

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

**PRESENT:** Mike Maniche; Mike Yutzy; Mike Ross; Joe Palmer, Chairman

**ABSENT:** 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 appellant were noted into the record.

Chairman Palmer informed the applicants that there are only four of the five members present this evening and asked each of the six applicants if they wished to proceed and they all said yes.

**MINUTES**

**November 8, 2023**

Mr. Maniche moved to approve the Board of Zoning Appeals public hearing meeting minutes for November 8, 2023 as submitted and Mr. Yutzy seconded.

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

**Motion Carried: Approved**

**OLD BUSINESS**

**None**

**NEW BUSINESS**

**James Seabright**  
37945 Barber Ave.

**Detached garage**

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Chairman Palmer stated the applicant cited practical difficulty numbers 1 & 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. Seabright, 37945 Barber Ave., Willoughby, OH 44094, was sworn in to speak for this appeal.

Mr. Seabright said the rendering of the garage the board has is the existing garage. He said it is leaning heavily to the left and the foundation and sides are buckling. He is proposing to remove the delapidated garage and constructing a new garage in the same location of the existing garage. He cannot shift the garage to the left because of the deck and the newer driveway would have to be altered as well. Mr. Seabright said on the survey plan, it shows the driveway extends to the side lot line but it does not and it will not change.

The board members had no questions for the applicant.

Chairman Palmer asked if there was anyone else who wished to speak for this appeal. Mr. Greg Patt, 38005 Brown Ave., Willoughby, OH 44094 was sworn in to speak for this appeal.

Mr. Patt said this is a good example of a hardship because it is existing. He wished the board would ask why the applicant cannot abide by the rules and what their hardship is. Chairman Palmer said in this case the driveway and garage are existing non-conforming.

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(a) to allow a garage 1.6' from the side lot line, instead of the allowable 3' from the side lot line; citing C.O. 1109.09(b) for the Seabright residence, 37945 Barber Ave., Willoughby, OH 44094 and Mr. Ross seconded.

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

**Motion Carried:     Approved**

Mr. Maniche moved to grant a variance to C.O. 1131.10(a) to allow a driveway to be 0' from the side lot line instead of the allowable 2' from the side lot line; citing C.O. 1109.09(b) for the Seabright residence, 37945 Barber Ave., Willoughby, OH 44094 and Mr. Ross seconded.

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

**Motion Carried:     Approved**

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**Subway**

37812 Vine St.

(Rep.- Mohamed Soliman, Owner)

**Wall signage**

Chairman Palmer stated the applicant cited practical difficulty numbers 1, 2, 6, 7 and 8 on the application for appeal and noted all items that were in the packet. Mrs. Grinstead informed the board that the applicant was approved on December 11, 2023 by the Sign Review Board for the sign itself, but the motion was made contingent upon the BZA's approval this evening.

Chairman Palmer asked if there was anyone who wished to speak for this appeal. Mr. Soliman, Owner of Subway, 37812 Vine St., Willoughby, OH 44094, was sworn in to speak for this appeal.

Mr. Soliman said he has owned this business for almost nine years. His business has been below average for the market for Subway and needs more visibility to improve his statistics. He put out flags at the street which greatly improved his visibility and business but the city made him remove them and his business suffered. He was obligated to renovate his location by Subway and spent a substantial amount of money to do so. Part of this renovation was the new Subway signage. He ordered the sign during the covid era, so delivery was delayed and just received the sign a few months ago. He did not realize until he submitted his application that the sign was larger than allowed. He said a few weeks after receiving the new sign, his existing sign fell of the building because of the front façade being in disrepair. The owner of the plaza was obligated to repair the façade, so it is all new. He has not had signage for the last four months and hopes the board will approve the sign so it will help improve his business. He said each plaza has an anchor store and this plaza's is Subway, so he hopes it also increases business for the other shops in the plaza. His sign will not interfere with any of the adjacent business signs.

The board members had no questions for the applicant.

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. 1163.06(b) and allow a 45.25 sq. ft. sign instead of the allowable 36 sq. ft. sign; citing C.O. 1109.09(b) for Subway, 37812 Vine St., Willoughby, OH and Mr. Maniche seconded.

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

**Motion Carried:     Approved**

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**Kathy Advey**  
38130 Barber Ave.

**Generator in corner side  
yard**

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. Ms. Advey, 38130 Barber Ave., Willoughby, OH 44094, was sworn in to speak for this appeal. He asked if her contractor Shepp Electric was present and they were not.

Ms. Advey said her lot is narrow and long and it is hard to accommodate anything. She would like the generator for her own security and it would also improve the value of her home. She said with all of the power outages lately she would like to have peace of mind for her home and her health, because she has had some recent health issues.

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. 1131.06 (d) to allow a generator 16' setback from the corner side lot line instead of the allowable 27' setback; citing C.O. 1109.09(b) for the Advey residence, 38130 Barber Ave., Willoughby, OH 44094 and Mr. Ross seconded.

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

**Motion Carried:     Approved**

**Adam & Janine Kelbach**  
5275 SOM Center Rd.

**RV in front/side yard**

Chairman Palmer stated the applicant cited practical difficulty number 1 and 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. Kelbach, 5275 SOM Center Rd., Willoughby, OH 44094, was sworn in to speak for this appeal.

Chairman Palmer read into record an emailed letter in favor of the appeal from Mr. Ron Fatica, 5295 SOM Center Rd., Willoughby, OH 44094 (Exhibit "A").

Mr. Kelbach said his hardship is that they have a retention basin that takes up nearly a third of his backyard. He said the basin was required when the home was initially built. Also, to the right of his property is designated wetlands and he cannot extend his fence any further to be able to put the RV directly in the backyard. He has not

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installed any gravel pads but would place it as far back to the fence line as possible, which would put it back 7-10' from where it is now. The RV is not run down and is a nice looking vehicle. Mr. Fatica is his neighbor directly across the street who does not have an issue with it.

Chairman Palmer said the site plan does not show the distances or encumbrances in the back yard and he saw a fence with a gate. Mr. Kelbach said yes and he has another gate on the left side of his property but in that area is where the retention basin is. They do have half an acre lot but the basin takes up a third of his back yard. Chairman Palmer asked for the dimension from the back of the house to the back lot line. Mr. Kelbach said roughly 80', but there are a lot of trees because of the school being in close proximity. Chairman Palmer said this is a precedent setting request and the board typically does not approve these. He asked if there is any way at all this RV could fit in the back yard and Mr. Kelbach said no. He then asked if he could keep it in a storage area. Mr. Kelbach said he paid a lot of money for his house and taxes and feels he should be allowed to keep his RV on his property and not have to have an additional payment. He already has another RV that he has at another storage unit. The storage lot he was going to store this at is being renovated. He said this would only be temporary storage for a year or two until they add a third car garage.

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(f) to allow a recreational vehicle to be parked in a side yard instead of the allowable backyard; citing C.O. 1109.09(b) for the Kelbach residence, 5275 SOM Center Rd., Willoughby, OH 44094 and Mr. Ross seconded.

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

**Motion Carried:     DENIED**

**James & Laura Ardire**  
38040 Brown Ave.  
(Rep.- Kevin Foley, Green Shamrock Construction LLC)

**New home-front & rear setbacks**

Chairman Palmer stated the applicant cited practical difficulty numbers 1, 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. Kevin Foley of Green Shamrock Construction, 6908 Hopkins Rd., Mentor, OH 44094, agent for the Ardire residence was sworn in to speak for this appeal. Mr. & Mrs. Ardire were also present.

Mr. Foley said they wish to construct a new home on S/L 9 on Brown Ave. Mr. Foley said because of the jog that exists within the lot it created a difficulty to obtain the required setback to building any conventional home. When they were given the perimeters for the design of the home, it gave them the buildable box to which they

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designed the home but there was a slight radius which was not delineated on the renderings which created the anomaly on the back left corner.

Chairman Palmer said he does not believe the back of the house represents any extraordinary ask and the front has a history. He explained that, at one time, Center Street extended all the way to Hastings behind that lot and what was left were vacated parcels, which some people chose to combine with their lots eliminating issues like this. He said this would be an option for his client if the appeal did not pass but they would need to make sure there is no easement for utilities.

There were no questions from the members of the board.

Chairman Palmer asked if there was anyone else who wished to speak for this appeal. Mr. Ardire, 1694 Chelmsford Rd., Mayfield Hts., OH 44124 was sworn in to speak for this appeal.

Mr. Ardire asked how he would acquire that notch or jog. Chairman Palmer said that would be done at the Lake County Auditor's office. The vacated parcels have been offered to existing property owners. He could combine the vacated parcel with his existing parcel.

Chairman Palmer asked if there was anyone else who wished to speak for this appeal. Mr. Greg Patt, 38005 Brown Ave., Willoughby, OH 44094 was previously sworn in and is still under oath.

Mr. Patt said that notch was created in the 1920's. He worked with some of the developers on this project and the intent was to add this notch to the property but it never happened. The process to combine the properties is simple. He strongly encouraged the board to grant this appeal.

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. 1131.06(a)(2) and allow a 27.68' front setback instead of the allowable 40' front setback; citing C.O. 1109.09(b) for the Adire residence, 38040 Brown Ave., Willoughby, OH 44094 and Mr. Ross seconded.

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

**Motion Carried:     Approved**

Mr. Maniche moved to grant a variance to C.O. 1131.06(c) to allow a 37.41' rear setback instead of the allowable 40' rear setback; citing C.O. 1109.09(b) for the Adire residence, 38040 Brown Ave., Willoughby, OH 44094 and Mr. Ross seconded.

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

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Absent: Mr. Davis

**Motion Carried:     Approved**

**Roseann and Jennifer Lonsway**  
4859 Crestwood Ave.  
(Rep.- Mike Midagliotti, Friar Home Improvement)

**Front yard setback for room  
addition**

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 there was anyone who wished to speak for this appeal. Mr. Midagliotti of Friar Home Improvement, 3435 Brookpark Rd., Parma, OH 44134, agent for the Lonsway residence, was sworn in to speak for this appeal. Ms. Roseann & Jennifer Lonsway were both present.

Mr. Midagliotti said the homeowners wish to build an addition off the back of their existing home. He said, if you look at the plans submitted, a good portion of the home does not fit the existing zoning and Chairman Palmer agreed that it is existing, non-conforming. Mr. Midagliotti said he is unsure what other recourse he has. They have plenty of rear yard and there is still 20' to the side yard. The north corner is where the encroachment is. Chairman Palmer said it looks like it will be a nice addition to the neighborhood and he has no concerns. Mr. Ross agreed and said he lives in that area.

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

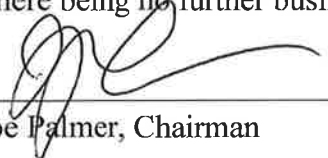
Chairman Palmer asked if there was anyone who wished to speak against this appeal (x3) and there was no one.


Mr. Maniche moved to grant a variance to C.O. 1131.06(d) to allow a 20' 2 ¾" corner side lot line setback instead of the allowable 27' corner side lot line setback; citing C.O. 1109.09(b) for the Lonsway residence, 4859 Crestwood Ave., Willoughby, OH 44094 and Mr. Ross seconded.

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

**Motion Carried:     Approved**

There being no further business the regular meeting closed at 7:52 p.m.

  
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Joe Palmer, Chairman

  
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Vicki Grinstead, Secretary