

**REGULAR ZONING BOARD OF APPEALS MEETING MINUTES – OCTOBER 9, 2017
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Present: Chairperson Tillman; Vice-Chairperson Raeder; Members: Crossen, Gatowski, Lepidi, Maxwell, Mitchell; and Verdi-Hus; Alternate: Crawford

Absent: Member: Donnelly, Alternate: Hynes

Also Present: Planning and Zoning Administrator, Saur

Zoning Board Chairperson Tillman called the regular Zoning Board of Appeals meeting to order at 7:30 p.m. in the Village of Beverly Hills municipal building at 18500 W. Thirteen Mile Road.

REVIEW AND CONSIDER APPROVAL OF MINUTES OF A REGULAR ZONING BOARD MEETING HELD SEPTEMBER 11, 2017

Motion by Mitchell, second by Raeder, that the minutes of a regular Zoning Board of Appeals meeting held September 11, 2017 be approved as submitted.

Motion passed.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

None.

CASE NO. 1331 (re-hearing)

Petitioner: Michael Lustri

Property: 32721 White Oaks Trail

Village Ordinance: 22.08.100 Accessory Buildings, Structures, and Uses in Residential Zone Districts Residential Zone District R-1 allows accessory structures in the rear open space.

Deviation Requested: To retain a newly constructed deck located in the side open space.

Saur explained petitioner Michael Lustri, 32721 White Oaks Trail, is seeking a variance from requirements of Village Ordinance 22.08.100 Accessory Buildings, Structures, and Uses in Residential Zone Districts to retain a deck built in the side open space. The property is zoned R-1, Single Family Residential. In all single family residential zone districts accessory structures are permitted, provided they are located in the rear open space. The petitioner has constructed the 16' x 24' deck in the side open space with access from the home through a pedestrian door located on the side of the attached garage.

On June 1, 2017, Village Code Enforcement was notified of construction at the property and upon site visit the petitioner was informed the deck being constructed required a building permit. The Code Officer had also visited the site earlier in the week upon receiving a complaint and was informed landscaping work was being performed. Subsequently, the petitioner applied for a building permit and he was instructed to cease construction until a permit was issued.

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Upon review of the Village's Zoning Ordinance and applicable requirements of the Building Code, the Village informed the petitioner he would only be permitted to construct the minimum required three (3) foot landing for pedestrian door access with stairs. The Village requested revised drawings in compliance with requirements and informed him of the option to request a variance from the Zoning Board of Appeals if he wished to construct the deck as proposed.

The Village Building Official issued a stop work order on June 6, 2017. By that time construction on the deck was mostly complete. The petitioner disregarded the stop work order and completed the deck. Additionally, a neighbor filed a complaint with Public Safety for construction occurring on Sunday, June 4th. The Village sent a certified letter on June 12, 2017 informing the petitioner he was subject to citation for ordinance violation if the situation was not addressed appropriately. After receiving the notification, the petitioner filed a request for a variance.

The petitioner is seeking relief from the requirement that decks be located in the rear yard. If a variance is granted, the petitioner must comply with requirements for a building permit. At the meeting held September 11, 2017 the Zoning Board requested a site survey detailing the location of the deck.

Lustri explained that the main concerns leading to the construction of the deck were the door located on the side of the attached garage that they were instructed to remove due to the liability risk of the existing grade. He explained the appeal for the location is due to the distance from the kitchen to pool which is 170 feet, from the deck it is reduced to 85 feet. Additionally, access to the rear yard from the house is currently through a bedroom/office. Petitioner submitted photos of side decks on several nearby homes and signatures of neighbors supporting the deck. He explained that the deck was 90% completed when he received the stop work order and the only construction done after that was the installation of railings.

After the September meeting, Lustri had a property survey done and it shows that a portion of their pool deck and driveway are not on their property. The petitioner and neighbor were unaware of this at the time of purchase of the property.

Petitioner maintains that he was not aware at the time of construction that a permit was needed, and the deck construction was handled by a friend who works as a contractor. A compliant egress was not considered because the petitioner was not aware it was an option, and once he was made aware the deck had already been constructed.

Raeder felt practical difficulties for a staircase have been met, but not for a deck, especially at the size as constructed. He expressed concern with location of the deck adjacent to the driveway given the drive is not entirely within the property.

Tillman verified that the home had floor to ceiling windows in the family room that could have been converted to doorways, as well as current access to the rear yard through double doors leading from the bedroom which was being used as an office. She pointed out the ordinance allows for a landing and stairs that could have been constructed leading straight to the pool. The petitioner was reminded that had he contacted the Village prior to beginning his project he would have been made aware of his options.

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Motion by Crossen, second by Verdi-Hus, that the Zoning Board of Appeals grants a variance from requirements of Village Ordinance, Chapter 22, Section 22.08.100 Accessory Buildings, Structures, and Uses in Residential Zone Districts to permit a deck constructed at 32721 White Oaks Trail remain located in the side open space due to practical difficulties that deck is constructed.

Roll Call Vote:
Motion failed (0-9)

CASE NO. 1334 (re-hearing)

Petitioner: Jason Strayhorn

Property: 31299 East Rutland Street

Village Ordinance: 22.24.010 (a) Front Open Space Residential Zone District R-2A requires front open space be not less than calculated average of residences within 200 feet on that side of the street.

22.30.040 (a) Nonconforming Structures Residential Zone District R-2A requires any alteration or enlargement to an existing nonconforming structure comply with ordinance.

Deviation Requested: To be permitted to renovate an existing non-conforming home and add a second story that will be closer than calculated average front open space.

Saur explained that petitioner Jason Strayhorn, 43422 West Oaks Dr, #184, Novi, 48377, for property at 31299 East Rutland St, is seeking a variance from requirements of Village Ordinance 22.24.010 (a) Front Open Space and Village Ordinance 22.30.040 (a) Nonconforming Structures to build a second story above an existing non-conforming home. The property is zoned R-2A Single Family Residential. Chapter 22, Section 22.24.010 (a) requires the front open space of any building remodeled shall not be less than the average depths of front open space within 200 feet of the lot or parcel on one side of the street when there is a front open space greater or less than the 40 foot stated minimum within that 200 feet. The existing home has a front open space of 24.6 feet and the average front open space as calculated per 22.24.010 is 33.5 feet.

The petitioner is proposing to renovate the entire home including the addition of living space to the rear of the home, construction of a second story, and modifications to the front porch. The existing home is non-conforming due to the front set back and has the smallest front open space in the average area measured. The petitioner revised his original proposal to maintain an open style front porch. The Village has historically permitted open front porches to encroach into the front open space and the existing covered porch encroaches into the front open space. Given the modifications to the proposal, existing conditions, and past practice the proposed porch design does not require a variance.

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Second stories are permitted in every residential district, provided they do not exceed height or setback requirements. The proposed second story addition would be above the existing first story and maintain the front open space of 24.6 feet at the closest point. The proposed additions and renovations otherwise meet height, side setback, and rear setback requirements. The petition form, a site survey, and revised drawings and elevations of the modifications proposed to the existing home were provided for Board review.

Ken Crutcher, architect for the project, explained this is a continued non-conforming use. There will be no change to the front footprint of the home.

Raeder and Tillman expressed concern that the porch roof line design gives the illusion of a home much bigger than it will be and not remain consistent with the aesthetics of the neighborhood. If a change to the porch roof line was not possible, the Board suggested Crutcher use materials that provide continuity with surrounding homes.

Crutcher noted he could lower the pitch of the porch roof, but reducing the projection of the porch would essentially eliminate the porch and the porch is a key point to the architecture of the home and will be aesthetically positive in the community.

Paula Roddy, E. Rutland, expressed concern that if the porch were enclosed later it could impede visibility of sidewalk and road from her driveway. Crutcher offered to have the large bush currently located on the side of the porch removed.

Motion by Raeder, second by Gatowski, that the Zoning Board of Appeals grants a variance from requirements of Village Ordinance, Chapter 22, Section 22.24.010 (a) Front Open Space and Section 22.30.040 (a) Nonconforming Structures to permit renovations to the existing non-conforming home at 31299 East Rutland including construction of a second story addition with front open space of 24.6 feet due to practical difficulties of maintaining the existing nonconforming home and placement of existing buildings.

Roll Call Vote:
Motion passed (9-0)

CASE NO. 1336

Petitioner: Gregory Erne

Property: 18195 Beverly Rd

Village Ordinance: 22.24 Area, Height, Bulk, and Placement Regulations Residential Zone District R-1 requires principal buildings maintain 15 feet of open space on side one and 20 feet of open space on side other.

Deviation Requested: To be permitted to build a two-story addition 5 feet from west property line.

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Saur explained that petitioner Gregory Erne, 18195 Beverly Road, is seeking a variance from requirements of Village Ordinance 22.24 Area, Height, Bulk, and Placement Regulations to build an addition five (5) feet from the side lot line on the west side of the property.

The property is zoned R-1, Single Family Residential. In the R-1 residential zone district, the principal building is subject to side setbacks of 15 feet on side one and 20 feet on side other. The petitioner is seeking to build an addition onto the west side of their existing home that would be five (5) feet from the side lot line. The petitioner is seeking to add living space to the home and expand the front porch. The proposed two-story addition will be used as office space on the first floor and expansion to bedroom and bathroom on the second floor. The proposed modifications to the front porch meet front set back requirements.

On the survey submitted for the proposed addition, the existing home is shown as non-conforming as the side setback of 20 feet is shown on the east side which would mean the garage is encroaching into the required setback. This is done to minimize the requested variance on the west side where the proposed addition will be located. The existing house was constructed in 2002/2003, and approved with side set backs of 15 feet on the east side (side one) and 20 feet on west side (side other) which conforms with ordinance requirements. Therefore, the Village must consider the west side setback as “side other” and the petitioner will need a variance of 15 feet from the required setback to construct the addition as proposed.

The petitioner detailed several options he explored and the rationale for requesting the addition as proposed. Additionally, he noted he has been in communication with the neighbor to the west who would be most directly impacted by the proposed addition. The petition and supporting documentation, location of the proposed addition location on a survey, drawings detailing the proposed layout including elevations, and the original plot plan for the home were provided for Board review.

Erne explained they have lived in the Village for 14 years, and as their family has grown so has the needs of their home. They recently had the kitchen renovated, and want to continue to invest in their home. After considering their needs, the aesthetic of the home, and the flow of the home, this addition was considered their best option. It meets the needs of creating a guest room and home office, balances the front presentation of the home, and allows for a single cohesive renovation. Building into the backyard would not be practical due to the recent kitchen renovation, window locations in the family room, and location of the neighbor’s yard.

During preliminary review, neighbors expressed concern about the height of the windows, therefore they have been designed to be high enough that they cannot be seen out of. The neighbors support this addition.

Commissioners noted the areas across the street and to the west are zoned with five foot minimum side setbacks. They felt similar setbacks would not be out of character with the surrounding neighborhoods.

Motion by Raeder, second by Crossen, that the Zoning Board of Appeals grants a variance from requirements of Village Ordinance, Chapter 22, Section 22.24 Area, Height, Bulk,

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and Placement Regulations to permit an addition on the west side of the home at 18195 Beverly Road that will be five feet from the lot line due to practical difficulties of unique neighborhood building locations and the placement of the existing dwelling.

Roll Call Vote:
Motion passed (9-0)

PUBLIC COMMENTS

None.

LIAISON COMMENTS

None.

ADMINISTRATION COMMENTS

Saur reported two cases are pending for the November meeting. The Planning Commission has drafted revised fence ordinance language and the public hearing is scheduled for October 25, 2017.

ZONING BOARD COMMENTS

None.

Motion by Crossen, second by Raeder, to adjourn the meeting at 9:07 pm.

Motion passed.

Michele Tillman
Chairperson

Ellen E. Marshall
Village Clerk

Elizabeth Lyons
Recording Secretary