

Lyndhurst, Ohio  
March 13, 2023

The Board of Zoning Appeals of The City of Lyndhurst met in Regular Session on Monday, March 13, 2023 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 White, Acting Secretary

It was moved by Ms. Nozik, seconded by Mr. Bader that the reading of the minutes of the Regular Meeting held January 9, 2023, 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. 2023-02**

**Request of Mr. Christopher DiPalma of 4934 Fairlawn Road for a variance from the provisions of Chapter 1160.04 (a)(2) A & B of the Planning and Zoning Code to permit parking and/or storing of a commercial vehicle outside at any time in plain view.**

Grounds for appeal and Chapter 1160.04 (a)(2) A & B were read by Mr. Henfling, Secretary.

Mr. Henfling then read a petition circulated by Mr. DiPalma and signed by various property owners stating they had no objection to the granting of the variance. Those neighbors' addresses are:

4940 Fairlawn Rd  
4939 Fairlawn Rd  
4933 Fairlawn Rd  
4914 Fairlawn Rd  
4927 Fairlawn Rd  
4915 Fairlawn Rd  
4921 Fairlawn Rd  
4888 Fairlawn Rd

4984 Fairlawn Rd

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

Mr. Maichle stated the only response received was by a neighbor who came into City Hall to speak with the Mayor's Assistant, wished to remain anonymous, and stated he has no objection to the granting of the variance.

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

Chris DiPalma, Appellant, 4934 Fairlawn Road  
Larry Wallace, 4921 Fairlawn Road

Mr. DiPalma, 4934 Fairlawn Road, testified he was made aware of the violation of having his work vehicle parked at his house when a police officer knocked on his door. He has looked for other parking areas near his house, to no avail. He further testified that he needs his vehicle at the ready because he is on call all the time.

Mr. Kaplan stated that he sees the signatures from all abutting neighbors, except for the abutting neighbor to the right.

Mr. DiPalma testified that he often speaks with Ms. Hood, residing at 4928 Fairlawn Road, but due to differing schedules, the two could not meet for a signature on his petition.

In answer to Mr. Kaplan's question, Mr. DiPalma testified that Ms. Hood is not the neighbor who complained about his work vehicle. He further testified that the person who did complain lives about twenty-five (25) houses from him. He then testified that he went to speak with the complainant and explained his situation, and shook hands after the conversation. He testified that as far as he knew, the issue was resolved, but the police came back to his house and said that the neighbor is complaining again, which is why he is before the Board this evening.

In answer to Mr. Bader's question, Mr. DiPalma testified that as a requirement for working for Trane, the vehicle, which is a well-maintained Ford Transit, is assigned to him as a commercial HVAC technician and must be available for emergencies at any time.

In answer to Mr. Kaplan's question, Mr. DiPalma testified that in addition to the work vehicle, he has a small pick-up truck, and his wife has a vehicle which she keeps in the garage. He then testified that neither vehicle overhangs the sidewalk.

In answer to Mr. Schmidlin's question, Mr. DiPalma testified that the work vehicle has truck plates and Trane logos on the side.

In answer to Mr. Henfling's question, Mr. DiPalma testified that he normally leaves the house before 7:00am and gets home around 4:00pm, unless of course emergencies arise.

Larry Wallace, 4921 Fairlawn Road, testified that the code was put into place to mandate aesthetics, and the requirements of the code should remain in place. He testified that he is speaking for the residents of Lyndhurst, by saying that a commercial vehicle should not be stored in a residential neighborhood; it is contrary to the statutes. He further testified that repealing the revisions could have an adverse effect in the city. He then testified that this issue is about maintaining property values, and the lifestyle in Lyndhurst.

Ms. Nozik stated that Mr. Wallace's signature is on the petition which Mr. DiPalma shared, which states that he has no objection to the granting of the variance.

Mr. Wallace testified that he was approached and the person who approached him gave a quick explanation, and yes, he signed the petition. He further testified that he is retracting his signature from the petition.

In answer to Mr. Kaplan's question regarding a specific area to park work vehicles, Mayor Ward stated that due to many reasons, there is not.

Mr. DiPalma testified that Trane requires the logo to be on the vehicle.

## **FINDINGS**

The Board finds that:

1. There were nine (9) neighbors who had no objection to the granting of the variance, and two (2) against.
2. In this neighborhood, the driveways appear long enough for vehicles to be parked and not impede the sidewalk.
3. The vehicle in question is a clean, well-maintained vehicle that is not overly large, it is a van and not a truck.
4. The homeowner is on call twenty-four (24) hours, seven (7) days a week, serving hospitals and other public service facilities.
5. The layout of this neighborhood has no short side yards; there are full front yards throughout.

It was moved by Mr. Kaplan, 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 vehicle in question be parked closest to the garage.

- 2 If the vehicle leaves during the night, it is to be pulled straight into the driveway upon return, not backed in, so the noise from the back-up alarm will not be an issue.
- 3 That some type of shrubbery be planted along the side of driveway where the vehicle in question will be parked, to reduce the visual impact of the vehicle.

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

Motion carried.

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

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

Motion carried, meeting  
adjourned at 7:45 p.m.

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David Kaplan, Chair

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

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

