

Lyndhurst, Ohio
October 9, 2017

The Board of Zoning Appeals of the City of Lyndhurst met in Regular Session on Monday, October 9, 2017 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 11, 2017, 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. 2017-06

Continue review of the request of Mr. Paul Elhindi of 5615 Mayfield Road, for a variance from Section 1168.08 of the Planning and Zoning Code, to install an electronic ordering and order fulfillment system at The Corner Market BP Station for Subway. Drive through facilities are limited to those conditional permitted uses expressly identified in the schedule in Section 1168.03.

It was moved by Mr. Warren, seconded by Mr. Bader that this case be removed from table.

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

Motion carried, Case No. 2017-06
is removed from table.

Mr. Schmidlin reminded those that had signed the register and were sworn in at the last meeting are still under oath.

The following new witness signed the register and was sworn in by Mr. Schmidlin:

Cynthia A. Amato, 5599 Mayfield Road

Ms. Gordon stated at the previous meeting, The Board requested a traffic flow review of the property in question by the Traffic Bureau of the Lyndhurst Police Department. She then stated that the traffic flow report has been submitted, and proceeded to read the summation of the report:

1. Review the accident history tied to that address shows nine (9) in the last two (2) years. Lt. Strasshofer terms that as negligible given the amount of traffic on and around that property.
2. Air station, east side of the building, will that be in the way, if in use? Are there plans to relocate the air station?
3. Signs and pavement markings should be required for the traffic pattern.
4. Plans show the elimination of the two (2) parking spaces against the west side of the building, which should be noted as a requirement for proper flow.
5. Reduction of the number of customers required to park is beneficial.

Mr. Paul Elhindi, appellant, testified that he will relocate the air tower, and repaint pavement traffic flow markings.

Mr. Bader stated he feels the pavement markings need to be more defined; the entry way from Brainard to Subway to Go should be marked as "One Way." He further stated his concern on the west side of the building which is a two way drive, the northwest corner of the building does not allow for much visibility of oncoming cars in that area. He would like to see the pavement markings go wide for a greater visibility for cars exiting the pick-up area.

Mr. Elhindi testified that the existing gravel area will be eliminated to expand the parking area a bit, and the rear of the building will be "One Way" only.

Mr. Bader stated that there was a tanker truck on the property in question, in the middle of the day, which would block egress of the pick-up lane, and therefore prohibit the operation of Subway to Go while a refueling tanker truck is in the lot.

Mr. Elhindi testified that the refueling trucks normally deliver the fuel during the night. However this particular delivery came late, and agreed that Subway to Go operation would have to be suspended when this happens.

Ms. Gordon suggested installing a traffic mirror for greater visibility for cars exiting the Subway to Go lane and into the main parking area.

Cynthia Amato, owner of 5599 Mayfield Road, testified that she purchased the property next to the BP Station less than a year ago to rent out, with the understanding that there are no fast food restaurants or drive-throughs in Lyndhurst. She asked the hours of operation of the Subway to Go.

Mr. Elhindi responded that the hours of operation of Subway to Go will be 7:00 am to 10:00 pm. He further testified that there will be no verbal communication at the order fulfillment area.

Ms. Amato then asked the location of the pick up window, to which Mr. Elhindi responded that the window is behind the existing building. She then testified that she is not in favor of the variance being granted.

In answer to Mr. Novak's question, Ms. Amato testified that she owns a three (3) family home next to the property in question.

Judy Consilio, 1449 Brainard Road, testified that at the last meeting, Mr. Elhindi mentioned the prototype of the Subway to Go is in Chesterland, which has a much different footprint than this proposal. She further testified that it is about five hundred (500) feet from an intersection (322 & 306), the building is solely a Subway building; there is one drive for ingress and egress. She then testified as to the changes and increased traffic throughout the years to the area surrounding the Mayfield and Brainard Roads intersection. She stated her concern about the greater good of the City, and would like to see adjustments to help improve the traffic.

In answer to Mr. Warren's question, Ms. Consilio testified that she would like to see one entrance and one exit on the property in question, knowing that the request may not be feasible due to the nature of the business.

Ms. Gordon stated that the two (2) entrances and exits on Mayfield Road and one exit, entrance on Brainard Road have always existed with this establishment.

Ms. Consilio testified that she understands that the entrances/exits are existing, but feels that the convenience of not getting out of your vehicle will add to the amount of traffic at that location.

FINDINGS

The Board finds that:

1. A letter was submitted by Mayor Ward, from the Traffic Lieutenant, who had reviewed the traffic pattern for this property and with some changes, was found to be acceptable.
2. The recommendations made by the Traffic Lieutenant were informative and beneficial.
3. There are conditions listed in the letter from the Traffic Lieutenant which the applicant has agreed to
4. Two (2) neighbors were present and testified they are not in favor of the variance being granted.

It was moved by Ms. Gordon, seconded by Mr. Warren that recommendation be made to Council to confirm the decision of the Board to grant requested variance based on the above findings and following conditions:

1. That the air station on the side of the building be relocated;
2. The signs and pavement markings be improved on the property, especially at the northwest corner of the building;
3. The elimination of two parking spaces.

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

Motion carried.

At this time, Ms. Gordon thanked Ms. Colich for her nine (9) years of dedicated service to the City as a member of the Board of Zoning Appeals, and wished her well as she and her family move to a different city in the area. The Board concurred.

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

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

Motion carried, meeting
adjourned at 8:04 p.m.

Lesley Gordon, Chair

Approved: _____

Attest: _____