

**BOARD OF ZONING APPEALS
CITY OF WILLOUGHBY
MAY 22, 2024
PUBLIC HEARING MEETING
MINUTES**

PRESENT: Mike Maniche; Mike Yutzy; Joe Palmer, Chairman
ABSENT: Mike Ross; Phil Davis
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 appellants were noted into the record.

Chairman Palmer asked Mr. Boyd, Mr. Shatsman and Mr. Conti if they would like to proceed with only three of the five members present and all applicants wished to proceed.

MINUTES

May 8, 2024

Mr. Yutzy moved to approve the Board of Zoning Appeals public hearing meeting minutes for May 8, 2024 as submitted and Mr. Maniche seconded.

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

Motion Carried: Approved

OLD BUSINESS

None

NEW BUSINESS

Kathleen Stergar
3944 East 365th St.

Fence

The applicant has asked to be tabled until the next meeting when more members are present.

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Mr. Maniche moved to table an appeal for Kathleen Stergar, 3944 East 365th St., Willoughby, OH 44094 per the applicants request and Mr. Yutzy seconded.

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

Motion Carried: TABLED

The Charlton Abbott
37903 Euclid Ave.

Use Variance for
lounge/private event facility

Chairman Palmer stated the applicant cited practical difficulty numbers 2, 3, 4, 7 & 8 on the application for appeal and noted all items that were in the packet.

Chairman Palmer asked if there was anyone else who wished to speak for this appeal. Mr. Ken Boyd, Owner, 37903 Euclid Ave., Willoughby, OH 44094 was sworn in to speak for this appeal.

Mr. Boyd said the premise of this building was to open up a co-working space during Covid. He said the business relies on memberships and there is a lack of membership even through social media advertising etc. He said the daily passes are used by the community for events such as funerals, weddings etc. He said the overwhelming interest has been for birthday parties, baby and wedding showers and celebration of life events etc. He said the assembly component of this is why they are seeking a variance.

Mr. Boyd said some of the larger co-working spaces in the Cleveland area are defunct, so people are operating out of their homes and not utilizing their space. They members have used the facility for holiday and birthday parties. They need to expand on how they are doing things and he would have to amend their current Conditional Use Permit (CUP) but still follow what they currently have on the CUP. He said originally his appeal says lounge and he would like to strike that component. He has had a conversation with the fire department and there are issues with the existing mezzanine and will not pursue using this space whatsoever for assembly meetings. They have two patios on opposite sides of the building and would like to move the one area that is now a garden over to where they currently have seating. He said the barn is an overflow for two reasons; one is if there is a rain event. They have rented a tent but is cost prohibitive for their clients so this is why they would like to utilize the barn. The second item is the demand for people utilizing the first level and the fire department walked through and gave their approval for safety reasons.

Mr. Boyd said he spoke with the Willoughby police department and they are concerned with the graduation parties so they would only do them on Sundays from 2:00 p.m. to 6:00 p.m., not Friday and Saturday evenings. Some of the police concerns are congestion of parking, underage drinking and noise. He said any time there is alcohol involved a police officer will be present. He said for high school graduation parties they will not be allowed to have alcohol. They will control the leases and who will be renting the facility at all times.

Mr. Boyd said he has reached out to the neighbors and had open houses to let them know what they wish to do with their facility. He understands the two main neighbor concerns are noise and parking. They have addressed

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the issue of parking with the parking agreement with Willoughby Bible Church which allows them to use 58 spaces anytime except for Sunday mornings. He said as far as noise they are not looking to do anything different than they already do. They do not have speakers outside, no bands, and no amplified music on the premises. They have had acoustic music for art festivals. He said they are not set up to do catering or deal with health codes and have no anticipation of doing so, however, they have had dialog with local area restaurants where they could be a third party caterer. They would be responsible for the setup, serving and clean up etc. They are also looking to maintain the same hours and will still close at 10:00 p.m. He said for weddings they are only looking at doing them on Saturdays and would be in each lease that the facility is fully vacated by 11:00 p.m. He cannot make guarantees to the neighbors but he can try to control the events to stay on their property and onto the patio areas. They currently have signage but are anticipating adding more directional signage. He said they are also looking to do the rehearsal dinners for the weddings on Fridays.

Chairman Palmer asked if they have used the Willoughby Bible Church parking lot and Mr. Boyd said yes, they have used it for a pop-up festival. Chairman Palmer asked how they handle street parking. Mr. Boyd said they have not had an issue and have never been contacted by anyone. When they've had larger events they had an attendant at the front directing traffic where to park.

Chairman Palmer said the history of their business includes an extensive Conditional Use Permit (CUP) which was annually reviewed in 2022 and 2023 before being made permanent. He said the two patios together allow 54 people and asked how many he is looking to have now and Mr. Boyd said up to 100. Chairman Palmer said these people would then park at the church and Mr. Boyd said yes. He said when the parking was calculated for the occupancy it was off the 15 spaces they currently had with a condition they obtain an agreement for 10 additional parking spaces with the church, and they just entered a longer term of five years for the 58 additional spaces.

Chairman Palmer said he understands the business model is not working but unfortunately he chose a location that is in a limited residential area which required a CUP just for the office space. He said an outdoor event type of situation is a big pivot from what his current CUP allows.

Mr. Yutzy said his CUP was for offices and a café to include food service to the outdoor patio and said the Planning Commission did a great job with negotiation. He said Mr. Merhar was very concerned this would be a party or event center and Mr. Myers, architect said it would be only for occasional events. The Planning Commission was protecting against the lounge/event facility in a residential area. He said Mr. Boyd is trying to do a 180 degree turn from what the commission gave him. This is not an extension of your CUP but it is entirely different. They made it very clear it was for offices and now he is going out into the public. He said you are asking the board to change the zoning and you made a bad business decision and now you are pivoting to try to save it, and Mr. Boyd said yes. Chairman Palmer said it is also precedent setting for this board for a single business because the business plan did not work. Mr. Maniche said he is advertising it as an event center and it is ok to bring in alcohol.

Mr. Lucas said he understands Mr. Boyd is seeking a use variance for the one building on the property. He asked if this would be part and parcel of the original operation of the business as an additional feature. Mr. Boyd said yes, it is an extension. Mr. Lucas said, if in fact, the board, at the conclusion of the evidentiary presentation, agrees that a use variance, which is a hard variance to obtain because it is an undue hardship, you will still have to go before the Planning Commission because there may be some internal conflict with some of the provisions. The reason he asked if it was part and parcel was because only the Planning Commission has the authority to

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amend your current Conditional Use Permit (CUP). He explained that even if this board grants the variance he still must amend his CUP with the Planning Commission and they will have to approve it. Mr. Boyd said he understood.

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. Ms. Diane Bouton, 37727 Jordan Dr., Willoughby, OH 44094 was sworn in to speak against this appeal.

Ms. Bouton said they have made tremendous improvements to this home but if they change the zoning it will affect this residential street. It is also a dead end street, so there is only one way in and one way out and if you are adding 58 cars after an event that will affect them getting in and out of their street. It is already hard to get out onto Euclid Ave. from Jordan Dr. with all of the current traffic. Her main objection is for them not to change the zoning because it will stay with the property. She is also concerned this could drop their property values.

Chairman Palmer asked if there was anyone who wished to speak against this appeal. Mr. Robert Fishley, 37818 Jordan Dr., Willoughby, OH 44094 was sworn in to speak against this appeal.

Mr. Fishley said the address is for the building on Euclid Ave. but where the people will be gathering will be the barn behind the building which is 300' down Jordan Dr. off of Euclid Ave. The only thing that separates this barn from his home is his driveway. He said there could be 100+ people drinking in this barn for hours and imagine how loud this will be. He said if these events were to be held inside the building on Euclid Ave. he would not be here tonight. The barn has no insulation to deflect noise, there is no air conditioning, so the doors and windows will be open to create some kind of ventilation. He has had many conversations with Mr. Boyd who said his intentions are to limit the noise as best as he can to not disturb the neighborhood. He was under the impression this would only be Saturdays but their website says weddings can be held Thursday through Sundays etc. He said he likes Mr. Boyd and wants him to be successful but is against rezoning near a residential street.

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

Chairman Palmer asked Mr. Boyd if he would like to speak in rebuttal. Mr. Boyd said Mr. Fishley and he do speak quite often. Chairman Palmer said he does not see a way around this. He said in order to be successful, and as he has advertised, he could have up to four events a week. Mr. Maniche asked if there would be more than 100 people. Mr. Boyd said no, he anticipates the large components happening during the day time so they can control it. Chairman Palmer read some of the events and details shown on his website. Mr. Boyd asked about the venue two doors down that has a deeper penetration into the residential component that went from a nursing facility to a full scale restaurant with events being held next to a residential neighborhood. He said there have already been issues and asked what is different. Chairman Palmer said what is different is that is not before this board and they cannot speak to any issues. Mr. Boyd asked to table his appeal request.

Mr. Maniche moved to table the use variance appeal, pursuant to the applicant's request, for The Charlton Abbott, 37903 Euclid Ave., Willoughby, OH 44094 and Mr. Yutzy seconded.

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

Motion Carried: TABLED

Boris Shatsman
38443 Beachview Rd.
(Rep.- Eugene Shatsman, Son/P.O.A.)

New home/front yard depth

Chairman Palmer stated the applicant cited practical difficulty number 1 on the application for appeal and noted all items that were in the packet. He read into read a memo from Mayor Fiala in favor of this appeal (Exhibit "A").

Chairman Palmer asked if there was anyone else who wished to speak for this appeal. Mr. Eugene Shatsman was sworn in to speak for this appeal. He presented the board with a power of attorney for him to speak on behalf of his parents who will be building this home at 38443 Beachview Rd.

Mr. Shatsman said his parents purchased the land from the City of Willoughby in July of 2022 and are nearing retirement age and are relocating to Willoughby. They have invested heavily into erosion control for this property as previously discussed with the administration. They have selected Vincent Homes as their builder and have settled on a design that is approximately 3,000 sq. ft. and hope this is their forever home. He said the zoning regulations suggest moving the home 15.8' toward the lake but this presents two issues; one a longer driveway will not look in line with the rest of the neighborhood, and the second issue, which is more relevant, is it will eliminate much of their backyard and will bring the home closer to the lake, even though they have invested in erosion control, they have no way of knowing what will happen in the future, which causes concern.

Chairman Palmer said they are trying to maintain the same look as the other homes that are in line in the neighborhood. There were no comments or questions from the board members.

Chairman Palmer asked if there was anyone else who wished to speak for this appeal. Mr. Greg Hocerar, 38451 N. Beachview Dr., Willoughby, OH 44094 was sworn in to speak for this appeal.

Mr. Hocerar said they are the future neighbors of the Shatsman' s and has reviewed the plans for the house and they approve of it and they are doing a great job with the erosion control. It is better for them to have a greater setback from the great lakes.

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. 1131.06(a)(2) and allow a 24.2' front yard setback instead of the allowable 40' front yard setback; citing C.O. 1109.09(b) for the Shatsman residence, 38443 Beachview Rd., Willoughby, OH 44094 and Mr. Yutzy seconded.

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

Motion Carried: APPROVED

Williams Glen LLC
38751 Hodgson Rd./PPN#27-B-0-00-004-0
(Joseph Conti, Owner & Chuck Szucs, Polaris Engineering
& Surveying)

**Corner lot widths for
sublots 1 and 9 for new
development**

Chairman Palmer stated the applicant cited practical difficulty numbers 2, 3 and 8 on the application for appeal and noted all items that were in the packet.

Chairman Palmer asked if there was anyone else who wished to speak for this appeal. Mr. Conti, Owner, 2760 Loreto Dr., Willoughby Hills, OH 44094 was sworn in to speak for this appeal.

Mr. Conti said they have been working with the Planning Commission, the administration and Councilman Kary for a couple years and it has come down to this plan. He said they are trying to retain some privacy for the neighbors across the street by maintaining some of the wooded area. The lots with the 80' setback, from what is the side yard, feel it is consistent with the existing neighborhood.

Mr. Yutzy said this could be solved by removing the home on subplot 5 and move the homes back to be compliant. Mr. Conti said they considered this but if you look at where the property line ends at the far left with the lot they are considering donating to the city, that line was drawn specifically for the residents on Avenel Ct. If they moved those lots down those homes would be directly in front of Avenel Ct., which was what they were trying to avoid.

Chairman Palmer asked if there was anyone else who wished to speak for this appeal. Mr. Chuck Szucs of Polaris Engineering & Surveying, 34600 Chardon Rd., Willoughby Hills, OH 44094 was sworn in to speak for this appeal.

Mr. Szucs said the golf course was pleased to see that the westerly portion was not going to be developed. He said even if they removed that lot Mr. Yutzy referred to, sublots 1 and 9 would still be in the same spot but would be 20' wider. Mr. Conti said when they get to Planning Commission those driveways will be on the far side. The garage will be to the inside of that property.

Chairman Palmer asked if there was anyone else who wished to speak for this appeal. Mr. Ken Kary, 1430 Burrard Ct., Willoughby, OH 44094 was sworn in to speak for this appeal.

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Mr. Kary said this project started out two years ago with over forty multi-family homes and Mr. Conti has compromised with only twelve homes and is exceedingly better for the neighborhood. The best part is his decision not to build on that approximately acre of land which will be donated back to the city and incorporated with the golf course. This project is in everybody's best interest.

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. 1131.05(c) and allow an 80' width instead of the allowable 100' width for Williams Glen, 38751 Hodgson Rd./PPN#27-B-0-00-004-0, for Sublots 1 and 9 Willoughby, OH 44094 citing C.O. 1109.09(b) and Mr. Yutzy seconded.

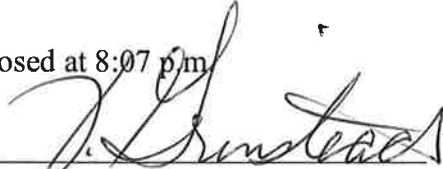
ROLL CALL: Yeas: Mr. Maniche; Mr. Yutzy; J. Palmer, Chairman
 Nays: None
 Absent: Mike Ross; Mr. Davis

Motion Carried: APPROVED

There being no further business the regular meeting closed at 8:07 p.m.



Joe Palmer, Chairman



Vicki Grinstead, Secretary