

**BOARD OF ZONING APPEALS
CITY OF WILLOUGHBY
APRIL 28, 2021
PUBLIC HEARING MEETING
MINUTES**

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

ABSENT: None

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

Chairman Palmer called the regular meeting to order at 7:01 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) 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 appellant were noted into the record.

MINUTES

April 14, 2021

Mr. Maniche moved to accept the Board of Zoning Appeals Public Hearing meeting minutes of April 14, 2021 as submitted and Mr. Ralston seconded.

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

Nays: None

Absent: Mr. Ross

Motion Carried: Approved

OLD BUSINESS

None

Mr. Ross arrived late to the meeting.

NEW BUSINESS

Immaculate Conception Church
37924 Euclid Ave.
(Rep.- Brian Heskamp, Esq.
for Immaculate Conception Church)

Lot split/nonconforming lot

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Chairman Palmer stated the applicant cited practical difficulty numbers 1 through 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. Heskamp, Esq., 3131 Evans Way, Twinsburg, OH 44087 for Immaculate Conception Church was sworn in to speak for the appeal.

Chairman Palmer explained the home is on the southwest side of Immaculate Conceptions driveway entrance to Euclid Ave. It is Parcel "B" (27A0240000130). The section they are asking to split and consolidate that contains their rectory consists of 85.91' x 60'. The parcel that would remain would be identical to other existing parcels with residential homes along Euclid Ave.

Mr. Heskamp said he outlined everything in their position statement (Exhibit "A"). They believe all of the nine factors that exist to determine whether a variance should be granted are satisfied.

Chairman Palmer asked if anyone wished to speak for this appeal. Father Michael Troha, 37940 Euclid Ave., OH 44094 for Immaculate Conception Church was sworn in to speak for the appeal.

Father Troha said they purchased the house and lot in 2006. He said at that time they wanted the land to expand their parking lot, especially for handicapped parking or a garden. He said instead they leased the house up until about three years ago. He said they would like to sell the house, but keep the back part of the lot, squared off with the neighbor's property. They are still unsure what they will do with this property. They have still discussed possibly using some of the space for handicapped parking or having a garden.

Mr. Heskamp asked Father Troha to confirm that the property is currently vacant, and Father Troha said yes, it is. He said if they did not receive the variance, they would lease out the property or rase the home. If they receive the variance the lot will be split, and the house will be sold. Mr. Heskamp reiterated the nine factors in the position statement (Exhibit "A"). He stated in the surrounding neighborhood, on the same block, there are many parcels that are less 0.2 acres.

Mr. Davis said the lot with the single-family home on their rendering as 60' wide, but his review of the county records indicates it is 61.5' and asked for clarification. Mr. Heskamp said he cannot explain the discrepancy because they did have a survey of the property by a licensed surveyor and would rely on that survey. Chairman Palmer said they will go by the recent survey done by Willard Schade. Mr. Davis asked if they would take the 1.5' and add it to the church driveway. Mr. Heskamp said no, that is not their intent and will keep the existing width.

There was more discussion on the hardship for this variance.

Mr. Ralston asked if they are taking one non-conforming lot and splitting it into two non-conforming lots. Mr. Maniche said it will not matter because they will be splitting the lot and consolidating it with the parish's other property, so there will only be one non-conforming lot. Mr. Lucas said when the motion is made, they are making the motion to approve the requested variance thereby reducing the residual parcel to a non-conforming area, but specifically contingent upon the subsequent approval of the lot split and consolidation which will be

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before the Planning Commission. He said once it is consolidated with Parcel "C" it will be more than the required 15,000 sq. ft.

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. 1141.04 to allow Parcel "B", 9,039 sq. ft. instead of the allowable 15,000 sq. ft. and subject to the subsequent approval by the Planning Commission of the lot split and consolidation; citing C.O. 1109.09(b) for the Immaculate Conception Church, 37924 Euclid Ave., Willoughby, OH 44094 and Mr. Ross seconded.

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

Motion Carried: Approved

Erica Bynane
2101 Canterbury Dr.

Fence

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 anyone wished to speak for this appeal. Mrs. Bynane, 2101 Canterbury Drive, Willoughby, OH 44094 was sworn in to speak for the appeal.

Mrs. Bynane said she wanted to make clear to the Board the Building Department is calling this her front yard, but it is really her side/rear yard. She provided the renderings for the Board. It is not obscuring any sight lines for drivers and is not in the way of any utilities. She said they are trying to improve their property. Their Homeowners Association (HOA) said they are allowed to have a four-foot fence. She said out of 136 homes in her development theirs is the only one that is on a unique 45° angle with the street.

Chairman Palmer said he did walk the neighborhood to evaluate her property. He said her point is relevant regarding what is being referred to as the front yard really being the side/rear yard. He did agree the property is a unique shape. He would like to ask the Law Directors opinion if this should be before the Board because the drawing suggests this is a side yard instead of a front yard. Chairman Palmer said a majority of this fence is in the rear yard along the property line. Mr. Lucas agreed with Chairman Palmer.

Chairman Palmer said Canterbury Drive makes a 90° curve around the Bynane property. The front and side of the house faces Canterbury Drive.

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There was more discussion on the fence being in the front or 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. Davis moved to grant a variance to C.O. 1131.10(i)(1) to allow a 4' fence instead of the allowable 3' fence; citing C.O. 1109.09(b) for the Bynane residence, 2101 Canterbury Drive, Willoughby, OH 44094 and Mr. Ross seconded.

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

Motion Carried: Approved

Robert Simandl/Kathy Smith
1052 Mohegan Trail

Solid fence/Concrete patio

Chairman Palmer stated the applicant cited practical difficulty number 6 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. Smith, 1052 Mohegan Trail, Willoughby, OH 44094 was sworn in to speak for the appeal.

Ms. Smith said she did not know she needed a permit for the stamped concrete patio because they obtained a permit for their deck and thought it was included. They also installed a solid white privacy fence and received a letter from the city that it was not allowed, so they removed it. It was suggested she cut down the fence to 4' and install lattice at the top, which they were willing to do.

Chairman Palmer said he stopped over to view this property. He said he did the calculations, and it appears they are asking for less than a 10% variance. He said a 6' solid fence poses a precedent setting problem for the city. He said the lattice topped fence has been approved at many locations in the city. He suggested she speak to Mrs. Brooks to confirm what size with the lattice is allowed. If she wants to amend their request to install the fence that is allowed by city ordinance, then they can withdraw the fence variance request and just proceed with the patio variance and Ms. Smith agreed.

Chairman Palmer asked if anyone wished to speak for this appeal. Mr. Simandl, homeowner of 1052 Mohegan Trail, Willoughby, OH 44094 was sworn in to speak for the appeal.

Mr. Simandl said he wished to amend his proposal and withdraw his solid fence request and go with the permitted solid fencing with lattice at the top per the city's fence regulations and would like to only proceed forward with the stamped concrete patio.

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

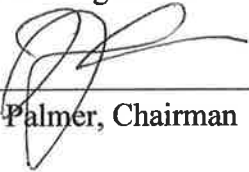
Chairman Palmer asked if there was anyone who wished to speak against this appeal (x3) and there was no one.

Mr. Maniche moved to grant a variance to C.O. 1131.10(c) to allow 1,569 sq. ft. of rear yard coverage instead of the allowable 1,430 sq. ft. rear yard coverage; citing C.O. 1109.09(b) for the Simandl residence, 1052 Mohegan Trail, Willoughby, OH 44094 and Mr. Ralston seconded.


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

Motion Carried: Approved

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



Joe Palmer, Chairman



Vicki Grinstead, Secretary