

Lyndhurst, Ohio  
March 8, 2021

The Board of Zoning Appeals of The City of Lyndhurst met in Regular Session on Monday, March 8, 2021 at 7:00 pm, 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  
John Luskin, Law Director  
Clarice J. White, Acting Secretary

It was moved by Mr. Henfling, seconded by Mr. Warren that the reading of the minutes of the Regular Meeting held December 14, 2021, 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. 2021-01**

**Request of Pat Perrino of Perrino Custom Builders, LLC, for an area variance from the provisions of Chapter 1161.11 (n)(3)(c), of the Lyndhurst Planning and Zoning Code, to construct a proposed deck on the existing home located at 380 Acacia Circle, which will encroach three point ninety-eight (3.98) feet into the minimum thirty (30) foot rear to side separation distance requirement.**

Grounds for appeal and Chapter 1161.11 (n)(3)(c) was read by Mr. Henfling.

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

Mr. Maichle stated letters were received via email, which will be read by the Secretary.

The following witnesses were sworn in by Mr. Schmidlin:

Mr. & Mrs. Aluzri, 340 Eagle Point  
Mr. & Mrs. Wolkoff, 390 Acacia Circle  
Mr. Pat Perrino, 7976 Mayfield Road, Chesterland

Mr. Henfling read five letters of objection from property owners via email. The letters were received from the following:

Susan O'Donnell, 440 Acacia Circle  
Laura Orkin (Wolkoff), 390 Acacia Circle  
Rusty Greene, 400 Acacia Circle  
Ellen Mattingly, 410 Acacia Circle  
Mahdi & Susan Aluzri, 340 Eagle Point

Mr. Thomas Evans, 350 Eagle Point, submitted an email asking for more details regarding the variance being sought.

Mr. Pat Perrino, Builder, 7976 Mayfield Road, testified that this proposed house is smaller than what has previously been built on other lots in the development. He further testified that the lot in question drops off and that is the reason for the request of a variance.

In answer to Mr. Schmidlin's questions, Mr. Perrino testified that this particular home is a spec home and owned by Acacia Signature Homes.

In regard to a previously heard case, 2019-04, references were made to a representation by Mr. Perrino that there would be sufficient landscaping at 390 Acacia Circle between the deck approved by the Board of Zoning Appeals and the property most impacted at 340 Eagle Point Drive. Said landscaping was never installed.

Mr. Henfling read a condition from the July 23, 2019 minutes, which states "That a satisfactory landscape plan providing adequate screening of the stairway be submitted."

In answer to Mr. Kaplan's question regarding the house on Sublot 22A, which this variance will be encroaching, Mr. Perrino testified that yes, there is a bay window on the rear of subplot 22A. He further testified that this proposed deck is modeled after subplot 37, which includes the size; he then testified that it is feasible to reduce the size by three (3) feet.

Due to the angular lot, Mr. Henfling suggested reducing the size of the proposed deck more than three (3) feet and turning the stairway so that it is parallel to the elevation of the deck.

After further discussion, Mr. Perrino testified that he will withdraw his request for variance.

It was moved by Mr. Warren, seconded by Mr. Bader that the request to withdraw the request of Mr. Perrino to construct a proposed deck at 380 Acacia Circle, which would encroach three point ninety-eight (3.98) feet into the minimum thirty (30) foot rear to side separation distance requirement be accepted.

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

Motion carried.

**Case No. 2021-02**

**Request of Cory Brown, The Pattie Group, Inc., on behalf of Barak Shechter, homeowner, 2065 Lyndway Road, for an area variance from Chapter 1329.08 of the Lyndhurst Building Code, to install a six (6) foot high fence in the front yard area of the property. The style of fence will comply with the City's fence ordinance.**

Grounds for appeal and Chapter 1329.08 was read by Mr. Henfling.

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

Mr. Henfling read aloud the four (4) letters received from the following neighbors:

Edward Addicott, 2023 Lyndway Road  
Gabiella Waxman, 2021 Lyndway Road  
Ariella Landy, 2065 Lyndway Road  
Tom Dowd, 2095 Lyndway Road

Mr. Henfling stated three neighbors stated in their letters they have no objection to the granting of the variance; Mr. Dowd had submitted questions which he hopes can be answered.

The following witnesses were sworn in by Mr. Schmidlin:

Cory Brown, The Pattie Group, 15533 Chillicothe Road, Novelty  
Barak Schechter, 2065 Lyndway Road  
Laura Dubick, 2065 Lyndway Road

Mr. Brown, The Pattie Group, representing the homeowner, testified that he is helping the family design their outdoor living spaces and found that private spaces are limited due to the ravine, the topography and the placement of the house on the property; the homeowners would like to create a safe and usable space. He further testified that they are asking to extend the proposed fence to close in the area at the side of the house, which encroaches into the front setback. He also testified that the houses and properties on Lyndway Road are not typical of the properties in Lyndhurst, and are unique as to privacy due to the wooded area; they would like to create a space that is safe from the steep ravine in the back and side of the existing house. He testified that the area on the proposed plan shows the most open and flat land to fence in, which represents only about ten (10) percent of the property in question. He then submitted different styles and colors of proposed fences, which have not yet been chosen, but will meet the fifty (50) percent open requirement.

In answer to Ms. Schwab's question regarding the requested height of six (6) feet, Mr. Brown testified that due to the lay of the land and the amount of trees, the added height of the proposed fence will give added privacy. He also testified that the view of the proposed height of

the fence from the street is negligible due to the distance. He then testified that plantings will be added on the inside and outside of the proposed fence to break up the scale of the fence from the street view as well as to create a visually appealing courtyard and safe space from the inside.

In answer to Mr. Warren's questions, Mr. Brown testified that the neighbor to the south of the property in question has questions and a comment about deer travel, and the property to the north has no objections; one neighbor could not be reached for comment. He then testified that it is his and the property owners' intent to not remove any existing trees; if the proposed fence would come in contact with an existing tree, the fence line would be altered in that particular area.

Mr. Warren commented that because the house is unusual in shape and design, it's difficult to tell where the front of the house is. It's not a typical colonial where the entryway is prominent, if a fence was added - this is what the zoning code would prohibit. He further stated that this area is one of the most secluded in Lyndhurst, and this property is truly unique in the design of the home, the wooded area, and the topography of the land.

In answer to Mr. Warren's question, Mr. Brown testified that the proposed fence will be natural wood; the exact color or style has not yet been chosen, but it will blend with the wooded area, and be compliant with the fifty (50) percent open requirement.

Mr. Brown testified that the majority of the landscaping will be on the inside of the fence, however a few evergreens will be planted on the outside of the fence to break up the expanse for the neighbor's view.

Mr. Henfling, referring to a question in the email sent from Mr. Dowd, of 2095 Lyndway Road, stated that the deer will find a pathway between the proposed fence and the ravine, he doesn't feel the fence will be an obstacle or hindrance for the deer.

Lauren Dubick, property owner, testified that no trees will be removed for the fence, unless the tree poses a safety issue to them or the house. She further testified that although the property is secluded, and the neighbors are quite a distance away, it is their intent to erect a fence and plantings that are aesthetically pleasing, as well as provide a large, open, safe play and living area.

In regards to Mr. Dowd's (2095 Lyndway Road) email, Mr. Maichle stated it was forwarded to Mr. Brown.

## **FINDINGS**

The Board finds:

1. This is a very unique lot with a lot of terrain issues which prevents a reasonable space in the rear yard for an enclosed area, which prohibits this property from enjoyment rights of other more traditional lots; the back yard of this lot is not usable due to the steep ravine;

2. The design of the home, and its angled position on the lot, makes it less than obvious to the person who arrives, where the entryway is, therefore there may be more creative solutions that are available to this home in comparison to the traditional properties in Lyndhurst;
3. This is a heavily wooded and secluded lot with almost no traffic on Lyndway Road;
4. Several property owners submitted emails stating they had no objection to the requested variances; one neighbor to the south sent an email asking specific questions, but not stating for or against the requested variances.

It was moved by Mr. Kaplan, seconded by Mr. Henfling that recommendation is made to Council to confirm the decision of the Board to grant requested variances for the front yard encroachment of the proposed fence and the six (6) foot height based on the above findings and following condition:

1. That the proposed fence meet the fifty (50) percent open requirement.

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

Motion carried.

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

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David Kaplan, Vice Chair

Approved: \_\_\_\_\_

Attest: \_\_\_\_\_