

December 13, 2021

Lyndhurst, Ohio  
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The Board of Zoning Appeals of The City of Lyndhurst met in Regular Session on Monday, December 13, 2021 at 7:00 p.m., in the Council Chamber of the Lyndhurst Municipal Center, 5301 Mayfield Road.

Members Present: David Kaplan, Chair  
David Bader, Jeff Henfling,  
Nancy Nozik, Russell Warren

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

It was moved by Ms. Nozik, seconded by Mr. Bader that the reading of the minutes of the Regular Meeting held April 12, 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.

Motion carried.

Mayor Ward administered the Oath of Office to new member, Nancy Nozik.

The following is a list of attendees at this meeting:

Patrick A. Ward, 5140 Meadow Wood Bl  
Her'Schell Ruttin, 4923 Oakland Dr  
Antonio Humphrey, 4923 Oakland Dr  
Steve Grushetsky, 5114 Oakmont Dr  
David Frey, 4840 Hartley Dr  
David H. Bader, 1033 Ledgewood Tr  
John Maichle, 2029 Edenhall Dr  
Clarice White, 5163 Spencer Rd  
David Kaplan, 1994 Winchester Rd  
Raymond J. Schmidlin, 5253 Thornbury Bl  
Russell J. Warren, 5330 Meadow Wood Bl  
Nancy Nozik, 5544 Lansbury Ln  
Jeff Henfling, 5212 Spencer Rd

### **Review proposed park improvements.**

Mayor Ward explained that one of the things the City has to do as part of a grant proposal, is to discuss applying for grant funds at a public meeting. The City will apply for a

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\$50,000 grant to upgrade fitness stations in Brainard Park and \$150,000 grant for upgrades to Lyndhurst Park.

Mr. Schmidlin gave an overview of procedures.

**Case No. 2021-04**

**Request of Mr. Antonio Humphrey of 4923 Oakland Drive, for an area variance from the provisions of Chapter 1160.05 of the Zoning Code, to construct a deck which will encroach ten (10) feet into the minimum forty (40) foot rear yard setback requirement for a property located in a ten thousand (10,000) square foot single family zoning district.**

Grounds for appeal and Section 1160.05 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 he received one phone call from Veronica Theus of 4911 Oakland Drive, who just wanted clarification, and after explaining, Ms. Theus stated she had no objection to the requested variance being granted.

The following witnesses were sworn in by Mr. Schmidlin:

Her'Schell Ruffin, 4923 Oakland Dr  
Antonio Humphrey, 4923 Oakland Dr  
Councilman David Frey, 4840 Hartley Dr

Mr. Humphrey, appellant, 4923 Oakland, testified that there were modifications to the home made by previous owners; one of the modifications being an addition in the back of the house, which would make the proposed deck encroach into the required set back. He further testified that his son requires medical equipment wherever he goes, and to take him outside, would be a feat, with the existing steps. He further testified that a deck would make mobility easier, with no step down to the outside. He then testified that although he did not get anything in writing from his next door neighbors, he has spoken with them and they have no objections to the granting of the variance.

In answer to Mr. Kaplan's question regarding significant screening between the neighbors, Mr. Humphrey testified that there is a chain link fence surrounding his yard, and vegetation between he and the rear yard neighbor.

Mr. Maichle stated he spoke with the contractor, Mr. Lucas, of Third Generation Home Improvements, who stated that if the Board had an issue with the location of the steps as shown on the proposal, which are on the north side of the proposed deck, he would relocate the steps to either side of the deck.

Mr. Humphrey testified that he has no issues with relocating the steps to the side of the proposed deck.

Mr. Bader, referring to the plans, stated he feels the proposed deck is overdesigned, and recommended the deck be of post and beam construction, which would eliminate many of the posts. He then recommended that it be of five quarter pressure treated decking.

In answer to Mr. Henfling's question, Mr. Humphrey testified that a deck would be much easier for mobility, instead of a larger patio, because there would be steps from the house to the outside.

Ms. Nozik stated that along with the materials sent to the Board Members, previous cases in that area regarding encroachment into the rear setback were also sent. She explained that only one case was denied, and that was due to the fact that it was an addition which would have been twenty-five (25) percent of the rear yard. She explained that even though this particular proposal is at twenty-five (25) percent, the variance is for a deck, an open structure, which in her opinion is less invasive.

Councilman David Frey, Ward 1, testified that in this particular area of Lyndhurst, the rear yards are shallow, which makes it difficult to have any type of a structure without requesting a variance.

## FINDINGS

The Board finds that:

1. There were no objections from abutting property owners;
2. The rear yards in this area of Lyndhurst are shallow;
3. The property in question has a chain link fence surrounding the rear yard;
4. A ten (10) foot by sixteen (16) foot deck would be the minimum necessary to make possible use of the land.
5. The property owner has an obvious hardship with lack of easy mobility to the outdoors.

It was moved by Ms. Nozik, seconded by Mr. Warren 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 steps be relocated to either side of the deck, from the rear.

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2. That the contractor meet with the Building Commissioner to redesign the proposed deck with plans showing less posts and using five quarter pressure treated decking.

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

Motion carried.

It was moved by Mr. Henfling, 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 7:30 p.m.

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David Kaplan, Chair

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

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