

August 12, 2013

Lyndhurst, Ohio
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The Board of Zoning Appeals of the City of Lyndhurst met in Regular Session on Monday, August 12, 2013, at 7:30 p.m., in the Council Chamber of the Lyndhurst Municipal Center, 5301 Mayfield Road.

Members Present: Kimberly Colich, Chair
David Bader, Todd Mayher,
Frank Novak, Russell Warren

Others Present: Paul Murphy, Director of Law
Joe Mandato, Housing Inspector
Clarice J. White, Acting Secretary

It was moved by Mr. Bader, seconded by Mr. Warren that the reading of the minutes of the Special Meeting held Monday, December 17, 2012, copies of which were mailed to all members, be dispensed with and said minutes stand approved as circulated.

The question was put to a voice vote and passed unanimously.

Motion carried.

At this time, Mr. Murphy administered the Oath of Office to Mr. Todd Mayher, new member of the Board of Zoning Appeals.

It was moved by Mr. Bader, seconded by Mr. Warren to approve the current slate of officers for the year 2013, as follows:

Kim Colich, Chair
Frank Novak, Vice Chair
David Bader, Secretary

At this time, Mr. Murphy gave an overview of procedures.

Case No. 2013-01

Request of Jason Sefcik, 5235 Thornbury Bl., for a variance from the provisions of Chapter 1160.04 (a)(2) A & B of the Planning and Zoning Code to permit parking and/or storing of a commercial vehicle outside at any time in plain view.

Grounds for appeal and Section 1160.04 (a)(2) A & B of the Planning and Zoning Code were read by Mr. Bader, Secretary.

Letters of invitation were sent to all pertinent property owners, a copy of which is made part of the permanent file.

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Mr. Mandato stated that two letters were received in answer to the notification by the Building Department. Both letters were from neighbors; Matt Nagel, 5243 Thornbury and Barry Rosenbaum, 5229 Thornbury Bl., both stating they had no objections to the granting of the variance.

It was stated that Mr. Sefcik submitted a printed email which he had sent to all councilmen, explaining his dilemma. This printed email will also be made part of the permanent file.

The following witnesses signed the register and were sworn in by Mr. Murphy:

Jason Sefcik, 5235 Thornbury Bl.
E. Dale Inkley, 5126 E Farnhurst
Carmen Labbatto, 5238 Thornbury Bl

Mr. Jason Sefcik, 5235 Thornbury Boulevard, testified that he and his family live at this address; however he is renting the house. He further testified that the company he works for, Smylie One, told him that if he is not allowed to keep his commercial vehicle in his driveway, he will lose his job. He testified that he is on call 24 hours a day, and one weekend a month; the vehicle is gone most of the day; leaving at 7:30 am and arriving back home around 6:00 pm. He then testified that in this day and age, more and more people are in service jobs that do require a commercial vehicle to be kept at their residence, for quick response time.

In answer to Mr. Bader's question, Mr. Sefcik testified that the areas he services are Lake, Geauga and Cuyahoga Counties. He further testified that most of the calls are residential; however he does service a few commercial buildings.

In answer to Mr. Novak's question, Mr. Sefcik testified that the truck is basically a pick-up truck with a large box on the bed. He then testified that if the truck was able to fit in the attached garage, he would certainly park it there instead. He also testified that the truck is white with the company's logo in blue.

Ms. Colich commented that she felt the advertising on the appellant's truck is more subdued than that of another local plumbing company's vehicles.

In answer to Mr. Mayher's question regarding landscaping, Mr. Sefcik testified that his property doesn't have many bushes along the driveway to hide the truck. Ms. Colich stated that heading west on Thornbury there are bushes that obstruct the view of the driveway and the vehicles in it; heading east the vehicle is more visible.

Mr. Bader stated that he has seen this company's trucks on the road and they are always clean and well maintained.

Mr. E. Dale Inkley, 5126 E. Farnhurst, asked Mr. Sefcik if he is an independent contractor or an employee, to which Mr. Sefcik stated he is an employee, and that the main office

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is in Chesterland. In answer to Mr. Inkley's question, Mr. Sefcik testified that the company requires him to keep the vehicle at home because the company runs a twenty-four (24) hour service. Mr. Sefcik further testified that the company maintains the trucks as well. Mr. Inkley testified that he feels it should be the responsibility of the company to park the vehicles in an approved location, and not in a residential area. He further testified that if this requested variance is granted, it may set a precedence.

Mr. Carmen Labbato, 5238 Thornbury Bl., commended Mr. Sefcik on the upkeep of the property, and testified he has no objection to the granting of the variance.

Ms. Colich stated that modifying the garage so that the vehicle would fit, is probably not an option as renter.

Mr. Novak commented that this property is less than a mile from many civic buildings and civic activities, such as the pool, the community center and the city park, which gives the area a bit more of a commercial feel.

Mr. Bader stated that many companies now are requiring vehicles to be taken home with the employee.

FINDINGS

The Board finds:

1. The appellant must answer calls twenty-four (24) hours a day, seven (7) days a week.
2. No special conditions exist peculiar to the land or building in question.
3. Most people have travel time to work.
4. The vehicle in question cannot fit in the garage, which is attached.
5. Both neighbors on each side of the appellant submitted letters in favor of the granting of the requested variance.
6. Few people were against the granting of the variance.
7. Other options exist, such as parking the commercial vehicle in a rented garage, closer to home.
8. The zoning code specifically proves that no commercial vehicle may be parked overnight in a residentially zoned district.

It was moved by Mr. Warren, seconded by Mr. Bader that recommendation is made to Council to confirm the decision of the Board in Case No. 2013-01, to deny requested variance based on the above findings.

Roll Call: Yeas: Colich, Bader, Mayher, Novak, Warren
Nays: None.

Motion carried.

It was moved by Mr. Mayher, seconded by Mr. Bader that the meeting be adjourned.

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The question was put to a voice vote and passed unanimously.

Motion carried, meeting
adjourned at 8:15 p.m.

Kim Colich, Chair

Approved: _____

Attest: _____