

**BOARD OF ZONING APPEALS
CITY OF WILLOUGHBY
FEBRUARY 28, 2024
PUBLIC HEARING MEETING
MINUTES**

PRESENT: Phil Davis; Mike Yutzy; Mike Ross; 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 Mr. Wildermuth, Ms. Krack, Mr. Deming, Mr. Zone, Mr. Siley and Mr. Sommers if they wished to proceed with only four board members present this evening and they all wished to proceed.

MINUTES

February 14, 2024

Mr. Ross moved to approve the Board of Zoning Appeals public hearing meeting minutes for February 14, 2024 as submitted and Mr. Yutzy seconded.

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

Motion Carried: Approved

OLD BUSINESS

None

NEW BUSINESS

Michael Wildermuth
38255 Ridge Rd.

Accessory bldg./shed

**City of Willoughby
Board of Zoning Appeals
Public Hearing Meeting Minutes
February 28, 2024**

Chairman Palmer stated the applicant cited practical difficulty number 3 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. Wildermuth, 38255 Ridge Rd., Willoughby, OH 44094 was sworn in to speak for this appeal.

Mr. Wildermuth said he would like to install a newer shed that is larger than his current 10'x12' shed. He would like to be able to use his garage for both his cars. He has large lawn equipment that he will store in the new shed. The new shed will be in the same location in the back corner of his property but will not encroach closer to his neighbors; it will extend 20' into his property.

Mr. Davis said Mr. Wildermuth noted on his application that the shed will only be 20% over what is allowed. Mr. Davis asked Mr. Wildermuth if he chose this number randomly and he said no he sat on BZA for many years and understands the process. He understands the 20% rule is not codified but has been a precedent for many years.

Chairman Palmer said the plans indicate he will be constructing a 240 sq. ft. shed and Mr. Wildermuth said yes that is what he is building.

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 shed of 240 sq. ft. exceeding the allowable by 40 sq. ft. instead of the allowable 200 sq. ft. for the Wildermuth residence, 38255 Ridge Rd., Willoughby, OH 44094; citing C.O. 1109.09(b) and Mr. Ross seconded.

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

Motion Carried: APPROVED

Raising Cane's
5051 SOM Center Rd.
(Rep.- Jenn Krack, OLIO Development Group)

Signage

Chairman Palmer stated the applicant cited practical difficulty numbers 1, 2 & 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. Ms. Krack of OLIO Development Group, 1062 Ridge St., Columbus, OH 43215, agent for Raising Cane's was sworn in to speak for this appeal.

**City of Willoughby
Board of Zoning Appeals
Public Hearing Meeting Minutes
February 28, 2024**

Ms. Krack said there are two signs on the west elevation of the building. The larger of the two signs, in Cane's opinion, is a mural or artwork and is the intent of this sign. Cane's likes to localize their locations and add the city name to the front of the building. She said they have an alternate mural without the Cane's name if the original is not acceptable and would fall within the 86.25 sq. ft. requirement. She said the south elevation is a similar argument; the dog sign is also considered artwork by Cane's. The previous restaurant had a sign on their northern elevation. They are requesting to keep this sign because it is an identifier to allow vehicles to be able to see Cane's early on from the street and let them know they have to move over for the left turn.

Chairman Palmer said the signs they are considering artwork have the Cane's name on them, so how is it they consider this artwork. Ms. Krack said it is not a brand logo per say. Chairman Palmer said it identifies the restaurant and Ms. Krack said it does.

Mr. Davis said he is reluctant to approve the dog sign on the south elevation heading north and disagrees with the applicant's stance that this is wayfinding signage. He feels this building will be visible as a Raising Cane's restaurant. He drove by the Mentor location and that city allowed signage on both sides but that building is adjacent on both side by other structures.

Chairman Palmer said of all the images he is viewing the dog is the most art worthy and the others are clearly identification signage.

Mr. Ross asked about the alternate picture/image for the front/west elevation (in record, dated 2-28-24, Exhibit "A", front/west elevation) and would replace the large Cane's identification signage and falls within the 86.25 sq. ft. that is allowed by code which is item number one in the letter of noncompliance. Chairman Palmer said it depends on how this board would classify these; either as a mural or signage. Mr. Lucas, Esq. said under the city's C.O. 1103.03, paragraph 149 does identify these as signs. Chairman Palmer said if they substitute Exhibit "A" for the original front/west elevation then it would eliminate the need for the first variance.

Chairman Palmer said the second variance is where the dog mural is located on the side/south elevation. Ms. Krack said they removed the word Cane's from the dog sign. Mr. Davis said if they remove this sign altogether it would eliminate the variance.

Chairman Palmer said for item three on the drive thru elevation is the drive thru flame sign and it is instructional and not counted as signage. The only sign for this elevation is the Raising Cane's 18 sq. ft. sign and the board could vote on this one. Chairman Palmer said Ms. Krack would have to amend her appeals for items one and two to eliminate these variance requests.

Ms. Krack asked to amend her request for item one and remove the large Raising Cane's mural and replace it with the dog/fish Willoughby artwork signage (Exhibit "A") that fits within the city's perimeters. She also asked to remove the dog mural on the south elevation but retain the 3'x6' Raising Cane's wall sign. The third item is another 3'x6' Raising Canes wall sign with an instructional flaming arrow below it (flaming arrow not included because it is instructional). Mr. Lucas, Esq. confirmed since the applicant modified her request there is no longer a need for the variances requests for items one and two.

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

**City of Willoughby
Board of Zoning Appeals
Public Hearing Meeting Minutes
February 28, 2024**

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

Mr. Yutzky moved to grant a variance to C.O. 1163.06 to allow an 18 sq. ft. sign on the north or third elevation instead of the non-permitted signage on elevations which are not the primary or secondary frontages for Raising Canes, 5051 SOM Center Rd., Willoughby, OH 44094; citing C.O. 1109.09(b) and Mr. Ross seconded.

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

Motion Carried: APPROVED

Lake Development Authority
1745 Lost Nation Rd./PPN#27B0540000120
(Rep.- Brian Deming, Deming Enterprises, Inc.)

**JTV Hangar/parking area
north lot line**

Chairman Palmer asked if there was anyone who wished to speak for this appeal. Mr. Deming of Deming Enterprises, Inc., 3767 Lane Rd., Perry, OH 44081 and Ms. Fulop of the Lake County Executive Airport, 38550 Jet Center Dr., Willoughby, OH 44094 were sworn in to speak for this appeal.

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

Mr. Deming said they are requesting this variance on the side yard setback for the parking so they can allow a terminal building to be constructed next door to this hangar. The airport has plans to construct the terminal building between the existing hangars and the newest hangar but the parking will be in the way. They are asking to relocate the parking lot for this reason.

Mr. Davis said he was discussing with the Mr. Lucas, Esq. the second paragraph in the letter of noncompliance that states in part "side and rear yard adjacent to another nonresidential district.." but the whole entire area is all airport district but is not a matter of a different district but is actually an adjacent piece of property that happens to be zoned similarly. Mr. Lucas agreed there may be a word missing and sounds like there is another nonresidential district independent of the airport district. He said it should read another nonresidential district property but not another district. Chairman Palmer said it seems like it was copied from the city codified ordinances.

Mr. Yutzky asked Mr. Deming if they did this with the first building and put the parking lot right on the lot line and Mr. Deming said it could not answer that because he was not a part of that project.

Ms. Fulop, Manager of the Lake County Executive Airport said they got great news from the F.A.A. and received approval of their application to construct a new terminal building at the airport. In doing so they asked Mr. Deming to move the parking lot to the north by 20' because they will not have enough room to put everything there if they do not move the parking lot and the F.A.A. requested they stay out of the runway protection zone.

**City of Willoughby
Board of Zoning Appeals
Public Hearing Meeting Minutes
February 28, 2024**

The new building will beautify Lost Nation Road and will serve the city and county well. The building will be south of the hangar building Mr. Deming is constructing.

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. 1149.05 referring to C.O. 1149.03(b)(2) to allow a 0' parking setback instead of the allowable 20' parking setback for Lake Development Authority, 1745 Lost Nation Rd./ PPN#27B0540000120, Willoughby, OH 44094; citing C.O. 1109.09(b) and Mr. Davis seconded.

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

Motion Carried: APPROVED

Zone Welding Service LLC
38782 Lakeshore Blvd.
(Rep.- Aaron Zone, Owner)

**Outdoor parking & storage
of construction vehicles, trucks
& construction equipment**

Chairman Palmer stated the applicant cited practical difficulty numbers 1, 2 & 3 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. Zone, 38782 Lakeshore Blvd., Willoughby, OH 44094 was sworn in to speak for this appeal.

Mr. Zone said they have been using this property like this for decades and would like to continue to do so.

Chairman Palmer said there have been several notices of violation within the last three to four years. In 2020 there was a cease and desist order issued October 15, 2020 citing several commercial vehicles and/or equipment tankers, dump truck body, utility trailers and recreational vehicles (boat) being parked or stored. Mr. Zone said these were items he was working on. Chairman Palmer said then in 2023-24 there is a current violation was referenced as the same as 2020. He has notes that state historically many years ago Mr. Zone, Sr. had applied for a zoning variance and was approved for the parking and storage of automobiles and limousines only, all of which are to be licensed and operable at all times. In 2001 Mr. Zone appealed to the Board of Zoning Appeals seeking a variance to permit storage of commercial vehicles but was denied. He said that Mr. Zone is correct and this has been going on for quite some time.

Charman Palmer said the problem is one of the parcels he owns is on a residential R-50 lot and he has neighbors. His other parcels are also along Lakeshore Blvd. and large equipment etc. is not something the city wants along a gateway thoroughfare like Lakeshore which is zoned Retail Business zoning and does not allow this. He asked Mr. Zone if he has explored other options to store this type of equipment. He said he installed conifers and would gladly install more or fencing if the board preferred. Mr. Zone said this equipment is vital to running his business.

**City of Willoughby
Board of Zoning Appeals
Public Hearing Meeting Minutes
February 28, 2024**

Chairman Palmer asked if it is a welding and construction business and Mr. Zone said yes and they also do property management. They also do some type of agricultural work sponsored by a government program in Tuscarawas County.

Chairman Palmer said he is looking for a compromise short of doing what he is doing. Mr. Zone said he would install more conifers. Chairman Palmer said the board is concerned with setting a precedent that other businesses would like to enjoy. The zoning codes are in place to help establish and maintain real estate valuations. He asked if there is an option Mr. Zone has explored? Mr. Zone said no but if he had a bigger building it would not be an issue. Chairman Palmer said they have been in violation since 2001 or two and a half decades. He encouraged him to explore some other storage yard options.

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 asked Mr. Lucas if Mr. Zone wished to construct a building that is not a residential structure for the R-50 parcel located on Mohican Trail, he cannot do so because it would have to go through a zoning change and Mr. Lucas said that is correct.

Mr. Davis said Mr. Zone also owns property that connects to Garden Road and some of it is also residential.

Mr. Yutzy moved to grant a variance to C.O. 1141.03 and C.O. 1131.03 to allow outdoor parking and storage of trucks, trailers, and construction equipment instead of the nonpermitted use of outdoor parking and storage of trucks, trailers, and construction equipment for Zone Welding Service LLC, 38782 Lakeshore Blvd., Willoughby, OH 44094; citing C.O. 1109.09(b) and Mr. Ross seconded.

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

Motion Carried: DENIED

Union Pointe (formerly Union HS)
25 Public Sq.
(Rep.- Dru Siley, Liberty Development Co.)

**Front/Rear yard setbacks and
Parking setbacks**

Chairman Palmer stated the applicant cited practical difficulty numbers 1, 2, 3, 4, 5, 7, 8 & 9 on the application for appeal and noted all items that were in the packet including a letter of support for this project from the city administration (in record, Exhibit "A").

Chairman Palmer asked if there was anyone who wished to speak for this appeal. Mr. Siley of Liberty Development Co., 28045 Ranney Pkwy./Suite E, Westlake, OH 44145 was sworn in to speak for this appeal.

**City of Willoughby
Board of Zoning Appeals
Public Hearing Meeting Minutes
February 28, 2024**

Mr. Siley said the variance is specific to the two townhome units on the western end of the site. He explained the history of the project to the board and what the restoration will entail for the former high school building. The eighteen for sale townhomes units have been developed to have sufficient parking for each unit so as to not burden the downtown district. There is a total of seventy two parking spaces for these units; two spaces in the garage and two in the driveway. They reduced the number of units and height to accommodate first floor master suites which are in high demand.

Mr. Siley said they have similar setbacks around the entire property and also wanted to be respectful to the park but all of their other adjacent uses are in commercial districts. The former VFW is in a residential district but is a commercial use and has an active liquor license. This is an entertainment gathering facility and thus feels the request they are making is a reasonable ask to facilitate the overall development.

Chairman Palmer said this is a simple request because they are building residential units next to a residential lot. He asked when they would begin this project. Mr. Siley said after all approvals are completed within the city they hope to start construction in May of 2024.

There were no comments or questions from the other board members.

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. 1141.05(c) to allow a side yard setback for building #5 of 6.40' creating an encroachment of 13.6' and the side yard setback for building #11 of 5.04' creating an encroachment of 14.96' instead of the allowable setbacks of 20' for Union Pointe, 25 Public Sq., Willoughby, OH 44094; citing C.O. 1109.09(b) and Mr. Davis seconded.

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

Motion Carried: APPROVED

Mr. Yutzy moved to grant a variance to C.O. 1141.06(c) to allow a parking setback for building #11 of 7.04' creating an encroachment of 2.96' instead of the allowable 10' setback for Union Pointe, 25 Public Sq., Willoughby, OH 44094; citing C.O. 1109.09(b) and Mr. Davis seconded.

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

Motion Carried: APPROVED

**City of Willoughby
Board of Zoning Appeals
Public Hearing Meeting Minutes
February 28, 2024**

Everett Woods

Kirtland Rd/PPN#21-A-022-0-00-033-0

(Rep.- Greg Sommers, Sommers Development Group,
Mr. Monroe, Esq., Mr. David Pietrantone, Engineer for
The Riverstone Co.)

**Building Separation for
Bldgs. 5, 6, 7, 11 & 12**

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 there was anyone who wished to speak for this appeal. Mr. Greg Sommers of Sommers Development Group, 10585 Sommerset Dr. , Chardon OH 44024, Mr. John Monroe, Esq. of Mansour Gavin LPA, 1011 Lakeside Ave., Cleveland, OH 44114, Richard Sommers of Sommers Development Group, 10585 Sommerset Dr. , Chardon OH 44024 and David Pietrantone of The Riverstone Company, 3800 Lakeside Ave., Cleveland, OH 44114 were all sworn in to speak for this appeal.

Mr. Monroe, Esq. said the property is 16.24 acres and is zoned R-MF-L and the applicant is requesting to construct 128 units and the allowable by code is 130 units. The site plans show the buildings and pavement take up just 7.56 acres or roughly 46% of the total land area. The open space is 8.7 acres or 53.5%, over half of the total acreage of the parcel. The variances requested are in one specific area but there are several buildings because of the way they are aligned. This is because it is the distance between the primary wall of one building and the primary wall of another building so by code they are supposed to be 70' apart. The applicant is proposing a landscaped courtyard with a sidewalk which will be 30' between two of the buildings and showed the board on a rendering. The variance is the distance between building #11 and building #5, building #12 and building #6, then building #12 and building #7.

Chairman Palmer asked if this was a fire code issue and Mr. Monroe said he does not think so and this is in the city's zoning code. He believes the intent is there would not be two buildings across from each other. He said other walls are allowed at other distances. What is driving the variance is the fact this is a primary wall and the buildings are slightly offset and what this does is push various windows to be offset and they do not line up across the landscaped courtyard. The overlap for building #7 is 5-10' at the most. There is 12' between buildings 5 and 6, and buildings 6 and 7. There is also a slight elevation change from buildings 11 and 12 and buildings 5, 6 & 7 are slightly lower so they are not on the same plane. He said the reason you see the site plan laid out this way is because there is a significant topographical condition. There is a gully with a stream at the bottom and there is a significant elevation change and this pushes the development to the west so as to not disturb the valley, gully, and stream. He said from the Duncan vs. Middlefield test, good evidence of topographical conditions at the site could support an area variance which they are seeking. The area variance standard is what is the practical difficulty in strict compliance with the code and they would suggest those conditions include Interstate 90, the significant topographical changes on the east end of the property and they also have a Conservation Overlay District they need to work through.

Mr. Sommers wanted to address Chairman Palmers questions in regard to the fire code. He said they met with Chief Ungar early on in the process and they definitely comply with the fire code.

Mr. David Pietrantone, Engineer said in regard to the topography, the lower units are a whole story below the other units. He said moving them 70' would raise them up completely over the top of the other units. If you

**City of Willoughby
Board of Zoning Appeals
Public Hearing Meeting Minutes
February 28, 2024**

would move them further south it raises the elevation significantly. He said these are not for sale units and they would like to keep the courtyard.

Mr. Davis said this is not just a matter of topography but of profit as well. Mr. Monroe, Esq. said one of the reasons they talk about topography is one of tests under Duncan vs. Middlefield is reasonable economic return. When over half the site is not developed it puts pressure on the other site to be developed and to be profitable. This site is highly engineered and had to stay under the permitted number of units and has to support the purchase price and development costs. There will be a significant amount of site work that has to happen to make this project economically viable.

Mr. Monroe, Esq. wanted to mention that building #8 is the clubhouse and the on-street parking is there to support this facility because there is not a separate parking area for this building, so this also effects the layout of the development.

Chairman Palmer does not have an issue with it because they are asking for 20 of 128 units and is not the first time this has been done in Willoughby. They have indicated the property's topography has probably effected the market value and they want to maximize their return.

Mr. Ross said these are thoughtfully laid out and asked if there is an age restriction. Mr. Sommers said no, but they believe it will attract young professionals.

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

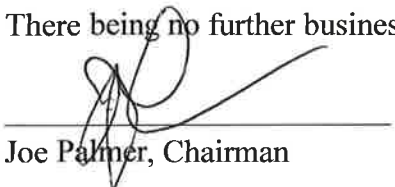
Chairman Palmer asked if there was anyone who wished to speak against this appeal (x3) and there was no one.

Mr. Yutzy moved to grant a variance to C.O. 1135.06 Site Development Standards (c) Minimum Building Separation (1) to allow main wall to main wall separation of 30' for buildings 5, 6, 7, 11 and 12 creating an encroachment of 40' for each instead of the allowable main wall to main wall minimum separation of 70' for Everett Woods, Kirtland Rd./PPN#21-A-022-0-00-033-0, Willoughby, OH 44094; citing C.O. 1109.09(b) and Mr. Ross seconded.

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

Motion Carried: APPROVED

There being no further business the regular meeting closed at 8:35 p.m.



Joe Palmer, Chairman



Vicki Grinstead, Secretary