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Lyndhurst, Ohio
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The Board of Zoning Appeals of The City of Lyndhurst met in Regular Session on Monday, August 10, 2020 at 7:00 p.m. via the permitted Zoom Platform.

Members Present: Lesley Gordon, Chair
David Bader, Jeff Henfling,
David Kaplan, Russell Warren

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

It was moved by Mr. Kaplan, seconded by Mr. Henfling that the reading of the minutes of the Regular Meeting held July 13, 2020, 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 procedures.

Case No. 2020-04

Request of Syed Kazmi of 5590 Ridgebury Boulevard, for a variance from the provisions of Chapter 1329.03 (Side Yard Fences) of the Lyndhurst Building Code, to erect a six (6) foot high solid fence on his property.

Grounds for appeal and Chapter 1329.03 was read by Mr. Henfling, Secretary.

Mr. Kazmi also submitted a letter stating why he would like this particular fence, which Mr. Henfling read aloud.

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

Mr. Maichle stated that he had received a call from an abutting property owner, Shirley Zody, 1104 Brainard Road, as to the location of the fence; she did not object to the requested variance.

Ms. Gordon clarified that the variance being sought is for the solid style of fence, not the height of the proposed fence.

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The following witness was sworn in by Mr. Schmidlin:

Syed Kazmi, Appellant, 5590 Ridgebury Boulevard

Mr. Kazmi testified that he has owned the property for approximately five (5) years, and due to the location of the property being at a major intersection, it is difficult to use his front or back yard. He testified that he does not have any privacy due to the traffic volume at that particular intersection at all hours of the day and night.

Mr. Kaplan explained the safety reason for the requirement of a fence to be fifty (50) percent open. He asked Mr. Kazmi why a permissible board on board fence would not suffice.

Mr. Kazmi testified that he understands the safety aspect of having a fifty (50) percent open style fence, but does not feel it provides the privacy that he needs for religious reasons; even with a board on board style fence, the back yard would be visible at an angle.

In answer to Mr. Bader's question regarding the seemingly newly planted hedge on the south side of the property and the dense landscaping in the backyard on the south side, Mr. Kazmi testified that he has spoken with Ms. Zody and has a letter of agreement signed by her, but not submitted to the Board, stating that he plans to have the proposed fence placed four (4) to six (6) feet past her bushes, and only one plant of Ms. Zody's encroaches on his property, which she has given him permission to cut back that plant (no written permission was submitted to the Board). He then testified that the existing trees along Brainard Road, which are all leaning into the public walkway, will be cut down and he will place the fence in that location if permitted. In answer to Mr. Bader's question regarding the newly planted hedge, which is approximately three (3) feet tall, Mr. Kazmi testified as of now, he plans on keeping that hedge; he will cut them down a bit and place the proposed fence behind them.

Mr. Maichle reiterated the requirement that a fence on a corner lot maintain a ten (10) foot distance from the driveway unless provisions are agreed upon in regards to stepping the fence up to a six (6) foot height in that span of ten (10) feet.

Mr. Bader stated that the hedge he is speaking of is approximately three (3) feet off of the driveway.

In answer to Mr. Kaplan's question regarding the trees to the west and rear of the property in question, Mr. Kazmi testified that the dense trees are on his property, and he does not intend to put the proposed fence in that location because of the density; his yard is not visible from beyond those trees.

In answer to Mr. Kaplan's recommendation of erecting a solid fence with one foot of lattice at the top to make it a six (6) foot high fence, Mr. Kazmi testified that although he does like the style of fence with the one foot of lattice on top of a solid fence, his property sits low, and doesn't feel it would provide the privacy needed.

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Mr. Maichle stated that he can attest to Mr. Kazmi's comments regarding his property being low, and the visibility into his yard from certain angles.

Mr. Bader stated that he recently saw a new style of a vinyl board on board fence in the city which has support boards of one inch by six (6) inches; the spacing of the boards is less than the conventional board on board fences. He stated that this may be a better alternative than a solid style fence, due to the fact the fence would allow air and light flow, and would allow for some visibility at an angle, and feels that it meets the requirements of the code.

Mr. Kazmi testified that he would consider this type of fence, but would like to see it first.

FINDINGS

The Board finds that:

1. The property in question is on one of the busiest corners of the city with residential structures;
2. This intersection is a major connector for three cities;
3. There were no objections from abutting property owners;
4. The property in question is situated as such that it abuts a side yard and a rear yard;
5. There are at least two (2) additional options which this predicament can be obviated through other methods other than a variance.

It was moved by Mr. Warren, seconded by Mr. Bader that this case be tabled pending the applicant review other options which include consideration of the new style of board on board type fence, which would meet the requirements of the code.

Roll Call: Yeas: Gordon, Bader, Henfling, Kaplan, Warren
Nays: None

Motion carried.

Case No 2020-05

Request of Ezra Azulay of 5357 Kilbourne Drive for a variance from the provisions of Chapter 1160.04 (2) A, B, C and D of the Lyndhurst Zoning Code to park a commercial vehicle at the property on any day of the week, an at any hour of the day.

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Grounds for appeal and Chapter 1160.04(2) A, B, C and D of the Zoning Code was read by Mr. Henfling.

A letter signed by various property owners was submitted by Ms. Basin, property owner, stating the neighbors had no objections to the variance request. Those neighbors are:

Mouna Ina, 5358 Kilbourne Dr
M A Brennan, 5374 Kilbourne Dr
Gail Hoffman, 5354 Kilbourne Dr
Kyrstal Matthews, 5366 Kilbourne Dr
Alyssa Gevaras, 5365 Kilbourne Dr
Kevin Wynne, 5406 Kilbourne Dr

Mr. Henfling further stated that six photos of the property and vehicle in question were also submitted.

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 responses were received in answer to the notification sent.

The following witness was sworn in by Mr. Schmidlin:

Ilana Basin, Appellant, 5357 Kilbourne Road

Ms. Basin testified that her husband keeps his work vehicle at home, and would like to keep it in a designated spot which is bordered by arborvitae on the public walkway side of the property.

In answer to Mr. Warren's question, Ms. Basin testified that her property is on the corner of Winchester and Kilbourne Roads. She further testified that she and her husband were unaware that the parking of a commercial vehicle is contrary to the zoning code, and realized this when she received a letter from the mayor's office.

Mr. Kaplan stated that there is some visibility of the vehicle in question at certain angles. He stated that it is not visible while traveling from Winchester to Kilbourne, but once you start rounding the corner, and between the crosswalk and the edge of the bushes, it is visible.

Mr. Bader stated he prefers that the vehicle in question be backed in instead of driven straight in due to the visibility of the graphics on the van.

In answer to Mr. Henfling's question, Ms. Basin testified that the commercial vehicle, which is used for an air duct cleaning business, does have a back-up alarm.

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Mr. Warren stated that he feels this type of vehicle does not constitute an emergency service type vehicle, such as a plumbing vehicle, when a plumber can be called out on emergencies at any time of the day or night.

In answer to Mr. Henfling's question, Ms. Basin testified that the commercial vehicle is a 2019 Dodge Ram.

In answer to Ms. Gordon's question, Ms. Basin testified that there are other vehicles in the driveway, and typically, do not park vehicles in the garage.

In answer to Mr. Warren's comment, Ms. Basin testified that she and her husband are looking to expand their business, and when that happens, it is their intention to look for a facility to house their commercial vehicle(s).

FINDINGS

The Board finds that:

1. There is an existing paved parking space on this property which is shielded on three (3) sides;
2. It is possible to shield all logos on the vehicle by backing the vehicle into the parking spot;
3. There are six (6) neighbors that have signed a letter of support for the granting of the variance;
4. The existing loop driveway makes it easy to maneuver the vehicle so that it is always backed in;
5. Due to the pandemic, during a time when people are expected to work from home if possible, it is not unreasonable to have a work vehicle or commercial vehicle parked in a residential area;

It was moved by Ms. Gordon, seconded by Mr. Kaplan 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 existing shrubbery which screens the commercial vehicle be maintained, and must be replaced if need be;
2. The commercial vehicle must be backed in at all times;

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3. That there be one vehicle only at this property, and if this vehicle needs to be replaced, it be no larger than the presently approved commercial vehicle;
4. This commercial vehicle must be maintained and kept in good repair.

Roll Call: Yeas: Gordon, Bader, Henfling, Kaplan, Warren
Nays: None.

Motion carried.

It was moved by Ms. Gordon, seconded by Mr. Kaplan that the meeting be adjourned.

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

Motion carried, meeting
adjourned at 8:20 p.m.

Lesley Gordon, Chair

Approved: _____

Attest: _____