

December 14, 2020

Lyndhurst, Ohio
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The Board of Zoning Appeals of The City of Lyndhurst met in Regular Session on Monday, December 14, 2020 at 7:00 p.m. via the permitted Zoom platform.

Members Present: David Kaplan, Vice Chair
David Bader, Jeff Henfling,
Emily Schwab, Russell Warren

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. Henfling that the reading of the minutes of the Regular Meeting held November 9, 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. 2020-08

Request of Ryan Bell, Contractor, on behalf of Phillip Alberhasky, Homeowner, of 5389 Kilbourne Drive, for an area variance from the provisions of Section 1160.05 of the Lyndhurst Zoning Code. The request is to erect a patio enclosure which will encroach fourteen (14) feet into the required forty (40) foot setback.

Grounds for appeal and Chapter 1160.05 was read by Mr. Henfling. Mr. Henfling read two letters from abutting property owners, submitted by the applicant, stating no objection to the granting of the variance. Those neighbors are S. Albert (first name illegible) 5381 Kilbourne Drive, and Amy Ilyes, 5397 Kilbourne Drive.

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 responses were received in answer to the notification sent.

The following witnesses were sworn in by Mr. Schmidlin:

Ryan Bell, Contractor, 700 E. Highland Rd, Macedonia
Phillip Alberhasky, Homeowner, 5389 Kilbourne Drive

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Mr. Bell testified that he is seeking a rear yard variance for a patio enclosure. He further testified that due to the original footprint of the house, it's already at the required setback. He then testified that the existing patio will be removed, and the new slab will be fourteen (14) feet off of the house, which will create a twenty-six (26) foot rear yard setback.

Mr. Kaplan asked if the property owner to the north had been contacted.

Mr. Maichle stated that the two (2) neighbors to the north, had been notified. He then stated that the existing patio does encroach into the rear yard setback, and that a permit was not obtained.

Mr. Warren stated that the properties to the north are most effected, and even though the property owners did not respond to the notification sent, he would like their written approvals after viewing the plans and the property.

Mr. Henfling stated he looked at the property on Google Earth, and it looks as though there is an existing fence and some trees at the rear of the property.

Mr. Alberhasky testified that there is an existing four (4) foot wooden slat fence around the property and a line of small to medium trees along the rear of the property. He then testified that a neighbor put up a seven (7) foot privacy fence on the east side of the lot.

In answer to Mr. Warren's question, Mr. Alberhasky testified that he has not spoken to the neighbors to the north about the request for variance.

In answer to Mr. Bader's question, Mr. Bell testified that there will not be a step down into the proposed patio enclosure, but it is his intent to pour concrete up to the existing threshold. He then testified that the windows will be custom made with edge to edge glass. He further testified that there will be one door, a six (6) foot sliding door, on this proposed enclosure which will be on the east side of the property. He also testified that the roof shingles will match the existing house shingles as closely as possible.

Mr. Henfling stated he feels the size of the proposed patio enclosure is significant and asked for explanation of the large size.

Mr. Bell testified that fourteen (14) feet by fourteen (14) feet is a typical size to create recreational space to entertain.

Mr. Bader stated that he feels a 3/12 pitch roof with shingles is pretty flat and suggested a steeper pitch.

Mr. Bell testified due to the ridge beam connection, if the pitch were any higher, it would reach the second story and create problems.

Mr. Bader then recommended full ice guard underneath the shingles.

Mr. Bell testified that the roof material to be used is a structurally insulated panel. He then testified that the window panels on the roof are not raised sky lights but sit flat on the roof. He then explained the process of flashing the glass to the roof.

Mayor Ward stated that the reason this neighborhood was built with a forty (40) foot rear yard setback is due to the fact that the street was put in as an appeasement to the city in order to facilitate the building of Acacia Condominiums and Sherri Park Apartments, which were not allowed uses at the time. The City's Planning Commission said the developer should develop a street of homes so that those persons who purchased those homes would specifically know what was going to be behind them.

FINDINGS

The Board finds:

1. Two letters were received from either side of the property in question stating no objection to the granting of the variance; in fact, no letters were received in opposition to the granting of the variance;
2. There is nothing unique about the property in question;
3. A fourteen (14) foot requested variance is substantial;
4. The proposed patio enclosure will definitely be visible to the rear abutting neighbors;
5. There is an existing four (4) foot high fence and some foliage at the rear lot line; however the proposal will still be visible;
6. Although there is an existing patio, no permit was issued;
7. Many properties within the city do not have the same square footage; a Ten Thousand (10,000) square foot lot as it states in the zoning code, is a general term, and therefore, can create a hardship depending on the configuration of the lot;
8. The distance from the proposed patio enclosure to the rear yard neighbor's home is approximately eighty (80) feet;
9. There is no other way to obviate the encroachment into the rear yard setback.

It was moved by Mr. Bader, seconded by Mr. Warren that recommendation is made to

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Council to confirm the decision of the Board to grant requested variance based on the above findings and following imperative conditions:

1. That the rear yard neighbors submit a letter to City Council stating that they have seen the proposed plans and physically seen the exact location of the proposed patio enclosure, most importantly, where the proposed patio enclosure will encroach into the rear yard, and have no objection.
2. That the 3/12 roof pitch be studied and increased to at least a 4/12 pitch.

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

Motion carried.

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

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

Motion carried, meeting
adjourned at 8:00 p.m.

David Kaplan, Vice Chair

Approved: _____

Attest: _____