

September 12, 2016

Lyndhurst, Ohio  
September 12, 2016

The Board of Zoning Appeals of the City of Lyndhurst met in Regular Session on Monday, September 12, 2016 at 7:30 p.m., in the Council Chamber of the Lyndhurst Municipal Center, 5301 Mayfield Road.

Members Present: Lesley Gordon, Chair  
David Bader, Kimberly Colich,  
Russell Warren

Member Absent: Frank Novak

Others Present: Ray Schmidlin, Assistant Law Director  
John Maichle, Building Commissioner  
Clarice J. White, Acting Secretary

It was moved by Mr. Warren, seconded by Mr. Bader that the reading of the minutes of the Regular Meeting held August 8, 2016, 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.

Mr. Schmidlin gave an overview of proceedings.

**Case No: 2016-10**

**Request of Henry Miozzi, a tenant renting a single family residence at 5296 Edenhurst Avenue, for a variance from the provisions of Chapter 1160.04 (2) A & D 1 and 2 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 Chapter 1160.04 (2) A and D 1 and 2 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.

Mr. Maichle stated no letters were received in answer to the notification sent.

Along with his application, Mr. Miozzi also submitted letters from surrounding property owners, all stating they had no objection to the granting of the variance. Mr. Bader read the letters which were submitted by:

September 12, 2016

Lisa Mancuso, 1175 Roland Road  
Steve Soltesz, 1203 Roland Road  
Tim and Audrey Cercelle, landlords of the property in question.

A letter from ARCO, the company the appellant works for, was also submitted, requesting the variance be granted.

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

E. Dale Inkley, 5126 E. Farnhurst  
Fred Weber, 5287 Edenhurst Ave  
Henry Miozzi, 5296 Edenhurst Ave

Mr. Henry Miozzi, resident of 5296 Edenhurst Ave, testified that he works for a plumbing company that is on call twenty-four (24) hours a day, seven (7) days a week. He then testified that the commercial vehicle is kept clean, it is not rusty, and it does not block the sidewalk.

Mr. Miozzi then submitted an additional letter, this one from Ron Tipton of 1211 Roland Road, stating that he had no objection to the granting of the variance. Mr. Bader read the letter aloud.

In answer to Ms. Gordon's question, Mr. Miozzi testified that the main office for ARCO is located in Solon.

In answer to Ms. Colich's question, Mr. Miozzi testified that his house fronts Edenhurst, but the detached garage and driveway are on Roland Road; he is on a corner lot.

Mr. Fred Weber, 5287 Edenhurst Avenue, testified that he feels that the commercial vehicle is not an eyesore, and is not opposed to the granting of the variance.

Mr. E. Dale Inkley, 5126 E. Farnhurst Road, questioned the placement of the garage on the property, and how often the appellant receives a call after hours.

Mr. Miozzi testified that he leaves his home at 7:00 a.m. and returns around 6:00 p.m. In addition to that, he gets called on the weekends, usually leaving his house at 8:00 a.m., and returning in the afternoon.

Mr. E. Dale Inkley commended the applicant in seeking the proper procedure to solve a problem. He suggested that the City use uniform applications for commercial vehicles. He then testified that he felt commercial vehicles in a residential area leaves that neighborhood undesirable, and lowers property values. He then testified that the existing code regulations are well thought out and fair; the conditions that exist today existed when the rules were made, and feels that the more variances are granted, the more will be requested. He then testified that he feels strongly that the existing ordinance regarding commercial vehicles should be upheld.

September 12, 2016

In answer to Mr. Schmidlin's question, Mr. Miozzi stated that the vehicle in question does have a commercial plate.

Mr. Miozzi testified that the commercial vehicle does not fit inside the existing garage, and that he has had a commercial vehicle in his driveway, since December of last year. He further testified that the previous commercial vehicle he had was smaller, but still was parked in the driveway.

## FINDINGS

The Board finds that:

1. There is a financial hardship if the appellant cannot keep his work vehicle at his residence;
2. There were no objections from abutting property owners; but one Lyndhurst Citizen did object to the requested variance;
3. The hardship condition is created by the applicant;
4. The spirit and intent of the zoning code would not be served;
5. There was a direct complaint to the Building Department;
6. A commercial vehicle has been parked at this address since December, 2015.

It was moved by Mr. Bader, seconded by Ms. Colich that recommendation be made to Council to confirm the decision of the Board to deny requested variance based on the above findings.

Roll Call: Yeas: Bader, Colich, Warren  
Nays: Gordon

Motion carried.

### Case No. 2016-11

**Request of Stephen and Annette Johnston of 5277 Marian Drive, for a variance from Section 1385.05 (b) of the Building Code. The request is for a second complete kitchen to be part of the new addition being built at their single family home.**

Grounds for appeal and Chapter 1385.05 (b) was read by Mr. Bader.

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

Mr. Maichle stated no letters were received in answer to the notification sent.

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

Steve Johnston, 5277 Marian Drive

September 12, 2016

Mark Rense, 5273 Marian Drive  
E. Dale Inkley, 5120 E. Farnhurst Road

Mr. Stephen Johnston, 5277 Marian Drive, Appellant, testified that he is requesting a second kitchen to be installed in the In-law suite that is being built for his mother in law. He further testified that although his mother-in-law's health is failing, and needs supervision, he would like her to maintain some independence, which is why he is requesting a variance for a second kitchen.

In answer to Ms. Gordon's question, Mr. Johnston testified that there is a separate entrance into the addition, as well as an entrance from the inside of the existing house.

In answer to Mr. Bader's question, Mr. Johnston testified that the sun room which adjoins the existing home and addition is heated.

In answer to Mr. Warren's question, Mr. Maichle stated that the addition meets all set back requirements; no other variance is requested or needed.

Mr. Maichle stated that in the future if this family were to sell the house, technically, this addition is part of the main home, and the entire house could be rented but to have a separate renter renting just the addition would be prohibited.

Mark Rense, 5273 Marian Drive, testified that he lives next door to the west of the property in question. He testified that he does not have any objections to the granting of the variance, however his concern is the rental ability for this suite with a kitchen when the Johnston's move. He then testified that there are Air B & Bs in the city, which is a major concern of his. He then questioned the qualifications of rental properties in the city.

Mayor Ward stated that Council is aware of Air B & Bs in the city, and is addressing the situation.

Mr. E. Dale Inkley, 5120 E. testified that he feels splitting properties into suites is one of the fastest ways to degrade a neighborhood.

Mr. Bader suggested that the ordinance be reviewed by Council. The Board concurred.

## **FINDINGS**

The Board finds that:

1. The addition is connected to the existing home through the sun room;
2. The addition did not require any other variance;
3. There were no objections from abutting property owners; one neighbor did voice concerns about future use of suites such as this, in general;
4. The only reason this case is before the Board is for an additional stove;

September 12, 2016

5. There is a concern about future use, but technically speaking this will always be a single family home.

It was moved by Ms. Colich, seconded by Ms. Gordon that recommendation be made to Council to confirm the decision of the Board to grant requested variance based on the above findings.

Roll Call:      Yeas: Gordon, Bader, Colich, Warren  
                     Nays: None.

Motion carried.

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

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

Motion carried, meeting  
adjourned at 8:25 p.m.

---

Lesley Gordon, Chair

Approved: \_\_\_\_\_

Attest: \_\_\_\_\_

September 12, 2016