

**BOARD OF ZONING APPEALS  
CITY OF WILLOUGHBY  
SEPTEMBER 13, 2023  
PUBLIC HEARING MEETING  
MINUTES**

**PRESENT:** Mike Maniche; Phil Davis; Mike Yutzy; Joe Palmer, Chairman

**ABSENT:** Mike Ross

**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 advised all applicants that the board only had four members present this evening and asked all applicants if they wished to continue and all four applicants wished to proceed.

**MINUTES**

**August 9, 2023**

**August 23, 2023-Canceled**

Mr. Yutzy moved to approve the Board of Zoning Appeals public hearing meeting minutes for August 9, 2023 and Mr. Maniche seconded.

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

**Motion Carried: Approved**

**OLD BUSINESS**

Mr. Maniche moved to untable the variance request for the Slogar residence, 4690 Wood St., Willoughby, OH 44094 and Mr. Davis seconded.

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

**Motion Carried: UNTABLED**

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**Mike Slogar**  
4690 Wood St.

**Detached Garage**

Chairman Palmer asked if there was anyone who wished to speak for this appeal. Mr. Slogar, 4690 Wood St., Willoughby, OH 44094 and Joe Myers of Myers Architect were sworn in to speak for this appeal.

Mr. Myers said at the previous meeting the board asked Mr. Slogar if he would be willing to eliminate the shed, which would make the variance more palatable. Mr. Slogar feels the shed is necessary because of the pool, so they reduced the size of the garage by the size of the shed (167 sq. ft.), which makes the garage itself under the 600 sq. ft. maximum that is allowed for an accessory building. The garage will be in keeping with the neighborhood, so they are asking to have the garage along with the shed. There is a new set of drawings that were submitted showing the new smaller size of the garage.

Mr. Maniche said the other issue is the height. Mr. Myers said they want the height because of the pool. They want an area where they can do some activities that go along with the pool. They are looking to put an area above the garage. If you lowered the pitch on the roof, they could make the overall height smaller, but the existing house has a roof that is as steep as the garage is now, so they are keeping with the house and the existing smaller garage, which will be removed. Mr. Maniche said the second floor is livable area. Mr. Myers said yes, it is loft area, that is one room that will serve the pool.

Chairman Palmer said there has been some discussion and confusion as to what constitutes a second story. Mr. Myers said the room is really in the roof of the garage. The gutter lines of the garage are not two stories tall and it appears as a one-story structure. Chairman Palmer asked if the standing square footage exceeded 50% and Mr. Myers replied it is about 50%. Chairman Palmer said his understanding is you have to have over 50% of head room for it to be considered a second story which is in front of this board along with the mean height. He is asking the board to consider this a 1.5 story building but with a mean height of 18'6" which is more than the board normally allows.

Chairman Palmer said C.O. 1131.10(d) is the maximum square footage and now he is indicating they are at 601.26 sq. ft. and Mr. Myers said they are actually at 597 sq. ft. for the garage. Chairman Palmer said 1131.09 the mean height is currently 18'6".

Mr. Davis asked Mr. Myers what the minimum ceiling height for a second floor is in the Ohio Residential Code and Mr. Myers replied 7'6". Mr. Myers said there are exceptions that a certain percentage of the room can be under 7'6". Mr. Davis said if they used 7' as the legal ceiling height, then asked Mr. Myers if he agreed the livable area on the second floor is in excess of 50% of the first floor, especially if you calculate the first floor understanding the 8" foundations on all sides reduces the living area from the gross footprint to a smaller number. Mr. Myers was unsure of the exact numbers. Mr. Davis said he did a thumbnail calculation and the second floor has more than 50% area using the 7' ceiling. Mr. Davis read from the Ohio Residential Code, Section 305.1 minimum height habitable space; these spaces shall have a ceiling height of not less than 7' so there are some exceptions.

Mr. Davis said he would like to discuss why the applicant cited practical difficulty #4 on his application. He asked if there are a lot of two-story garages in that neighborhood. Mr. Myers said he does not know but, in his opinion, the gutter line is only two feet higher than a typical gutter line because it is in the roof, so he feels like it

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is within the spirit of the ordinance because it is not a two story gutter line and is way below the second floor of all the other two-story homes, but it is a tall one-story for a garage.

Chairman Palmer said the mean height of 18'6" is unprecedented for this board and asked if they could reduce the mean height to 18'0" and the applicants agreed. Mr. Slogar asked to amend his mean height appeal from 18'6" to 18'0". The total square footage is 764 and the amended mean height is 18'0" for the motions.

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. 1131.10(d) to allow a detached garage and shed for a total square footage of 764 sq. ft., exceeding the allowable by 164 sq. ft. instead of the allowable 600 sq. ft.; citing C.O. 1109.09(b) for the Slogar residence, 4690 Wood St., Willoughby, OH 44094 and Mr. Maniche seconded.

Mr. Davis asked if the board concurs that this is 28% which is in excess of what they normally allow and Chairman Palmer agreed with Mr. Davis's calculation.

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

**Motion Carried:     DENIED**

Mr. Yutzy moved to grant a variance to C.O. 1131.09 to allow a mean height of 18'0" exceeding the allowable by 3' instead of the allowable one-story or 15'; citing C.O. 1109.09(b) for the Slogar residence, 4690 Wood St., Willoughby, OH 44094 and Mr. Maniche seconded.

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

**Motion Carried:     DENIED**

**NEW BUSINESS**

**Aaron Zone**  
985 Garden Road

**Fence**

Chairman Palmer stated the applicant cited practical difficulty numbers 3 & 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. Zone, 985 Garden Rd., Willoughby, OH 44094 was sworn in to speak for this appeal.

Mr. Zone said the fence he replaced was the original fence and he cleared it with all of his neighbors, especially the neighbor in the southwest corner where it encroaches on her property. The previous fence was in disrepair and trees had grown through the fence and caused damage. He said the new fence was put in with the post side out because that is how the old fence was installed. The fence is a wood solid dog-eared fence. Mr. Maniche asked if he got a permit and Mr. Zone said no, he just installed it himself and it is his fault. They removed three large maple trees that had fallen and caused damage to the old fence. Chairman Palmer said the board is adamant about not approving stockade fences. He said the previous fence may have been done without a permit or before the code was changed. Chairman Palmer asked how the fence was put together with screws or nails. Mr. Zone said the supports were fastened with galvanized outdoor nails and the pickets were nailed as well.

Chairman Palmer asked about the south west corner of the fence that is encroaching his neighbor's property. Mr. Zone said his neighbor was supposed to be here this evening but is not here yet. Chairman Palmer said there are a number of issues that needed addressed and asked about reconstructing the fence. Mr. Zone said the boards would split and be unusable. Mr. Davis said he was cited for not having a 1/4" gap between boards and asked if he could router those boards to comply with this requirement. Mr. Zone said that could be a possibility.

Chairman Palmer said the other issue is the finished side of the fence is facing him and not the neighbors. He asked if it was possibility to take these sections of fence off and turn them around. Mr. Zone said it would be difficult because this was not prebuilt in sections. Chairman Palmer said this is a difficult situation and would set a precedent. Mr. Zone can table his appeal and take time to think about it or have the board vote this evening.

It was suggested the applicant do it like a board-on-board or shadowbox fence where he could take off every other board and mount it on either side; it would solve the gap and the finished side facing the wrong way. Mr. Zone said the cross members would be the issue. Mr. Yutzy said it may not work because of the posts. Mr. Davis said he agrees with the shadowbox option. There was more discussion on how to complete this.

Chairman Palmer said Mr. Zone will need to amend his appeal to reconstruct his fence to be a shadowbox style fence and his neighbor will need to come in to the Building Department to obtain a permit for the encroachment for her fence. Mr. Lucas, Law Director, said the Board of Zoning Appeals cannot approve an encroachment on someone else's property.

Chairman Palmer said they will be specific in addressing, in the motion, that the shadowbox will be mounted on the inside of the posts and not the outside. Mr. Lucas, Esq. said in regard to the encroachment, assuming the variances are granted, everything must be within Mr. Zone's property only. He is encroaching someone else's property and this board has no authority over that, but the other property owner does. He needs to take action immediately to get that taken care of, otherwise he is committing a trespass.

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.

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Mr. Maniche moved to grant a variance to C.O. 1131.10(i)(3)(c) based on the representation of the applicant, he agrees to make the stockade fence into a shadowbox fence that is in compliance with the city's zoning code instead of the non-allowable stockade fence; citing C.O. 1109.09(b) for the Zone residence, 985 Garden Rd., Willoughby, OH 44094 and Mr. Yutzy seconded.

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

**Motion Carried:     APPROVED**

Mr. Maniche moved to grant a variance to C.O. 1131.10(i)(5) to allow a shadowbox style fence to be mounted on the inside of the 4x4 fence posts instead of the outside 4x4 fence posts; citing C.O. 1109.09(b) for the Zone residence, 985 Garden Rd., Willoughby, OH 44094 and Mr. Yutzy seconded.

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

**Motion Carried:     APPROVED**

**Paul Garcia & Christine Coolick**  
4334 Center St.

**Fence**

Chairman Palmer stated the applicant cited practical difficulty number 1 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. Garcia & Ms. Coolick, 4334 Center St., Willoughby, OH 44094 were sworn in to speak for this appeal.

Ms. Coolick said they have a stockade fence that was there when they purchased their home. The fence runs along the back and sides and it now needs to be replaced. They want the same privacy and security they feel they currently have. They are a single family home but on one side of them is a 3-unit rental home and behind them is commercial. They have had many problems with renters in the past. Also, with the number of units there are more cars and the headlights in the evening are bothersome. She is worried about safety and security because her neighbor next door has had items stolen from her property.

Chairman Palmer said she did hear his comments about setting a precedent with this type of fence with the last applicant. She said her situation is different with commercial property abutting their backyard.

Mr. Maniche suggested a shadowbox style fence and Chairman Palmer said those type fences have an overlap. Mr. Maniche said you cannot see through them. She said the headlights and the lights from the new dance studio

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would still be problematic. Chairman Palmer said landscape screening would really help screen the fence and suggested arborvitaes. Ms. Coolick said that would be more of an expense. Chairman Palmer said they could also go with a solid 5' fence with a 1' lattice top that is available which would still provide the privacy they are seeking and eliminate the headlight issue. She said they would be replacing the entire existing fence over time. They are planning on doing only a couple at a time because of time and expense.

Chairman Palmer said they can table their appeal and speak to the Building Department regarding repairing sections at a time and what are the limits to repair vs. replace. Ms. Coolick said she would like to table their appeal.

Mr. Lucas, Esq. said the fence is a non-conforming use and he did suggest they speak to Mrs. Brooks in the Building Department. He cited C.O. 1167.02(a) maintenance and repair of a non-conforming use. The structural parts to be replaced basically are to restore the structure to a safe condition.

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. Maniche moved to table the variance per the applicant's request for the Garcia & Coolick residence, 4334 Center St., Willoughby, OH 44094 and Mr. Yutzy seconded.

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

**Motion Carried:     TABLED**

**Anne Siegel**  
2969 Lost Nation Rd.

**Fence**

Chairman Palmer stated the applicant cited practical difficulty numbers 2, 3 and 6 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. Ms. Siegel, 2969 Lost Nation Rd., Willoughby, OH 44094 was sworn in to speak for this appeal.

Ms. Siegel said she is on the corner of Melrose and Lost Nation. Mr. Maniche visited the property and it looks like the fence will start where the deck is and Ms. Siegel said yes, it is the back of the house. Mr. Maniche said even though it is a side yard, it is the back side yard and does not block anyone's view of the road. Chairman Palmer agreed and said it does not encroach past the back of the house.

Ms. Siegel said she has two dogs and would like the fence to be a bit higher so the dogs cannot jump the fence and get hurt and for safety of passersby. She said the dogs are currently on a lead and feels that is not fair to them.

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They are on a busy corner and wants to keep them safe and still let them be dogs. She is only asking to go from 3' to 4' for the fence.

Ms. Siegel entered two letters into the record in favor of her appeal. Chairman Palmer read each letter into record; one was from Dan and Ann King, 2970 Lost Nation Rd., Willoughby, OH 44094 (Exhibit "A") and Brad Meinert and Amanda Ward Meinert (no address) (Exhibit "B").

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.

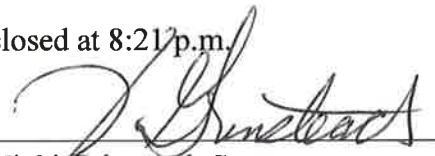
Mr. Maniche moved to grant a variance to C.O. 1131.10(i)(2) to allow a 4' fence instead of the allowable 3' fence; citing C.O. 1109.09(b) for the Siegel residence, 2969 Lost Nation Rd., Willoughby, OH 44094 and Mr. Yutzy seconded.

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

**Motion Carried:     APPROVED**

There being no further business the regular meeting closed at 8:21 p.m.

  
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Joe Palmer, Chairman

  
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Vicki Grinstead, Secretary