

December 12, 2016

Lyndhurst, Ohio
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The Board of Zoning Appeals of the City of Lyndhurst met in Regular Session on Monday, December 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,
Frank Novak, Russell Warren

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

It was moved by Ms. Colich, seconded by Mr. Bader that the reading of the minutes of the Regular Meeting held September 12, 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. 2016-12

Request of Perrino Construction for a variance from Chapter 1161.11 (o) (2) of the Planning and Zoning Code at 620 Eagle Point Drive in Acacia Country Club Estates, to construct a proposed deck which will encroach twelve (12) feet seven (7) inches into the required forty (40) foot setback. In addition, the contractor is proposing a window well to serve as a below grade egress which will encroach 1.68 feet into the five (5) foot minimum side yard setback requirement.

Grounds for appeal and Chapter 1161.11 (o) (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.

Ms. Gordon stated that she feels the request should be amended to include the encroachment of the proposed patio which is shown to extend into the forty (40) foot rear setback.

It was moved by Ms. Gordon, seconded by Mr. Bader that the requested variance be amended to include the encroachment of the concrete patio, which extends approximately eleven (11) feet into the forty (40) foot setback requirement.

December 12, 2016

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

Motion carried.

Mr. Maichle stated that he received a letter in response to the notification from the Cleveland Metroparks. The letter submitted by the Cleveland Metroparks stated that they would like to urge the City to enforce the existing regulations regarding the required rear setback; which will maintain the integrity of the natural and cultural resources of Acacia Reservation.

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

Pat Perrino, 6163 Mayfield Rd, Mayfield Heights
Rick Knapp, 410 Acacia Circle
Jeff Chokel, 530 Eagle Point Dr
Kathleen Pullella, 590 Eagle Point Dr
Barry Miller, 260 Eagle Point Dr
Virginia Mattingly, 410 Acacia Circle

Mr. Pat Perrino, Perrino Builders, testified that he is speaking on behalf of the property owner. He further testified that this existing lot is pie shaped, and the request for the encroachment into the rear yard setback is similar to that of other requested variances in this development.

In answer to Ms. Colich's question regarding the size of the house, Mr. Perrino testified that the size of the house is similar to other smaller homes in the development, due to the lot size. He then testified that the owner is using the basement as living space, which is why the request for the window well, which will serve as a means of egress from the basement.

Mr. Bader explained that Perrino Builders had requested a blanket approval for decks in this development; however, it was decided that the Board of Zoning Appeals review each property individually.

Richard Knapp, 410 Acacia Circle, asked if the actual house would encroach into the rear yard setback. He then testified that he personally does not have an objection to the requested variance, as long as it doesn't set a precedence.

Mr. Bader stated that the actual house does not encroach into the required setback, just the deck, window well and patio.

Jeff Chokel, 530 Eagle Point Drive, testified he has lived in that development for two years, and has seen many of the lots developed. He then testified that it appears that many of the homes are closer together than anticipated. He also testified that there is another pie shaped lot next to his, and after speaking with the owners, found that they too were going to propose a large deck. He also testified that he spoke with Mr. Perrino asking that the proposed house be built in line with the others on the street, and be far enough from the pond; Mr. Perrino's comment back

December 12, 2016

was that it was the owner's lot, and basically, they can request anything they want. He then testified that he is concerned that with all the decks going up, the view will be lost. He also requested that the Board not set a precedence with the requested decks. He suggested that Perrino Builders build smaller homes to accommodate the deck.

Kathleen Pullella, 590 Eagle Point Drive, testified that many of the people who live in this development were not notified of the meeting. She then testified that she sent a copy of the notice to people. She then testified that she does not have an objection to this request, however, she is disappointed there are a lot of variance requests being granted, and the development seems crowded. She then testified that she feels the house next to them has too much cement, which takes away from the beauty of the development. She then testified that she feels there is not enough room on the streets for parking. She then invited the Board Members to walk through the development.

Mr. Warren explained the guidelines and process for sending notification.

Virginia Mattingly, 410 Acacia Circle, testified that she is the "unofficial information dispenser" of the development. She also testified that people most affected by this variance, have not been notified. She also testified that she has no objection to the requested variance, just concerned that the people who are most affected by this are not represented.

Ms. Gordon explained that the property may not have closed yet with the buyer, and therefore, there would be no one to notify if that were the case.

Mr. Bader recommended that the "unofficial homeowners' association be notified of any variance requests, and the proposed requests be passed along thru the association.

Barry Miller, 260 Eagle Point Drive, testified that he has lived in his house since November, 2014, and has not yet been notified of any variance requests. He then testified that there is an "official" homeowners' association.

Mr. Bader stated there seems to be discrepancies with the "homeowners' association," but the notification issue will be looked into.

Mr. Perrino testified that one of the three (3) bedrooms in this particular house is in the basement, due to it being a smaller house.

In answer to Ms. Gordon's question regarding enough room to walk on the side of the house with the window well and possible landscaping, Mr. Perrino testified that there will be room to walk from the front of the house to the back; there is five (5) feet on each side of each house, for a total of ten (10) feet. He then testified that the open space is in the rear of the houses, which abuts the Metroparks.

In answer to Mr. Warren's question, Mr. Perrino testified that the proposed deck is approximately eight (8) to ten (10) feet above grade.

FINDINGS

The Board finds that:

1. The lot in questions is an irregularly shaped lot, and as a result, any encroachment to the south will not impact any neighbors.
2. The view from the deck from sub lot 48 will not be obstructed by the construction of this proposed deck.
3. Notification was sent to abutting property owners in accordance with the legal requirements.
4. One objection was received by the Cleveland Metroparks, Acacia Reservation.
5. Several residents expressed concern that all or most of the lots in this development are unique, and therefore do not want to see a precedence set for allowing decks, which would have an adverse effect on the entire development.
6. One of the points that was made, in granting or rejecting variances in this subdivision, the City should keep in mind the site line, parking and density issues.
7. This lot is the first lot when entering the subdivision, and therefore would not obstruct any view.

Findings regarding the window well encroachment into the side yard setback are as follows:

1. The proposed window will be used for emergency exit only, not a regular means of egress, which is necessary for safety and required by the Building Code.
2. The proposed window well is below grade, and not visible.

It was moved by Ms. Gordon, seconded by Mr. Bader that recommendation be made to Council to confirm the decisions of the Board to grant requested variances based on the findings above.

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

Motion carried.

December 12, 2016

Mr. Warren recommended that the Mr. Perrino take into consideration the admonitions of the residents of the subdivision in regards to site line, parking and density issues, along with the number of decks within that subdivision.

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 8:40 p.m.

Lesley Gordon, Chair

Approved: _____

Attest: _____