

**BOARD OF ZONING APPEALS
CITY OF WILLOUGHBY
SEPTEMBER 27, 2023
PUBLIC HEARING MEETING
MINUTES**

PRESENT: Mike Ross; Mike Maniche; Phil Davis; 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.

MINUTES

September 13, 2023

Mr. Maniche moved to approve the Board of Zoning Appeals public hearing meeting minutes for September 13, 2023 as submitted and Mr. Davis seconded.

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

Motion Carried: Approved

OLD BUSINESS

Mr. Ross moved to untable the variance request for the Garcia & Coolick residence, 4690 Wood St., Willoughby, OH 44094 and Mr. Maniche seconded.

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

Motion Carried: UNTABLED

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Paul Garcia & Christine Coolick
4334 Center St.

Fence

Chairman Palmer said the applicants have asked to have their appeal permanently tabled.

Mr. Ross moved to permanently table the appeal for a fence for the Garcia & Coolick residence, 4334 Center St., Willoughby, OH 44094 per the applicant's request and Mr. Maniche seconded.

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

Motion Carried: Permanently Tabled

NEW BUSINESS

Michael McLaughlin
1071 Garden Rd.

Commercial food trailer

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.

Chairman Palmer asked if there was anyone who wished to speak for this appeal. Mr. McLaughlin, 1071 Garden Rd., Willoughby, OH 44094 was sworn in to speak for this appeal. Mr. McLaughlin presented the board with a letter from a neighbor in favor and renderings (in record 8-27-23).

Mr. McLaughlin said he is asking for a variance to keep his smoothie trailer on his property. He purchased it in 2017 and it has been stored there ever since. He and his wife do not make a lot of money from this business. He said he always tries to be a good neighbor, however there is one neighbor that continues to call in complaints to the city. The trailer is stored in the rear of his yard (as shown in renderings) and is sitting on sand and gravel. During the off-season it is wrapped with a dark gray tarp and is hard to see from the road. His main season for the trailer is mid-May through August each year. He works with the Willoughby Baseball league and many other organizations, many of which are charitable. The money he makes from this business he gives a percentage of it away these charities. He said he has looked for off-site storage for the trailer but it is quite expensive and he cannot afford it, nor will it fit in his garage because of the height. If he does not obtain this variance, he will have to sell the trailer. He also has a store in Willoughby. He spoke to all his other adjacent neighbors and they are all there tonight to speak in his favor.

Chairman Palmer suggested Mr. McLaughlin may be able to store the trailer at the Willoughby Baseball leagues Union St. address. Mr. McLaughlin said it would be difficult having it far away and stocking it would be an issue. He explained that he brings the products from his store to stock the trailer. Chairman Palmer said commercial vehicles, motorhomes etc. parked in residential neighborhoods come before this board and is a clear violation of

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the code. There is no compromise for this type of variance; it is either allowed to be there or not be there and it would be a precedent for this board to allow it. Mr. McLaughin explained how involved it is to get it prepared and stocked and would also require electricity. It is currently stored at his brother's home in Austinburg but he cannot run his business that way.

Mr. Ross asked the Law Director since the ordinance says "occupant shall be permitted to park one truck not exceeding three-quarter ton rated capacity that is used in connection with said occupant's livelihood"; how does a trailer differ from a truck. Mr. Ross asked Mr. McLaughlin if this is his livelihood and he said yes. Mr. Ross said it is probably less than three-quarter ton. Chairman Palmer said he believes they use the three-quarter ton rating to gauge the size of the vehicle.

Law Director Lucas said the vehicle is used in part for his livelihood and Mr. McLaughin said yes and does not exceed three-quarter ton. Mr. Maniche said he thought it meant the truck could handle three-quarter ton capacity. Mr. McLaughlin said a three-quarter ton truck weighs about 10,000 lbs. and his trailer, fully loaded, weighs 3,000 lbs. Mr. Lucas said a trailer is not a vehicle and is the only exception that seems to require the board's decision this evening. This is a commercial trailer. Mr. Ross said a personal use covered trailer is allowed behind a house but if it has logos on it, you cannot. Mr. Maniche said the logos prove intent. Mr. Lucas said it is not a vehicle and that is why it is before the board. A vehicle, under Ohio Revised Code Chapter 45 (Motor Vehicles), considers golf carts vehicles or anything under power. The (f)(2) exception does not apply as to that particular element but the other two do.

Mr. Maniche said asked if he could park it by one of his stores and Mr. McLaughlin said he would but there is no power.

Chairman Palmer asked if there was anyone else who wished to speak for this appeal. Mr. Michael Sobochan, 1064 Garden Rd., Willoughby, OH 44094 was sworn in to speak for this appeal.

Mr. Sobochan said he lives directly across from Mr. McLaughin. He said they would be the most impacted by a food trailer parked at his residence. He said it does not bother them and when the trailer is not in use it is parked in the far rear yard and is difficult to see, especially when it is tarped. He has a business in Willoughby and pays taxes. He said almost all the adjacent neighbors are here to support him.

Chairman Palmer asked if there was anyone else who wished to speak for this appeal. Ms. Debbie Serksnis, 1088 Garden Rd., Willoughby, OH 44094 was sworn in to speak for this appeal.

Ms. Serksnis said she lives caddy corner to the applicant. She said the McLaughlin's are awesome neighbors and take very good care of their property. She cannot see it from her yard.

Chairman Palmer asked if there was anyone else who wished to speak for this appeal. Mr. Timothy Booth, 1059 Garden Rd., Willoughby, OH 44094 was sworn in to speak for this appeal.

Mr. Booth said he lives next to the McLaughlin's to the north. He said the trailer is between the pool and the garage. When he goes out back, he sees it and is probably the one who sees it the most and it does not bother him or his wife. He has a paved driveway, fence and a 3-car garage. He used to have a camper the same size as Mr. McLaughlin's trailer.

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Chairman Palmer asked if there was anyone else who wished to speak for this appeal. Ms. Diane Palay, 1077 Garden Rd., Willoughby, OH 44094 was sworn in to speak for this appeal.

Ms. Palay said she is the other next door neighbor to the south. She has owned her house for eight years and Mr. McLaughlin has had the trailer for seven years and never knew he had it until she got the letter from the city.

Chairman Palmer asked if there was anyone else who wished to speak for this appeal. Ms. Carol Hynd, 1040 Garden Rd., Willoughby, OH 44094 was sworn in to speak for this appeal.

Ms. Hynd said she never knew he had it in the rear yard and only saw it pulling in or out. They are very family oriented and are caring neighbors. A neighbor's house burned down Mr. McLaughlin was one of the first ones there to offer assistance. They have no issues with the trailer.

Mr. Davis had a question for the applicant. He said part of the criteria is the trailer is his livelihood and Mr. McLaughlin said yes. He said the board has been pretty discrete about it but asked since he stated he gives so much money away to what extent is it really part of his livelihood. Mr. McLaughlin said for the summer it is nice little bump for money in his pocket. It is an extension of his business but he would not go bankrupt if he did not have it.

Chairman Palmer said these type of appeals are either a permitted use or not. Mr. McLaughlin had a tremendous defense of why he does what he does and how he serves the community and thanked him for that. He asked him to consider if there was any other option for him to store this before they vote. Mr. Ross asked if it would fit in his garage and he said no.

Mr. McLaughlin asked if it was a possibility for him to store it at his brother's house during the winter and keep it from March through September at his home. Chairman Palmer said the ordinance is clear, it is either permitted on the property or not. If the board approved this it would also invite other applicants to reference his approval.

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 approve C.O. 1131.10 (f)(2) to allow a commercial trailer to park in a residential lot instead of the outdoor parking of a commercial vehicle/trailer shall not be permitted on a lot in a residential district for the McLaughlin residence, 1071 Garden Rd., Willoughby, OH 44094; citing C.O. 1109.09(b) and Mr. Maniche seconded.

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

Motion Carried: Denied

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There being no further business the regular meeting closed at 7:39 p.m.



Joe Palmer, Chairman



Vicki Grinstead, Secretary