

September 9, 2013

Lyndhurst, Ohio
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The Board of Zoning Appeals of the City of Lyndhurst met in Regular Session on Monday, September 9, 2013 in the Council Chamber of the Lyndhurst Municipal Center, 5301 Mayfield Road.

Members Present: Kimberly Colich, Chair
David Bader, Todd Mayher,
Frank Novak, Russell Warren

Others Present: Paul Murphy, Director of Law
Joe Mandato, Building Inspector
Clarice J. White, Acting Secretary

It was moved by Mr. Novak, seconded by Mr. Warren that the minutes of the Regular Meeting held August 12, 2013, 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. Murphy gave an overview of procedures.

Case No. 2013-02

Request of Simon A. Lewis, 1317 Churchill Road for a variance from the provisions of Chapter 1160.04 (a)(2) A & B of the Planning and Zoning Code, to permit a commercial motor vehicle to be parked and or stored outside of a garage overnight.

Grounds for appeal and Section 1160.04 (a)(2) A & B of the Planning and Zoning Code were read by Mr. Bader.

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

Mr. Mandato stated no letters were received in answer to the notification sent by the Building Department.

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

Simon A. Lewis, 1317 Churchill Rd
Michael Hanson, 1312 Churchill Rd
Wendy Calta-Hanson, 1312 Churchill Rd
Jim Barlow, 1316 Churchill Rd

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James Cunningham, 1311 Churchill Rd

Mr. Simon A. Lewis, 1317 Churchill Road, testified that he did not realize that his commercial vehicle is in violation of the zoning code. He further testified that he feels this issue should have been addressed when he moved in eighteen months ago, but was not notified of the violation until recently. He then testified that he needs the van for work; and due to lack of landscaping and bushes, his commercial vehicle is visible from Rae Road when parked in the driveway even though he lives in the second house from the corner.

In answer to Mr. Lewis's question, Mr. Mandato explained the definition of a commercial vehicle.

Mr. Lewis testified that the company he works for, Direct TV, does not require commercial insurance nor does it have commercial plates. He further testified that according to the DMV records, the vehicle in question is not labeled as a commercial vehicle.

In answer to Mr. Warren's question, Mr. Lewis testified that there is writing on the vehicle. He also testified that the vehicle is too large to park in the garage. He then stated he would ask for an extension to find a smaller vehicle to fit in the garage, if need be.

In answer to Ms. Colich's question, Mr. Lewis testified that there is not a fence between his property and his neighbor's.

Ms. Colich stated that due to the fact that the driveway goes past the rear of the house to the garage, the vehicle is not visible from Churchill Road.

Mr. Michael Hanson, 1312 Churchill Road, testified that he had heard that Councilman Gambatese addressed the issue over a year ago (due to neighbors' concerns) with Mr. Lewis, explaining that the commercial vehicle was in violation of the zoning code. He further testified that he does object to the commercial vehicle if it is parked in the driveway, towards the garage. He then testified that he does not want to disrupt anyone from earning a living.

Mrs. Wendy Calta-Hanson, 1312 Churchill Road, testified that she feels parking this commercial vehicle in the street is unacceptable, but would have no objections if the vehicle in question was parked in the driveway, near the garage.

Mr. Jim Barlow, 1316 Churchill Road, testified that he also has no objections to the commercial vehicle being parked in the driveway. He further testified that if the vehicle in question is parked in the street, it is very difficult to pull in or back out of his driveway.

Mr. James Cunningham, 1311 Churchill Road, also testified that when the vehicle is in the street, it is difficult to see around, and has no objection to the van being parked in the driveway, close to the garage.

In answer to Mr. Warren's question, Mr. Lewis stated that the company he works for is in Middleburg Heights.

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Mr. Lewis testified that he had just found out that his vehicle is in violation of the zoning code. He stated that if someone had told him when he had moved in, he would have rectified the situation in a timely manner. He further testified that if the variance is granted, he will keep the vehicle in question in the driveway, by the garage.

At this time, Mr. Murphy read the requirements for granting a use variance.

Due to the number of variance requests regarding commercial vehicles, Mr. Warren recommended that Council review this portion of the code.

Mr. Murphy stated that Council, at its meeting Monday night, will consider possible revisions to the codified ordinances regarding overnight parking of commercial vehicles in residential areas.

FINDINGS

The Board finds that:

1. If the vehicle is parked in the back of the driveway, it is difficult to see, going either north or south on Churchill Road; however, when parked in the same spot in the driveway, it is very visible from either direction along Rae Road.
2. The residents that attended this meeting all testified that they would not be opposed to the granting of the variance if the vehicle in question is parked in the driveway, by the garage.
3. The vehicle cannot be parked inside the garage, due to its size, even without the ladders attached.

Mr. Warren moved that this case be tabled. The motion failed for lack of a second.

It was moved by Mr. Bader, seconded by Mr. Mayher 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: Colich, Bader, Mayher, Novak, Warren.
Nays: None

Motion carried.

It was moved by Mr. Bader, seconded by Mr. Mayher 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.

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Kim Colich, Chair

Approved: _____

Attest: _____