BOARD OF ZONING APPEALS CITY OF WILLOUGHBY **APRIL 12, 2023 PUBLIC HEARING MEETING**

MINUTES

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

ABSENT: None

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 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.

March 22, 2023 **MINUTES**

Mr. Ross moved to approve the Board of Zoning Appeals public hearing meeting minutes for March 22, 2023 and Mr. Maniche seconded.

ROLL CALL:

Yeas:

Mr. Maniche; Mike Ross; Mr. Davis; Mr. Yutzy; J. Palmer, Chairman

Navs:

Absent: None

Motion Carried:

Approved

OLD BUSINESS

Chairman Palmer moved to end of agenda

Board of Zoning Appeals

Election - 2023

Chairman

Vice Chairman

Secretary

Christopher & Patricia Pfriem

2120 North Bay Dr.

In-ground pool

Mr. Ross moved to untable the variance request for the Pfriem residence, 2120 North Bay Dr., Willoughby, OH 44094 and Mr. Maniche seconded.

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

Nays: None Absent: None

Motion Carried: Untabled

Chairman Palmer stated the applicant cited practical difficulty numbers 1, 3 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. and Mrs. Pfriem, 2120 North Bay Dr., Willoughby, OH 44094 were both sworn in to speak for this appeal.

Mrs. Pfriem explained to the board that the golf course backs up to their yard, and it looks like they have a large yard, but they have a patio and approximately 10' off the patio. They get a lot of golf balls in their back yard and close to their house. If they installed the pool north/south on the property it would be in the direct path of the golf balls. She said eight feet of the pool extends in the back yard on the rendering. She said they also have a creek on the side of the yard and the easement that goes along with it. They believe moving it up eight feet will prevent some of the golf balls from entering the pool area.

Chairman Palmer asked if they considered screening the rear yard to keep the golf balls from entering the property. Mr. Pfriem said they inquired about the screening option, but the golf course personnel said it was too expensive.

Chairman Palmer said this would set a precedent if approved. He asked if the golf course was in before they moved in and they said yes. He said that would be the question from other residents. He asked if they could rotate the pool 90°. She said they looked at it, but that is where the majority of golf balls land. He asked if they could shorten the pool by eight feet. Mr. and Mrs. Pfriem said considered that option also. Chairman Palmer asked if they would shorten the foot by four feet instead of eight feet and Mr. and Mrs. Pfriem both agreed.

Mr. Davis asked what definition he is using for the side yard because one of the definitions of the rear yard is defined by the house and believes the pool is entirely in the side yard. Chairman Palmer said the way it is referenced in the code and if you take the northerly and southern property lines and parallel the back of the house, that represents your back yard. If they rotated the pool 90° it would put the pool entirely behind the house.

Mrs. Pfriem said since they began the Ward Creek project, they have removed the woods and trees which provided them with some privacy which they no longer have. She said they are hoping to recreate more privacy on that side and from the street with their own landscaping. This would be a hardship for them to have to replace all of the landscaping that was originally there when they moved in.

Mr. Ross suggested reducing the length by eight feet but increasing the width by two and a half feet, that way they would have more square footage then they would be losing.

Mr. Pfriem said if they install the pool north/south the golf course trees would impede the sunlight from the pool and their home. He said his wife was also a swim coach and needs the length of the pool to do her exercise laps.

Mrs. Pfriem said she wants to amend her appeal from 46'x20' to 42'x 20' and having the setback off the westerly property line in the same spot. Mr. Lucas said the motion shall reflect the modified dimensions of the pool for purposes of the side yard.

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 approve the variance for the Pfriem residence, 2120 North Bay Dr., Willoughby, OH 44094 to C.O. 1131.10(a) and allow a 42'x20' pool to encroach into the side yard 4'; citing C.O. 1109.09(b) and Mr. Maniche seconded.

ROLL CALL:

Yeas:

Mr. Davis; Mr. Yutzy; Mr. Maniche; Mike Ross; J. Palmer, Chairman

Nays:

None

Absent: None

Motion Carried:

Approved

Marlene & Remo Tucciarelli

Accessory bldg./shed

976 Bellevue Dr.

Mr. Ross moved to untable the variance request for the Tucciarelli residence, 976 Bellevue Dr., Willoughby, OH 44094 and Mr. Maniche seconded.

ROLL CALL:

Yeas:

Mr. Yutzy; Mr. Maniche; Mike Ross; Mr. Davis; J. Palmer, Chairman

Nays:

None

Absent: None

Motion Carried:

Untabled

The Notice of Noncompliance and accompanying documents were read into record at the previous meeting.

Chairman Palmer asked if there was anyone who wished to speak for this appeal. Mr. and Mrs. Tucciarelli, 976 Bellevue Dr., Willoughby, OH 44094 were both sworn in to speak for this appeal.

Mrs. Tucciarelli said they submitted some other documents and pictures for the board to review. Chairman Palmer said they received the documents which included a shed at 988 Hayes Ave., Willoughby, OH 44094.

Chairman Palmer said the board needs to hear a hardship for this appeal. Chairman Palmer said the Hayes Ave. shed was administratively approved by the Zoning Chief in the Building Dept. because the home sat on the rear property line with no backyard to place the shed and has no garage. It was built prior to the current zoning

regulations. He said they have a backyard even though there is a pool and patio. Mrs. Tucciarelli said that is their hardship.

Chairman Palmer asked the size of the shed and Mrs. Tucciarelli said it is 10'w x 16'd. Chairman Palmer referenced the orange line on the Lake County GIS photo. Mrs. Tucciarelli said the area behind the fence looks larger than it actually is in the rendering. Mr. Tucciarelli said they would have to remove their current fence, pour a cement pad, or install a gravel bed and it would probably butt up against the garage and would not be able to open the doors.

Chairman Palmer said he would like to come to some sort of compromise. Mr. Davis suggested moving the shed up against the fence, so the 16' dimension is parallel with the fence and the 10' dimension extends away from the fence. This would result in approximately a 2' encroachment into the side yard. He feels this would move them closer to a resolution. The board agreed that this would be a good compromise. The barn doors would face the street and the back of the shed would be up against the fence.

Mr. Tucciarelli said he was concerned the shed would overlap part of the driveway and they would not be able to get their cars in. Mr. Ross looked on the Lake County GIS website for measurements and said it should keep them within the setback and not overlap on the garage. Chairman Palmer said they can add to the motion a 2' overlap so they will have plenty of space. He said they can encroach the orange line by 2' and the shed must be placed properly per the city's code.

Chairman Palmer said they have two options: one is to keep their existing appeal, or they can choose the "Davis option" and move the shed.

Chairman Palmer asked if there was anyone else who wished to speak for this appeal. Brian Lutz, 814 Eaglewood Dr., Willoughby, OH 44094 was sworn in to speak for this appeal. Mr. Lutz said he has been to Tucciarelli's home, and they have improved their property. He said their neighborhood is different than some of the other neighborhoods with small homes and lots. When someone tries to make their home look nicer the board needs to figure that into their decision. Chairman Palmer explained that the board's job is maintain consistency throughout neighborhoods within the city.

Chairman Palmer asked if there was anyone else who wished to speak for this appeal. Anthony Giannetto, 871 Bellevue Dr., Willoughby, OH 44094 was sworn in to speak for this appeal. Mr. Giannetto said he and his wife are new to the neighborhood. Mrs. Tucciarelli invited them over to see their yard and pool. He agrees with Mr. Lutz that if someone is improving their yard, he is in favor of it. He thinks it is in a good spot where they can see it from their home so no one can tamper with it.

Chairman Palmer asked if there was anyone else who wished to speak for this appeal. Lorraine Lutz, 814 Eaglewood Dr., Willoughby, OH 44094 was sworn in to speak for this appeal. Mrs. Lutz said the shed is already on a nice cement pad and if they have to move the shed it will cost them more money. She is in favor of the shed staying where it is.

Chairman Palmer asked the applicants if they would like to proceed with their current appeal or would like to amend it with Mr. Davis's suggestion as previously mentioned. Chairman Palmer said the board members appreciate when people invest in improving their properties within the city. Mr. Tucciarelli asked how long they

would have to move the shed. Mr. Lucas said per the codified ordinances they have twelve months from the date of the board's approval. Mr. Tucciarelli said they would like to amend their variance request to Mr. Davis's option to rotate the shed 90°, move it off the concrete pad and back by the fence so the front of the shed does not encroach more than 2'.

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. 1131.10(a) to allow a shed encroachment of 2' into the side yard instead of the allowable 0'; citing C.O. 1109.09(b) for the Tucciarelli residence, 976 Bellevue Dr., Willoughby, OH 44094 and Mr. Maniche seconded.

ROLL CALL:

Yeas:

Mr. Maniche; Mike Ross; Mr. Davis; Mr. Yutzy; J. Palmer, Chairman

Nays:

None

Absent: None

None

Motion Carried: **Approved**

Mr. Ross moved to grant a variance to C.O. 1131.10(d) to allow 44 sq. ft. of additional area instead of the allowable 600 sq. ft.; citing C.O. 1109.09(b) for the Tucciarelli residence, 976 Bellevue Dr., Willoughby, OH 44094 and Mr. Maniche seconded.

ROLL CALL:

Yeas:

Mike Ross; Mr. Davis; Mr. Yutzy; Mr. Maniche; J. Palmer, Chairman

Nays:

Absent: None

Motion Carried:

Approved

NEW BUSINESS

Edward and Aimee Kickel

Accessory building

4929 Glenwood Ave.

Chairman Palmer stated the applicant cited practical difficulty numbers 4 & 9 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. Kickel, 4929 Glenwood Ave., Willoughby, OH 44094 was sworn in to speak for this appeal.

Mr. Kickel said he is before the board for the height and size of his proposed building. He is not sure he will experience a hardship other then he cannot build it. It is a way for him and his wife to remain on the property. It is a small home; 1,200 sq. ft., and they would like more storage space. This would give them more space without

having to add onto the home. He said there are similar size buildings in the surrounding neighborhoods, so it will not be unusual for the neighborhood.

Chairman Palmer said the mean height is not an issue but having a second floor is the issue. These have come before the board before and what they are trying to prevent is an accessory living area. This building is 32'x20' accessory structure. He said someone down the road could turn this into a rental even though that is not his intention. Mr. Kickel said there will be no water run to the structure, only electricity.

Mr. Ross said there is another shed on the property that is 8'x13' and asked if he would be willing to remove it and Mr. Kickel said yes if it helps obtain his variance. Mr. Ross said it may not help get close enough, but it is a point of discussion. He asked Mr. Kickel if he could attach it to his house and Mr. Kickel said he would prefer not to do that because it would damage the character of the house. The shed would be tucked in the back corner and could not be seen from the street.

Chairman Palmer said his issue is the stairwell because it makes it too easy to become a second story 576 sq. ft. apartment. Mr. Kickel said it is not two full stories, but you can stand up along the ridge and has 120 sq. ft. of standing room space. The upstairs space is more like an attic.

Chairman Palmer said he agrees with Mr. Ross in regard to the removal of the 8'x13' shed. Mr. Ross asked Mr. Kickel if he could live with a smaller structure in terms of floor space. Mr. Kickel said this is the second rendition of the building and they reduced the size to what the board is viewing.

Chairman Palmer suggested adding a cover patio as added space which is not counted in the square footage. Mr. Kickel said he has an entry way overhand already and he prefers to have his items protected indoors.

There was a brief discussion among the members on how to reduce the square footage.

Chairman Palmer asked if there was anyone else who wished to speak for this appeal. Mr. Jeff Mackey, 4940 Glenwood Ave., Willoughby, OH 44094 was sworn in to speak for this appeal.

Mr. Mackey said he has been neighbors of the Kickels for over 40 years and they do quality work, and the accessory building will be well done. He lives directly across the street and will not be able to see the structure from his property. He is in favor of this proposal.

Chairman Palmer asked if there was anyone else who wished to speak for this appeal. Mr. Louis Sicurezza, 4930 Glenwood Ave., Willoughby, OH 44094 was sworn in to speak for this appeal.

Mr. Sicurezza said he lives across the street from the Kickels as well. He said their house is always impeccable and agrees with Mr. Mackey's statement. He does not believe there is any intention of it being used as a living space. It will be a good investment for their property and the surrounding properties.

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. Kickel reiterated that he would be willing to remove the existing shed, which is 104 sq. ft. Chairman Palmer said he will still be over by 440 sq. ft., which is 120% over the allowable.

Chairman Palmer said Mr. Kickel has options: the board can vote on the existing request; or he can amend the request and they can vote on that, or table the request and come back before the board with other options. Mr. Kickel opted to have the board vote on his existing request but with the stipulation he will still remove the existing shed.

Mr. Ross moved to grant a variance to C.O. 1131.10(d) to allow a proposed accessory building that will exceed the allowable by 200 sq. ft. for a total of 440 sq. ft. of overage and is two stories in height and with the stipulation of the removal of the existing shed on the property; citing C.O. 1109.09(b) for the Kickel residence, 4929 Glenwood Ave., Willoughby, OH 44094 and Mr. Maniche seconded.

ROLL CALL: Yeas: Mike Ross

Nays: Mr. Yutzy; Mr. Maniche; J. Palmer, Chairman

Absent: None Abstain: Mr. Davis

Motion Carried: Denied

Cheryl Vickers 1075 Mohegan Trail Use: Dog Grooming & storage of equipment

Chairman Palmer stated the applicant cited practical difficulty numbers 2, 3, 4, 6, 7 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. Mrs. Vickers, 1075 Mohegan Trail, Willoughby, OH 44094 was sworn in to speak for this appeal.

Mrs. Vickers said she had originally paid for a storage unit to store her equipment. She always had the intention of opening a business, but not on her property. Her original intention was to find a suitable commercial property and pick up this building and move it. When they received their variance for the shed and applied for the permit, they found out they needed to put footers under it due to the size which was expensive. She said this changed their plan and was a significantly larger portion of money that they did not plan for, and that is why they are here this evening. She wants to still open her business but utilize the building they currently have. She asked the board if they had a chance to review her answers and Chairman Palmer said yes, they were included in their packets.

She explained she would like to do "fear free" grooming. She has worked as a groomer for fourteen years and has worked for two hospitals. She has had a plan to go into business for herself for approximately six years. She provided pictures of the structure to the board which were on a large board. She is aware this is in a residential area and wants to be helpful as far as working with neighbors. She does not believe anyone is in opposition to her business and many residents are excited there will be a grooming business close by. She said everything they have done with this building they have done to be respectful to their neighbors. They have sound proofed the building because of the noise factor in a residential neighborhood.

Mrs. Vickers said she would have preferred to put this in her home, but they would have had to put the entrance very close to her neighbor's driveway and they would not be able to utilize their own driveway. They took the steps to keep the character of the neighborhood without anyone realizing there is a business there. The business is by appointment only and no walk-ins are allowed. She said one of the other reasons for not doing this out of their residence is for sanitation reasons and parasite control.

Chairman Palmer said the obvious concern for the neighborhood is safety and security and that is something no one can guarantee in running a business. This is why the city has codes for residential and business districts. He said this business needs to be in a commercial district. He likes her idea, but this would be precedent setting for this board.

Mr. Davis said he was on board and heard her appeal in July of 2022 and he does not understand where the expenditure came in on the timeline. Mrs. Vickers explained that once the variance was granted, the building department notified her that the structure required footers, based on the size of the building. She said she had no idea this would be required and did not plan for it. Their original plan was to have a gravel pad.

Chairman Palmer said there was someone on Zoom with their hand up and explained to the Zoom audience that the Zoom venue was for viewing purposes only.

Mr. Maniche said he was also at the July, 2022 meeting and recalled an issue with her running water to the structure. Mrs. Vickers said she did not recall "an issue" but explained they were having a concrete driveway poured and had to connect the water underneath the driveway first, so the timing was key, prior to the building coming in. Mr. Maniche said he also recalls asking her what the purpose was for this building, and she replied it was to groom her own pets and she had no intention of opening a business. Mrs. Vickers said that is correct and she stands by her statement. She said they were going to finish it out as a business but then pick it up and move it when she obtained commercial property. She has been looking for commercial property for over two years. Mr. Maniche said the purpose was to start a business and she said yes but not there and was also to groom her own pets. Chairman Palmer said it was also to store the equipment she would for her business. Mr. Maniche said the ordinance says she cannot store business equipment either.

There was a brief discussion in regard to other businesses run from a home. Mr. Lucas said this business must meet the criteria under C.O. 1131.12 for home occupation regulations and it has to be operated not as an accessory building, but actually within the dwelling unit itself. Mrs. Vickers said her hardship is that she cannot get insurance coverage doing her business out of her home.

Chairman Palmer asked if there was anyone who wished to speak for this appeal. Mr. Anthony Vickers, 1075 Mohegan Trail, Willoughby, OH 44094 was sworn in to speak for this appeal.

Mr. Vickers said they did look into other commercial properties that were money pits. When Covid hit it was very difficult to get contractors and prices increased. He said this project was more expensive than they anticipated. They also updated the house and property which increased their property value significantly.

Chairman Palmer said financial hardship is not in the prevue of this board. This appeal is running a business in a residential neighborhood when there are commercial properties available. Chairman Palmer asked if they

considered mobile grooming. Mrs. Vickers said they considered all business models but wishes to do "fear free" grooming and explained the concept to the board.

Chairman Palmer asked if there was anyone who wished to speak for this appeal. Mr. Jim Schultz, 2596 Dodd Rd., Willoughby Hills, OH 44094 was sworn in to speak for this appeal.

Mr. Schultz said he does not understand who conveys they cannot run a business after they invest this amount of money. Chairman Palmer said he was not at the meeting in July of 2022 but had Mr. Ross, Vice Chairman of the Board of Zoning Appeals read a portion of the minutes where they asked if they would be a business run out of this shed and Mrs. Vickers said no, it was to groom her personal pets. Mr. Ross said when she came before this board in July of 2022, she had not applied for a building permit first.

Mr. Schultz asked what options does Mrs. Vickers have if this is denied. Chairman Palmer said the shed can remain and be used for personal use, but they cannot run a business out of it. He said they can go before the Lake County Court of Commons pleas if they wish to pursue this further. Mr. Lucas said once the board has made a decision either way, the applicant has thirty days to file an appeal with the Lake County Court of Common Pleas. Chairman Palmer said he read that in the beginning of the appeal.

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. Yutzy moved to grant a variance to C.O. 1131.03 to allow a business of grooming dogs, cats, and rabbits on the premises instead of the allowable non-permitted use of grooming dogs, cats, and rabbits; citing C.O. 1109.09(b) for the Vickers residence, 1075 Mohegan Trail, Willoughby, OH 44094 and Mr. Maniche seconded.

ROLL CALL:

Yeas:

None

Navs:

Mr. Yutzy; Mr. Maniche; Mike Ross; Mr. Davis; J. Palmer, Chairman

Absent:

Motion Carried:

Denied

Mr. Yutzy moved to grant a variance to C.O. 1131.12(c) to allow the accessory building for business activity, including the storage of equipment, supplies and apparatus instead of the allowable no use of a garage or accessory building for business use based on the proposed use being a home occupation, and is outside the dwelling instead of requirement that it be within the dwelling; citing C.O. 1109.09(b) for the Vickers residence, 1075 Mohegan Trail, Willoughby, OH 44094 and Mr. Maniche seconded.

ROLL CALL:

Yeas:

None

None

Navs:

Mr. Maniche; Mike Ross; Mr. Davis; Mr. Yutzy; J. Palmer, Chairman

Absent:

Motion Carried:

Denied

Board of Zoning Appeals

Election - 2023 Chairman Vice Chairman Secretary

Mr. Ross moved to untable the Board of Zoning Appeals election of officers for 2023 and Mr. Maniche seconded.

ROLL CALL:

Yeas:

Mike Ross; Mr. Davis; Mr. Yutzy; Mr. Maniche; J. Palmer, Chairman

Nays:

None

Absent: None

Motion Carried:

UNTABLED

Mr. Ross moved to nominate Mr. Palmer as Chairman of the Board of Zoning Appeals for year 2023 and Mr. Maniche seconded. There were no other nominations for Chairman.

ROLL CALL:

Yeas:

Mr. Davis; Mr. Yutzy; Mr. Maniche; Mike Ross; J. Palmer, Chairman

Nays:

None

Absent: None

Motion Carried:

APPROVED

Mr. Davis moved to elect Mr. Palmer for Chairman of the Board of Zoning Appeals for year 2023 and Mr. Ross seconded.

ROLL CALL:

Yeas:

Mr. Yutzy; Mr. Maniche; Mike Ross; Mr. Davis; J. Palmer, Chairman

Nays:

None

Absent: None

Motion Carried:

APPROVED

Mr. Palmer moved to nominate Mr. Ross as Vice Chairman of the Board of Zoning Appeals for year 2023 and Mr. Maniche seconded. There were no other nominations for Vice Chairman.

ROLL CALL:

Yeas:

Mr. Maniche; Mike Ross; Mr. Davis; Mr. Yutzy; J. Palmer, Chairman

Nays:

None

Absent: None

Motion Carried:

APPROVED

Mr. Davis moved to elect Mr. Ross for Vice Chairman of the Board of Zoning Appeals for year 2023 and Mr. Palmer seconded.

ROLL CALL:

Yeas:

Mike Ross; Mr. Davis; Mr. Yutzy; Mr. Maniche; J. Palmer, Chairman

Nays:

None

Absent: None

Motion Carried:

APPROVED

Mr. Palmer moved to nominate Mrs. Grinstead as Secretary of the Board of Zoning Appeals for year 2023 and Mr. Ross seconded. There were no other nominations for Secretary.

ROLL CALL:

Yeas:

Mr. Davis; Mr. Yutzy; Mr. Maniche; Mike Ross; J. Palmer, Chairman

Nays:

None None

Absent:

Motion Carried:

APPROVED

Mr. Palmer moved to elect Mrs. Grinstead for Secretary of the Board of Zoning Appeals for year 2023 and Mr. Ross seconded.

ROLL CALL:

Yeas:

Mr. Yutzy; Mr. Maniche; Mike Ross; Mr. Davis; J. Palmer, Chairman

Navs:

None

Absent: None

Motion Carried:

APPROVED

There being no further business the regular meeting closed at 9:14 p.m.

Joe Palmer, Chairman

Vicki Grinstead, Secretary