

Present: Vice-Chairperson Maxwell; Members: Crossen, Gatowski, Mitchell, and Tillman;
Alternate: Jawad

Absent: Chairperson Raeder; Members: Crawford, Donnelly, and Lepidi; Alternate:
Gennari

Also Present: Planning and Zoning Administrator, Erin Saur
Village Attorney, Tom Ryan
Council Liaison, Rock Abboud

Zoning Board Vice-Chairperson Maxwell called the regular Zoning Board of Appeals meeting to order at 7:30 p.m. in the Southfield Township Hall at 18550 W. Thirteen Mile Road.

REVIEW AND CONSIDER APPROVAL OF MINUTES OF A REGULAR ZONING BOARD MEETING HELD OCTOBER 8, 2018

Motion by Mitchell, second by Crossen, that the minutes of a regular Zoning Board of Appeals meeting held October 8, 2018 be approved.

Motion passed.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

None.

Maxwell explained the responsibilities of the Zoning Board of Appeals and outlined the statutory requirements for demonstrating a practical difficulty for a petitioner to be granted a dimensional variance.

CASE NO. 1356

Petitioner: Michael and Kylene Lustri

Property: 32721 White Oaks Trail

Village Ordinance: 22.08.100 Accessory Buildings, Structures, and Uses in Residential Zone Districts All Residential Zone Districts require accessory structures be located in rear open space.

Deviation Requested: To retain and modify a deck constructed in the side yard to be no closer than 14.2 feet from the side lot line.

Petitioners are 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.

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 that demonstrate 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 was denied a request for a variance on October 9, 2017. Upon certification of the minutes, the petitioner was notified the deck must be removed or made compliant with Village Ordinance within 30 days or they would be subject to penalties including a citation for ordinance violation. To date, the deck has not been removed and the petitioner did admit responsibility for the ordinance violation citation. The court has ordered the deck to be removed or modified to be in compliance with Village Ordinance.

Village Administration and the Village Attorney have met with the petitioners and encouraged them to consider a modification to a smaller structure that provides a landing area versus a deck. The petitioners are seeking to modify the existing deck to be 10x10 with stairs, thereby reducing the variance requested from the prior case. 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. If the matter is not resolved, there is a return court date of Dec 18, 2018 scheduled.

A revised petition and plans for the modification to the deck, a survey of the property showing the deck as constructed, and minutes from prior Zoning Board of Appeals meeting were provided to the Board for review.

A letter from Michelle Frederick, White Oaks Trail, in support of the variance request was submitted.

Peter Tangelos, attorney representative for the Lustris, explained that his client has attempted to design their home in a safe and aesthetically pleasing way. Their intention is to make the deck closer to compliance.

Clark Haddock, White Oaks Trail, and Debra Lujan, Red Oaks Trail, spoke in support of the variance request. Both believe that the deck adds to the value and aesthetic of the home.

Crossen explained that the petitioner completed a non-compliant deck after being served with a stop work order.

Tim O’Leary, White Oaks Trail, expressed his opposition to the approval of the variance. He outlines his opposition in a letter provided to the Board. His opposition includes the previous Zoning Board rulings against the petitioner, their failure to prove practical difficulties or hardship, sound, light pollution and privacy concerns.

The petitioner requested that any decision be postponed until a full complement of the Board was in attendance.

Motion by Tillman, second by Crossen, that the Zoning Board of Appeals postpones decision on Case #1356 until meeting scheduled for December 10, 2018.

Motion passed.

CASE NO. 1357

Petitioner: Woodside Athletic Club

Property: 22440 W 13 Mile Road

Village Ordinance: 22.08.410 Sidewalks or Bikeways Where there is no existing sidewalk, all projects that require site plan approval must construct a sidewalk or bikeway for the perimeter of the lot which abuts a major, intermediate or collector street as defined in the Village Master Plan.

22.08.150 Fence, Wall, and Privacy Screen Regulations All Residential Zone Districts limit fencing in front yard to three (3) feet above grade.

Deviations Requested: The petitioner seeks to install a partial sidewalk along the perimeter of the lot abutting 13 Mile Road and a six (6) foot fence in the interior of the front yard.

Woodside Athletic Club, 22440 W Thirteen Mile Road, has submitted a proposal for a new play structure north of the existing pool, relocating the existing kiddie pool, improvements to the patio and outside grill area including landscaping and ADA upgrades, and a new court on the east side of the property. The property is zoned R-1, Single Family Residential and as a private club the use is permitted by special land use approval. Per Section 22.08.300 j, any modifications to a site plan after approval requires a new special land use approval.

In accordance with Section 22.08.300, the Planning Commission held a public hearing on Wednesday, September 26, 2018 where they recommended approval with conditions. Council held a public hearing on Tuesday, November 6, 2018 after which they approved the special land use. The approval for the site plan as submitted requires Zoning Board of Appeals to grant a variance for the sidewalk and fencing.

The proposed fence to be installed, see sheet C-105, will be six (6) feet in height and enclose the interior walkway that connects the tennis courts and proposed sports court. This is in addition to the approved ten (10) foot fencing around the existing tennis courts. Village Council concurred that this fencing will need a variance as the property is zoned Single Family Residential which limits front yard fencing to three (3) feet in height. The taller fencing surrounding the courts is permitted as athletic field fencing that is allowed to be greater than seven (7) feet in height upon approval by the Planning Commission, which was obtained at the September 26th meeting.

For all projects that require site plan approval, Village Ordinance, Section 22.08.140 Sidewalks or Bikeways, requires a sidewalk to be installed along the perimeter of the lot that abuts a major, intermediate, or collector street. Administration met with the applicant to discuss this requirement and potential options to assist in the efforts to connect the sidewalks in this area. The applicant is proposing to install a partial sidewalk to connect pedestrians from the western subdivision and to connect across 13 Mile Road for members who utilize the parking lot at Detroit Country Day School (the two organizations have a shared parking agreement). The petitioner is requesting a variance from full compliance to request approval of the proposed partial sidewalk as they believe there are practical difficulties unique to their site that would limit their ability to fully comply with that standard.

The petition, supplemental documents from the applicant, and the revised site plan were provided to the Board for review.

Eric Phillips, Board President, and Dave Lutz, consulting engineer and Board Treasurer, explained that their practical difficulty in installing an ADA compliant sidewalk is due to the easement where the pump station is located, that there is a 30 ft grade drop, and the necessary accommodations for existing topography. They also pointed out the 230 ft gap between the end of their property and the start of the Road Commission property means there would continue to be a gap in the sidewalk.

The request for the six-foot fence is based on the proximity to 13 Mile, the fence would create a safety precaution for members as well as a deterrent for illegal entry.

Upon inquiry from the Zoning Board, Ryan explained that Detroit Country Day School was denied a variance from installation of sidewalks and appealed the decision to Circuit Court. The Circuit Court Judge concurred with the School that the topography presented a practical difficulty and overturned the denial of the variance.

A letter was submitted to the Board from Mark and Patricia Van Faussien, Lost Hollow Road, in opposition to the sidewalk variance request citing the high need for safety along the roadway and the directives of the Village Master Plan.

Jason Coleman, Wilshire, voiced his concern for safety and supports the request for the fence variance.

Sara LaCreek, Georgetown, and William Harvey spoke in support of the fence variance. They believe that the higher fence will provide a safer barrier for children on the property.

Motion by Tillman, second by Crossen, that the Zoning Board of Appeals grants a variance from the requirements of Section 22.08.150 to allow the petitioners to build a fence six (6) feet in height and enclose the interior walkway that connects the tennis courts and proposed sports court, including high quality vegetation planting and maintenance, and green windscreen installation due to practical difficulties of the safety of the members and general public and close proximity to 13 Mile Road, and a variance from the requirements of Section 22.08.410 to allow the petitioners to install a partial sidewalk as detailed on site plan dated 10/23/18 to connect pedestrians from the western subdivision and to connect across 13 Mile Road for members who utilize the parking lot at Detroit Country Day School due to practical difficulties of the slope, drainage, and topography of the property.

Roll Call Vote:
Motion passed (6-0).

PUBLIC COMMENTS

None.

LIAISON COMMENTS

Abboud thanked the Board for all of their hard work, and how much he enjoyed his time as the Planning Liaison.

ADMINISTRATION COMMENTS

Saur reported that the Board would be meeting in December and wished everyone a Happy Thanksgiving.

ZONING BOARD COMMENTS

None.

Motion by Tillman, second by Crossen, to adjourn the meeting at 8:51 pm.

Motion passed.

Reanna Maxwell
Vice-Chairperson

Chris Wilson
Village Clerk

Elizabeth M. Lyons
Recording Secretary