

September 11, 2017

Lyndhurst, Ohio
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The Board of Zoning Appeals of the City of Lyndhurst met in Regular Session on Monday, September 11, 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,
Russell Warren

Member Absent: Frank Novak

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 August 14, 2017, copies of which were mailed to all members, be dispensed with and said minutes stand approved as circulated.

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

Motion carried.

Mr. Schmidlin gave an overview of proceedings.

Case No. 2017-05

Request of Ray & Mary Frato of 1895 Brainard Road, for a variance from the provisions of Section 1160.04 (6) (A) of the Planning and Zoning Code, to erect a twelve (12) foot by sixteen (16) foot, one hundred ninety-two (192) square foot storage shed, in lieu of the allowed maximum square footage of one hundred twenty (120) square feet.

Grounds for appeal and Section 1160.04 (6) (A) was read by Mr. Bader.

Mr. Bader then read letter of approval circulated by the appellant, which was also attached to the grounds for appeal, signed by the following neighbors and made part of the permanent file:

David & Juanita Faulx, 1887 Brainard Rd
Iraida Kubarenko, 1903 Brainard Rd
George & Eleanor Abram, 1888 Bremerton Road
Bernard & Kathy Pearlstein, 1896 Bremerton Road

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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 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. Schmidlin:

Raymond Frato, 1895 Brainard Road
Mary T. Frato, 1895 Brainard Road

Mrs. Mary Frato, 1895 Brainard Road, appellant, testified that she and her husband would like to build a larger than allowed storage shed for the purpose of storing work related machinery as well as lawn equipment. She then stated that it is their intent to better organize and shelter the large equipment that is currently on the property.

Mr. Raymond Frato, 1895 Brainard Road, appellant, testified that the current garage is not large enough for storage; it is basically a one and three quarter car garage. He further testified that two cars can fit in the existing garage, however it is difficult to open the doors. He also testified he stores a lot of his equipment inside the garage, and the proposed shed would alleviate this problem. He testified that currently, there are four cars in his driveway; he would put two in the garage, if the proposed shed variance is granted.

In answer to Ms. Colich's question regarding the requested size of the proposed shed, Mr. Frato testified that his current home repair business equipment takes up about half the space of an almost two car garage, plus the equipment that is stored on the deck, he feels this size is justified.

In answer to Ms. Gordon's question, Mr. Frato testified that he may, in the future, put electrical lines in the proposed shed. He further testified that the proposed shed would be on the required concrete slab.

Mr. Frato testified that he, himself will build the shed if the request is granted. In answer to Mr. Bader's question regarding the tree shown in the aerial photograph of the property, Mr. Frato testified that the tree has been removed because it had died.

In answer to Mr. Warren's question, Mr. Frato testified that there are a number of scrub trees at his rear property line, which would be behind the proposed shed location. He then testified that there is no fence on his property.

Mr. Warren verified that all abutting neighbors had in fact, been notified of the variance request, the neighbors on Brainard Road, as well as the neighbors on Bremerton Road. He then commended Mr. Frato on the detailed plans for the proposed shed.

In answer to Mr. Warren's question, Mr. Maichle stated that the lot in question is larger than the average Lyndhurst lot.

In answer to comments by the Board, Mr. Frato stated that the proposed shed will be screened with landscaping, especially in the rear.

FINDINGS

The Board finds:

1. The proposed shed is not visible from Brainard Road.
2. There were no objections from abutting property owners; in fact all abutting property owners signed a letter stating they have no objections to the requested variance.
3. The driveway attached to the house to the north, extends back to a garage, and not in close proximity to the proposed shed location.

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

1. That appropriate screening with vegetation be planted.

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

Motion carried.

Case No. 2017-06

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.

Grounds for appeal and Sections 1168.08 and 1168.03 were read by Mr. Bader. A letter addressed to the Board was submitted by Mr. Elhindi, and also 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. Maichle stated no letters were received in answer to the notification sent.

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

Judith F. Consilio, 1449 Brainard Road
Paul Elhindi, 5615 Mayfield Road

It was explained that the Subway restaurant is next to and connected to the BP Station.

Mr. Paul Elhindi, owner of 5615 Mayfield Road testified that he is requesting a variance to implement a new technology called "Subway to Go." He further testified that his business, the portion that sells Subway sandwiches, needs to stay relevant and convenient to the consumer. He then testified that a car would pull up to a large touch screen located in the back of the building, or order from an app on the cell phone, order their food, and pay with a swipe of their card or use a mobile pay app, continue to the pick-up window, pick up their food and leave.

In answer to Ms. Gordon's question regarding hours of operation, Mr. Elhindi testified the hours of Subway are 7:00 a.m. to 10:00 p.m., which he does not intend to change.

Mr. Warren expressed his concern with the traffic flow and parking, stating that traffic flow is a problem now, and with the increased traffic with an order fulfillment center, it may be increasingly worse. He then requested the traffic lieutenant in the police department review the proposed plans in regards to the traffic flow.

Mr. Elhindi testified that as of now, there is no designated traffic pattern. He then testified that the entrance on the east side for the fulfillment center will be one way, and the designated lane for Subway to Go, will be wide enough to double stack cars.

Mr. Bader concurred about the lack of a traffic pattern at the existing Subway/BP Station, and is concerned with the potential amount of cars stacking for the fulfillment center adding to the confusion that already exists. He then asked if the proposed location of the fulfillment center could be moved further to the west.

Mr. Elhindi testified that if the proposed location of the fulfillment center were to be moved further to the west, it would require gutting the entire building. He further testified that studies have been done by the corporate office which state that there would be a fifteen (15) percent increase in business, seven (7) percent of that increase will come from existing customers that are now parking; the proposal would eliminate the traffic in the parking area.

Ms. Colich stated her concern is the line of cars possibly ending up in the public right of way.

Mr. Elhindi then explained that the kiosk and order fulfillment center will be its own operation, with its own staff and sandwich making unit.

Ms. Judy Consilio, 1449 Brainard Road, testified that she has lived across the street for a number of years, and expressed her concern for the safety of the residents and motorists, regarding the traffic at that location, which has become increasingly more, due to the lack of a designated traffic pattern entering and exiting that establishment. She then commended Mr. Elhindi on the upkeep of the property.

FINDINGS

The Board finds that:

1. The proposed kiosk and order fulfillment center are behind the existing building.
2. This type of proposal, using a touch screen ordering device with no talking, is in keeping with the innovation of these types of businesses.
3. There is a concern with traffic backing up into a major intersection.
4. The safety of pedestrians and motorists is paramount, a traffic pattern should be developed and found to contribute to the solution.
5. An abutting property owner voiced her concern in regards to the granting of the variance due to safety concerns.

It was moved by Mr. Warren, seconded by Mr. Bader that this variance request be tabled pending a traffic flow review by the Traffic Bureau of the Lyndhurst Police Department.

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

Motion carried.

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 8:45 p.m.

Lesley Gordon, Chair

Approved: _____

Attest: _____