

Present: Chairperson Raeder; Members: Crossen, Crawford, Donnelly, Gatowski, Mitchell, and Tillman; Alternate: Gennari

Absent: Vice-Chairperson Maxwell; Member: Lepidi; Alternate: Jawad

Also Present: Planning and Zoning Administrator, Erin Saur

Chairperson Raeder 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 NOVEMBER 13, 2018

Motion by Tillman, second by Crossen, that the minutes of a regular Zoning Board of Appeals meeting held November 13, 2018 be approved.

Motion passed.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

None.

Raeder 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 (re-hearing)

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 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. After discussion at the November 13th Zoning Board of Appeals meeting, the petitioner's counsel and Administration met to discuss additional modifications to the structure. 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 the accessory structure 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.

Peter Tangalos, attorney representative for the Lustris, explained that his clients were unable to be in attendance, however, their intention with is variance is to make the deck closer to compliance.

The Board agreed that the proposed 10'x10' deck was not in compliance with the ordinance and a smaller, landing would need to be proposed. Administration explained that a landing space is required at the door for safety.

Tangalos requested that any decision be postponed until further consultation with his client and to allow for their attendance at the meeting.

Motion by Tillman, second by Crossen, that the Zoning Board of Appeals postpones decision on Case #1356 until petitioner is able to be in attendance.

Motion passed.

CASE NO. 1358

Petitioner: Zac Cory
Property: 16908 Birwood Ave

Village Ordinance: 22.08.070 Corner Lot Setback on the Side Street in Residential Zone Districts Where there is no abutting interior residential lot on said side street, the minimum side street setback shall be twenty feet (20') for permitted accessory buildings.

Deviations Requested: The petitioner seeks to build an addition to an existing detached garage that will be 18 feet from the street side lot line.

Petitioner is seeking a variance from requirements of Village Ordinance, 22.08.070 Corner Lot Setback on Side Street in Residential Zone Districts to build an addition onto the existing detached garage. The property is zoned R-2A, Single Family Residential. The property is located at the northwest corner of Birwood and Pierce. All corner lots in single family residential zone districts have additional setback requirements. Section 22.08.070 states that where there is no abutting interior lot the corner lot setback is 20 feet for accessory buildings. The petitioner has an existing nonconforming garage that is located 13 feet from the street side lot line. He is seeking a variance to build an addition onto the garage that will be offset and no closer than 18 feet from the street side lot line. The proposed addition is otherwise in compliance with Village Ordinances.

The house on the abutting corner lot to the north is located in approximately the same location as the existing garage on the petitioner's property. Additionally, the road right-of-way along this portion of Pierce is 76 feet total, 43 feet from center of road west to the petitioner's property line. This is larger than the typical 60-foot road right-of-way. Administration confirmed that were this not a corner house, it would be in compliance. A copy of the petition and plans for the proposed addition to the garage were provided for review.

Jim Lundy, builder for the petitioner, explained there are 22 feet between the rear of the garage and the lot line; this grass area is used as a safe play space for the children. The current garage is approximately 20'6" x 20'6", creating little space for more than a single vehicle. The property is newly landscaped and screened in porch exists on the front. The privacy is limited due to the homes corner lot location.

Bob Smith, Birwood, voiced concerns that all homes will be considered non-conforming relative to prior changes to the Village Zoning Ordinance.

Motion by Tillman, second by Crossen, that the Zoning Board of Appeals grants a variance from the requirements of Chapter 22, Section 22.08.070 Corner Lot Setback on Side Street in Residential Zone District to build an addition onto an existing nonconforming garage that will be no closer than 18 feet from east, side lot line due to practical difficulties of the placement of the existing garage, the location of the home and the impractical size of the garage in relation to modern use.

Roll Call Vote:
Motion passed (8-0).

CASE NO. 1359

Petitioner: Brian and Hilary Ebner

Property: 15991 Lauderdale

Village Ordinance: 22.24 Area, Height, Bulk, and Placement Regulations Residential Zone District R-2A requires side setback of 5 feet on side one and 10 feet on side other, and rear setback of 30 feet.

Deviations Requested: The petitioner seeks to build a two-story addition that will be 26.44 feet from the rear property line and attach an existing detached garage that is 8.45 feet from east, side lot line and 16.15 feet from rear lot line.

Petitioners are seeking a variance from requirements of Village Ordinance, Chapter 22, Section 22.24 Area, Height, Bulk, and Placement Regulations to build an addition onto an existing two-story house and attach an existing detached garage. The property is zoned R-2A, Single Family Residential. Section 22.24 requires a side set back of 5 feet on side one and 10 feet on side other, and a rear setback of 30 feet for the principal building. Attached accessory buildings are subject to the same setback regulations as principal buildings. Detached accessory buildings are permitted to be as close as 5 feet from both side and rear lot lines provided, they are located outside any permanent easements, per Section 22.08.100.

The petitioner has an existing two-story home that is conforming to the side setbacks with 6.37 feet on side one and approximately 37 feet on side other, and to the rear setback with approximately 38 feet. There is also an existing detached garage that is located 16.15 feet from the rear lot line and 8.45 feet from the east, side lot line and is conforming to the setbacks for detached accessory buildings. The proposed two-story addition off the rear of the home will encroach into the rear setback and be 26.44 feet at the closest point from the principal building. The proposed first floor expansion off the side of the home will attach the garage to the home. As an attached accessory building, the garage would be subject to the setback regulations of Section 22.24. A copy of the petition form and plans for the proposed addition to the house were provided.

Jamie Baratt, Lauderdale, spoke to Administration and fully supports the addition and its added value to the neighborhood.

Paul Grout, Whittier Building Co., submitted several other homes in the neighborhood have had similar additions done. The requested variance is to match the existing sun room, keeping with the design intention of the home.

Motion by Mitchell, second by Crossen, that the Zoning Board of Appeals grants a variance from Chapter 22, Section 22.24 Area, Height, Bulk, and Placement Regulations to build a two-story addition onto the rear of the home that will be no closer than 26.44 feet to the rear property line, and a single-story addition onto the side of the home that will attach an existing garage that is 16.15 feet from rear property line and 8.45 feet to the east, side property line due to practical difficulties of the location of existing house and garage.

Roll Call Vote:
Motion passed (8-0).

PUBLIC COMMENTS

None.

LIAISON COMMENTS

None.

ADMINISTRATION COMMENTS

Saur reported that the Board would be meeting in January and wished everyone a Merry Christmas and Happy New Year.

ZONING BOARD COMMENTS

Mitchell expressed concerns regarding the 13 Mile and Lahser pedestrian crossing.

Raeder commented on Detroit Country Day School's request to keep structures installed without permission and recalled discussion relative to that area at the time the variance was granted in 2016.

Motion by Tillman, second by Crossen, to adjourn the meeting at 8:25 pm.

Motion passed.

Charles Raeder
Chairperson

Chris Wilson
Village Clerk

Elizabeth M. Lyons
Recording Secretary