

**BOARD OF ZONING APPEALS
CITY OF WILLOUGHBY
FEBRUARY 8, 2023
PUBLIC HEARING MEETING
MINUTES**

PRESENT: Phil Davis; Mike Ross; Mike Yutzy; Joe Palmer Chairman

ABSENT: Mike Maniche

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 both applicants if they would like to proceed with only four members present and both applicants wished to proceed.

MINUTES

December 28, 2022

January 11, 2023

January 25, 2023

Chairman Palmer noted the minutes for December 28, 2022, January 11, 2023 and January 25, 2023 have not yet been prepared.

OLD BUSINESS

None

NEW BUSINESS

Jacob Hughey
35895 Timber Ridge Lane

**Accessory building – shed
area in excess of permitted**

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

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Chairman Palmer asked if there was anyone who wished to speak for this appeal. Mr. Hughey, 35895 Timber Ridge Lane, Willoughby, OH 44094 was sworn in to speak for this appeal.

Mr. Hughey said when he purchased his shed, he was unaware of the 200' restriction. He apologized to the board and asked for the 40' variance. He had purchased the shed (12' x 20') and it was delivered and that is when he received the letter of violation from the city; he then applied for his permit and was rejected because of the overage. The shed sits on a gravel pad with 4'x6's underneath.

Mr. Davis asked Mr. Hughey if this was a major change from what the code requires (P.D. #3). Mr. Hughey said he does not believe this is a major change.

Mr. Hughey said his neighbors on both sides are in support of the new shed.

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 grant a variance to C.O. 1131.10(d) to allow a 240 sq. ft accessory building instead of the allowable 200 sq. ft.; citing C.O. 1109.09(b) for the Hughey residence, 35895 Timber Ridge Lane, Willoughby, OH 44094 and Mr. Ross seconded.

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

Motion Carried: Approved

JoJo's Ice Cream Shop

Jason Lallo, Owner

0 Lakeshore Boulevard

a.k.a PPN 27B057G000010

(Rep.- Matthew Lallo, Esq. & Steve Ciciretto, Architect)

Use variance for drive-thru

Front setback (15' deficit)

Parking setback (15' deficit)

Buffer width (15' deficit)

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

Chairman Palmer asked if there was anyone who wished to speak for this appeal. Mr. Lallo, Attorney, 4230 State Rt. 306/Suite #240, Willoughby, OH 44094 and Mr. Ciciretto, Architect, 270 Park Place, Chagrin Falls, OH 44022 were sworn in to speak for this appeal.

Mr. Lallo said he feels the practical difficulties way in favor of granting these variances for his client. Mr. Lallo said the site is situated right next to a cemetery and is zoned residential. He said immediately to the left is the Gateway District and to the right, and next to the current property is Retail Business and across the street is a

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park. The property is unique and in the rear is deep and abuts residential properties. Their goal is to keep the parking lot and their property closer to the street as to not encroach on the residential backyards. There is a building close to JT's Diner and the Ice Cream Shop that straddles the property line and this is another reason they prefer to keep their building and parking closer to the street. He said JT's Diner received a variance and are 20' from the roadway and this building is 40' away but the canopy on the second floor extends 25' and that's the encroachment. He cited other examples of properties close to the roadway. He said this building will be in line with most all of the buildings in the surrounding neighborhood.

Mr. Lallo, Esq. said in regard to the side yard setback with the cemetery he spoke to Mr. Jason Lallo, Owner and his intent is to install a decorative fence to be sensitive to those that are visiting the cemetery and to his patrons as well. He said they are also trying to preserve a very large tree in the rear.

Mr. Lallo, Esq. said as it relates to the drive thru, it is close to the Lakeshore Gateway District which would permit drive thrus, even though they realize they are not in this district his client performed studies to see if it would be feasible to have an ice cream shop without a drive thru. He concluded with Covid and everything else people want more contactless transactions and feels it would not be feasible without the drive thru option. He said they would work with the Planning Commission to appease them of any concerns they may have with security, cars, traffic, parking lot, walkability etc. They are requesting a use variance to have the drive thru for their business.

Mr. Davis said since there are four different appeals and if one fails, do they proceed with voting on the others. Mr. Lucas said as a matter of procedure it has been his position that the Board of Zoning Appeals should rule on all of the applications before them. The reason for this is if they vote for three in favor but vote against the use variance and the applicant wishes to challenge the ruling in court and is successful in reversing their decision, the other variances are already taken care of.

Chairman Palmer said Mr. Lallo has improved the area already and appreciates his investments in the city.

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. Mrs. Coleen Yahner, 3574 Abbotts Mill Dr., Willoughby was sworn in to speak against the appeal.

Mrs. Yahner said it is not that she necessarily disagrees with the appeal but is concerned because they own the property that abuts JT's Diner and next door to this drive thru. She asked if her and her husband could obtain more information about what this would look like and how much the variance will cut into their property. Chairman Palmer called Mr. and Mrs. Yahner up to the dais and let them have a rendering for review and answered some of their concerns.

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

Mr. Yutzy moved to grant a variance to C.O. 1141.03 to allow a drive thru facility instead of the permitted uses that do not allow a drive thru in a Retail Business District; citing C.O. 1109.09(b) for the Jojo's Ice Cream Shop, Lakeshore Boulevard/ PPN 27B057G000010, Willoughby, OH 44094 and Mr. Ross seconded.

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Mr. Davis said in his view this variance would have a serious impact on the cemetery. He does not believe that a fence will do justice to the overall impact that a drive thru restaurant would have next to a cemetery. This variance request widely ranges from the intentions of the zoning code and would be detrimental and overall, for this area and is against the appeal.

ROLL CALL: Yeas: Mr. Yutzy; Mike Ross; J. Palmer, Chairman
 Nays: Mr. Davis
 Absent: Mr. Maniche

Motion Carried: Approved

Mr. Yutzy moved to grant a variance to C.O. 1141.05 to allow a front yard setback of 25' creating a 15' deficit instead of the allowable 40' setback minimum; citing C.O. 1109.09(b) for the Jojo's Ice Cream Shop, Lakeshore Boulevard/PPN 27B057G000010, Willoughby, OH 44094 and Mr. Ross seconded.

ROLL CALL: Yeas: Mr. Yutzy; Mike Ross; J. Palmer, Chairman
 Nays: Mr. Davis
 Absent: Mr. Maniche

Motion Carried: Approved

Mr. Yutzy moved to grant a variance to C.O. 1141.06 to allow a parking setback of 5' creating a 15' deficit instead of the allowable 20' setback minimum; citing C.O. 1109.09(b) for the Jojo's Ice Cream Shop, Lakeshore Boulevard/ PPN 27B057G000010, Willoughby, OH 44094 and Mr. Ross seconded.

ROLL CALL: Yeas: Mike Ross; Mr. Yutzy; J. Palmer, Chairman
 Nays: Mr. Davis
 Absent: Mr. Maniche

Motion Carried: Approved

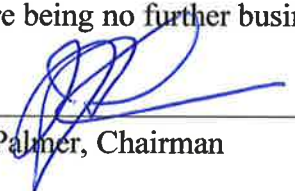
Mr. Yutzy moved to grant a variance to C.O. 1179.03 to allow a buffer width of 5' creating a 15' deficit instead of the allowable 20' minimum buffer yard; citing C.O. 1109.09(b) for the Jojo's Ice Cream Shop, Lakeshore Boulevard/ PPN 27B057G000010, Willoughby, OH 44094 and Mr. Ross seconded.

ROLL CALL: Yeas: Mr. Yutzy; Mike Ross; J. Palmer, Chairman
 Nays: Mr. Davis
 Absent: Mr. Maniche

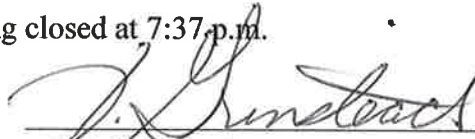
Motion Carried: Approved

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There being no further business the regular meeting closed at 7:37 p.m.



Joe Palmer, Chairman



Vicki Grinstead, Secretary