Approved

Chairman Palmer said the openness no longer needs a variance since the applicant moved the fence behind the home.

Susan Kiss
4263 Murray Ave.
Willoughby, OH 44094

Accessory structure/greenhouse

Chairman Palmer stated the applicant cited practical difficulty numbers 2, 3 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. Ms. Kiss, 4263 Murray Ave., Willoughby, OH 44094 was sworn in to speak for the appeal.

Ms. Kiss said her plan is to grow salad greens all year round and in order to accomplish this she needs to add a high tunnel. A high tunnel is metal ribbed and is covered with poly plastic in the winter. The plastic will only be on during the winter months and uncovered in the summer months. She is trying to obtain a grant to construct the high tunnel and said some cities consider this a temporary structure. She said it will be installed over the existing garden and will not be seen from the road because it is directly behind the house.

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Chairman Palmer said she said this was a temporary structure and asked how many months would it be erected. Ms. Kiss said the metal ribs will always remain up because they are driven into the ground, but the plastic is up during the winter months. She said it is a way to extend the growing season. Mr. Ralston asked if the front and back walls will remain up as well, and Ms. Kiss said yes. Chairman Palmer asked if the rendering submitted will be identical to what she will be constructing. Ms. Kiss said no it will have metal ribs. She had someone come out from the Department of Agriculture and suggested the ribs be 4' apart for the snow load so the structure does not collapse. He said it should also be 3' off the line so the snow has somewhere to go.

Mr. Davis asked Ms. Kiss if she asked the Building Department, when she applied for her permit, the difference between a temporary and permanent buildings and Ms. Kiss said no. Mr. Davis asked if there was any wiring or piping leading to the greenhouse and Ms. Kiss said no because it is not a greenhouse.

There was a question as to whether this is a building. Chairman Palmer asked what anchors this tunnel down. Ms. Kiss said the ribs themselves go into the ground 18"-24" and are spaced 4' apart. The are also end walls at each end of the tunnel. She said it would be covered from November to March each year.

Chairman Palmer asked if she was doing commercial farming. Ms. Kiss said her retirement plan is to actually grow lettuce all year round and her future goal is to supply one restaurant with their salad greens for the year.

Chairman Palmer asked for the Law Department's assistance. Mr. Lucas said the question is, is this a building. He said under the definitions in C.O. 1103.03 says "Building" means any structure having a roof supported by or suspended from columns or walls and which is completely enclosed to serve as a shelter or enclosure for persons, animals, chattels or property of any kind. The term "building" does not include any vehicle, trailer (with or without wheels) nor any removable device, such as furniture, machinery or equipment. He said it does meet the definition of building.

Chairman Palmer asked if the plastic extends to the ground or gaps as shown in the rendering provided. Ms. Kiss said it will extend to the ground. There will be a low tunnel inside the high tunnel for additional protection for the plantings.

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. Ralston moved to approve the variance to C.O. 1131.10(d) to allow two accessory buildings (detached garage is 599 sq. ft and proposed accessory structure is 560 sq. ft.) that exceed the allowable 600 sq. ft. by 559 sq. ft.; citing C.O. 1109.09(b) for the Kiss residence, 4263 Murray Ave., Willoughby, OH 44094 and Mr. Davis seconded.

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

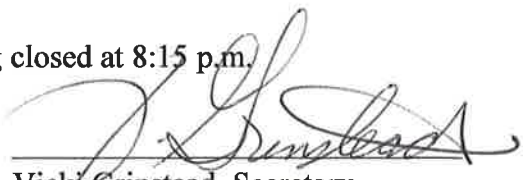
Motion Carried: Denied

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There being no further business the regular meeting closed at 8:15 p.m.



Joe Palmer, Chairman



Vicki Grinstead, Secretary