

Virtual Meeting Link: <https://us02web.zoom.us/j/81144098191>

Meeting ID: 811 4409 8191

Dial in: 646 876 9923

AGENDA

1. Roll call.
2. Review and consider approval of minutes from a regular Zoning Board of Appeals meeting held September 14, 2020.
3. Public comments on items not on the published agenda.
4. Case No. 1379

Petitioner: John Pessina, HealthQuest Physical Therapy
Property: 31645 Southfield Road

Withdrawn by Petitioner.

5. Case No. 1380

Petitioner: Christine Oldani
Property: 17965 Kirkshire Ave

Village Ordinance: Section 22.08.150, B. Requirements in Single Family Residential Districts, 2. Fences, b. Side Yard, states that fences are not permitted in side yard except where there is an abutting street or as allowed per §22.08.150, B, 2, c to enclose a side door entrance.

Deviation Requested: The petitioner seeks to install a fence that will extend eleven (11) feet into the side yard.

6. Public Comments.
7. Liaison Comments.
8. Administration Comments.
9. Zoning Board Comments.

There must be a minimum of five votes in favor for a **non-use** variance to prevail, and a minimum of six votes in favor for a **use** variance to prevail. If there are fewer than nine voting Board members, the petitioner may request the Board postpone decision on the case to a subsequent meeting date prior to a vote.

The Village of Beverly Hills will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audiotapes of printed materials being considered at the meeting, to individuals with disabilities attending the meeting upon three working days' notice to the Village. Individuals with disabilities requiring auxiliary aids or services should contact the Village by writing or calling Village Clerk, 18500 W. Thirteen Mile, Beverly Hills, MI 48025, (248) 646-6404.

Present: Chairperson Tillman; Vice-Chairperson Crossen; Members: Bugenski, Crawford, Gatowski, Jawad, Mitchell, and Oen; Alternate: Keller

Absent: Member: Maxwell; Alternate: Gennari

Also Present: Planning and Zoning Administrator, LaPere
Village Clerk/Assistant Manager, Rutkowski
Council Liaison, George

Tillman called the regular Zoning Board of Appeals meeting to order at 7:30 p.m. via Zoom, per Executive Order 2020-154.

REVIEW AND CONSIDER APPROVAL OF MINUTES OF A REGULAR ZONING BOARD MEETING HELD AUGUST 10, 2020

Motion by Mitchell, second by Oen, that the minutes of a regular Zoning Board of Appeals meeting held August 10, 2020 are approved with the following amendments: on page 2, fifth paragraph, add parenthesis around “A” and on page 3, first paragraph, delete “2” from the first sentence.

Roll Call Vote:
Motion passed (9-0)

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

None.

CASE NO. 1379

Petitioner: John Pessina, HealthQuest Physical Therapy
Property: 31645 Southfield Road

Village Ordinance:

Section 22.32.095. STANDARDS FOR ALL SIGNS

1. Number and square footage requirements

a. Each business shall be allowed a maximum of two (2) types of signs per any single building elevation that has public frontage. Types of signs are:

- Wall sign
- Ground sign
- Canopy sign

10. Sign spacing: No sign shall be nearer than twenty (20) feet to any other sign or structure other than a structure to which it is lawfully attached. The Planning Commission may reduce this spacing when existing conditions preclude an otherwise permissible sign.

Section 22.32.110 DISTRICT REGULATIONS Wall Sign, 1 sign per business.

Variance Requested:

The petitioner seeks to add two new wall signs affixed to the south wall of the building.

LaPere provided an overview of the request. The petitioner, John Pessina, HealthQuest Physical

Therapy, for property at 31645 Southfield Rd, is requesting a variance from Chapter 22, Zoning Ordinance, Section 22.32.095 Standards for All Signs and Section 22.32.110 District Regulations. Images of the location and proposed sign were provided to the Board.

Each business is allowed a maximum of two sign types and one wall sign per public street frontage. The property has one public frontage along Southfield Road, and has an existing non-conforming pole sign that will remain. The petitioner is seeking approval to add two wall signs onto the south wall of the building upon removal of the existing wall sign located on the east building wall. The existing wall sign is nonconforming and its removal will require any new wall sign to be in conformance with the sign regulations. Individually, the two wall signs appear to be compliant with the applicable sections of the sign regulations, including size and illumination standards.

Section 22.32.095 also states that no sign shall be nearer than twenty (20) feet to any other sign or structure other than a structure to which it is lawfully attached. The Planning Commission may reduce this spacing when existing conditions preclude an otherwise permissible sign. If the variance request was approved, this requirement would need to be waived by Planning Commission as part of their approval process or included as part of the approval by the Zoning Board of Appeals. Procedurally, the request for new wall signage will require approval from the Planning Commission prior to permit issuance/installation regardless of whether a variance is granted. The petitioner is also seeking approval from the Planning Commission for a sign face change on the existing nonconforming pole sign. At their meeting held August 26, 2020, the Planning Commission discussed proposed sign face change to the existing pole sign and the request for a variance to install two wall signs. The minutes from this meetings were provided to the Board for review.

The petitioner submitted renderings of the proposed signage, including a night view to demonstrate compliance with the illumination standards. The petitioner also included renderings of alternatives considered to create one wall sign in this space. However, a single wall sign as submitted would be in excess of the size regulations which limits wall signs to maximum of 30 sq ft. The petition form and supplemental documentation provided by the applicant were provided for the Board to review.

In conversation, the petitioner has stated HealthQuest will be using the door on the south of the building as the primary ingress/egress point and the door on the east/Southfield Rd side will remain as emergency access only. Given the existing signage on the pole sign, the intent is to place the wall signs above the main entrance to facilitate access, reduce visual blight by eliminating the wall signage on the east façade, and place the signs within two of the four decorative squares on the existing façade. The petitioner has noted they will be the sole occupants of the entire building.

Tillman asked the petitioner to indicate to the Board why the request is appropriate; why a variance should be granted; why the situation is unique to the property; why applying the Zoning Ordinance would prevent them from using the property in which it is intended; how applying the Zoning Ordinance would be unreasonably burdensome; why it would not have a negative impact on the property; and why this situation was not self-created.

John Pessina and Stuart Siegner were present on behalf of HealthQuest, 31645 Southfield Road. Pessina stated HealthQuest is excited to become part of the Beverly Hills community. He opined that it would be most aesthetically pleasing to have two signs evenly spaced inside of the brick rectangles on the south side of the building. He referred to the drawings in the packet and stated

that the sign company's drawings of only one sign was not as aesthetically pleasing, working with the existing building and brick.

Mitchell stated the proposed signs were aesthetic, but non-conforming. She asked if the petitioners considered putting one sign above the four blocks.

Pessina said the letters would become much smaller in size if they went that route.

LaPere stated the allowable size of a sign is 30 square feet, so the font size would have to be reduced to fit into one size or another variance would have to be requested regarding the size. She also clarified that they would only be allowed one wall sign per public street frontage.

Crawford asked LaPere for clarification about the Planning Commission's concern since the meeting minutes were included in the packet.

LaPere stated the Planning Commission did not have the request in front of them, so they could not specify their concerns. However, the Commission was concerned about the general concept of upholding the sign ordinance, bringing signs into compliance, and not allowing deviations unless they are truly warranted by a practical difficulty.

Oen asked when the original signs were installed. LaPere stated they were installed prior to the sign ordinance update in 2013, so are existing non-conforming.

Crossen said the building was designed for multiple tenants with separate entrances and thought each tenant would have its own sign in one of the brick rectangles. LaPere clarified the current building has two doors and even if there were two tenants in the building, they would not be entitled to individual wall signs since they do not have a separate address.

Mitchell stated if a variance was granted, the decision would stay with the building, not the tenants.

Tillman asked the petitioner why they could not comply with the ordinance requirements.

Pessina responded that he did not know if they could not comply. He stated the sign company's design was based on an older version of the ordinance and the existing sign. He emphasized the proposed sign was the most aesthetically pleasing.

Keller suggested one sign with smaller letters that fits inside one of the rectangles. Pessina responded that it would be difficult to fit the text inside of one rectangle and was not sure which rectangle to place it in for it to be balanced.

Board members offered other suggestions regarding the spacing and placement of the sign.

Tillman stated the sign ordinance was changed to encourage smaller signage. She told the petitioner that he could request that the decision be tabled to explore alternative options.

Bugenski categorized this building as an outlier and asked for clarification regarding size requirements for signs. Tillman responded that the sign ordinance was changed with the purpose of streamlining signs and creating a consistent, warmer aesthetic in the village. She noted smaller signs were now the trend as people rely more on GPS to find a business than they do signs.

Andrew Drummond, Warwick, spoke about the existing non-conforming pole sign at this location. He stated that he does not see the hardship presented in this request. Drummond said the Planning Commission worked to soften the look of some of these properties from the street. He said this property has existing non-conformities and this variance would stay with the property. He encouraged the Board to determine whether this was a hardship.

Steven Satovsky, Beverly Hills Club, Southfield Road, was opposed to the requested variance. He suggested downsizing the letters on the sign to bring it into compliance. He said he did not see anything unique about this property to require the variance and thinks the sign should have to comply with the ordinance just as other properties have had to do.

Siegner and Pessina requested that the request be tabled.

Motion by Crossen, second by Mitchell, the Zoning Board of Appeals to postpone Case No. 1379 to the next regular Zoning Board of Appeals meeting.

Roll call vote:
Motion passed (9-0)

PUBLIC COMMENTS

Andrew Drummond, Warwick, Planning Commission Chairperson, said a lot of time and work went into drafting the sign ordinance. He said the sign ordinance helps create an atmosphere for the village and will show the community it the way it deserves to be shown. He does not want the ZBA to be used as a way for petitioners to bypass the Planning Commission. He appreciates the ZBA member's time and service.

LIAISON COMMENTS

George recognizes that the Board has to make difficult decisions and he is pleased that this case was tabled. He would like to sit down with members of Administration, Zoning Board of Appeals, Planning Commission, and Council to discuss the goal of the sign ordinance. He believes the village is trying to achieve conformity in regards to signs.

ADMINISTRATION COMMENTS

LaPere stated there will be a meeting in October.

ZONING BOARD COMMENTS

Gatowski spoke on the confusion regarding the interaction between the requirements from the Planning Commission and the strictly enforceable ordinance that the ZBA interprets. He said bringing up factors not strictly related to the appeal at hand can cause distractions.

Jawad commented that signs are not as critical due to GPS and it is something the Board should keep in mind when making decisions. He also encouraged the Board members to use a thought process on whether they are there to determine what makes economical sense to the village or rather, they are strictly there to enforce the rules.

Bugenski stated the purpose of a sign is to identify the business.

LaPere commented that the Board is prohibited from making determinations based on the content

of the sign.

Tillman reiterated the ZBA's charge is to determine whether a petitioner has met the requirements to be granted a variance.

Motion by Crossen, second by Gatowski, to adjourn the meeting at 8:35 p.m.

Motion passed (9-0)

Michele Tillman
Chairperson

Kristin Rutkowski
Village Clerk



To: Michele Tillman, Chairperson; Zoning Board of Appeals Members

From: Erin LaPere, Planning & Zoning Administrator

Date: October 8, 2020

Re: Case #1379

The petitioner, John Pessina, HealthQuest Physical Therapy, for property at 31645 Southfield Rd, has withdrawn the request for a variance from Chapter 22, Zoning Ordinance, Section 22.32.095 Standards for All Signs and Section 22.32.110 District Regulations. Additionally, approval for a conforming wall sign was granted on September 23, 2020 by the Planning Commission.

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To: Michele Tillman, Chairperson; Zoning Board of Appeals Members

From: Erin LaPere, Planning & Zoning Administrator

Date: October 8, 2020

Re: Case #1380

The petitioner, Christine Oldani, 17965 Kirkshire Ave, is requesting a variance from Chapter 22, Zoning Ordinance, Section 22.08.150, B. Requirements in Single Family Residential Districts, 2. Fences, c. Side Yard, to construct a fence that will extend eleven (11) feet into the side yard where there is no abutting street or a side door entrance, as allowed per §22.08.150, B, 2, d.



Figure 1 - 17965 Kirkshire Ave

The petitioner would like to construct a portion of fence along the west side of her property to fully enclose her rear yard and provide screening from the neighboring multi-family condominium driveway access which abuts that side of the property. The existing home has a sunroom and the wall of that sunroom is composed primarily of windows that face the drive aisle to the parking area of the condominium property. Village ordinance limits fencing in the side yard to circumstances where the property abuts a street or to enclose a side door entrance. The petitioner has neither of those exemptions, therefore she is seeking relief from the Zoning Board of Appeals.

In the submittal documents attached, she has noted that being directly next to a multi-family dwelling driveway, there is more traffic than would be found if she were located next to a single family home driveway. Further, the close proximity of Southfield Road adds an additional need for screening from traffic noise and related disturbances. There is currently a vegetative barrier; however many of the plants are in poor health and some are invasive plant species, including buckthorn. She is seeking to install a more permanent solution with the proposed fencing. There is existing fencing along the rear property line and along the east side property line and that fencing will remain in place. The proposed fencing otherwise meets Village Ordinance which allows six foot, solid style fencing when the property is adjacent to a non-single family residential land use or Zone District.

Attached is a copy of the petition form, sketch from the fence company detailing the location of the existing and proposed fencing, and supplemental materials from the petitioner.

Resolutions for Consideration

The Zoning Board of Appeals grants a variance from Chapter 22, Zoning Ordinance, Section 22.08.150, B. Requirements in Single Family Residential Districts, 2. Fences, b. Side Yard, to construct a fence that will extend eleven (11) feet into the side yard at 17965 Kirkshire Ave due to the practical difficulty/ies of _____ upon finding that:

- this situation is unique to the subject property,
- applying the strict letter of zoning restrictions would unreasonably prevent the landowner from using their property for a permitted purpose,
- conformity with the zoning regulations is unnecessarily burdensome,
- approval of the variance would not negatively impact adjacent property owners or land within the district, and
- the circumstances requiring the variance were not self-created.

The Zoning Board of Appeals denies variance from Chapter 22, Zoning Ordinance, Section 22.08.150, B. Requirements in Single Family Residential Districts, 2. Fences, b. Side Yard, to construct a fence that will extend eleven (11) feet into the side yard at 17965 Kirkshire Ave due to the lack of practical difficulties found and upon finding that:

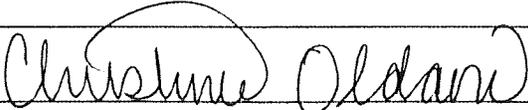
- the circumstances are not unique to this property,
- the landowner can reasonably use their property without the variance,
- maintaining conformity with the zoning regulations is not unnecessarily burdensome,
- approval of the variance would negatively impact adjacent property owners or land within the district, and/or
- the circumstances requiring the variance were self-created.

eel

attachments

Village of Beverly Hills
 Building & Planning
 18500 W 13 Mile Rd
 Beverly Hills, MI 48025
 Phone: (248) 646-6404 Fax: (248) 646-3703
www.villagebeverlyhills.com

Staff Use Only	
Date Received:	_____
Case Number:	_____
Hearing Date:	_____

Petition to the Zoning Board of Appeals	
Property Address & Parcel I.D. Number(s)	Address: 17965 Kirkshire Ave.
	Parcel ID(s): 2401103007
Type of Variance	<input checked="" type="checkbox"/> Dimensional (practical difficulty) <input type="checkbox"/> Land Use (hardship) <input type="checkbox"/> Interpretation (text or map)
Applicant (must have legal interest in property)	Name: Christine Oldani
	Business:
	Address: 17965 Kirkshire Ave.
	City: _____ State: _____ Zip: _____
	Phone: [REDACTED] Email: [REDACTED]
	Legal Interest: <input checked="" type="checkbox"/> Own Property <input type="checkbox"/> Lease Property <input type="checkbox"/> Offer to Purchase (please attach) <input type="checkbox"/> Other (e.g. attorney, architect, contractor, etc.):
Primary Contact <input checked="" type="checkbox"/> Same as Applicant	Name:
	Business:
	Address:
	City: _____ State: _____ Zip: _____
	Phone: _____ Email: _____
	Relationship to Applicant (e.g. architect, attorney, contractor, etc.):
Property Owner <input checked="" type="checkbox"/> Same as Applicant	Name:
	Business:
	Address:
	City: _____ State: _____ Zip: _____
	Phone: _____ Email: _____
	Property Owner Signature (if other than applicant):
Briefly describe appeal (attach additional pages if necessary)	See Attached
Applicant Signature	x: 

In order to be considered at an upcoming meeting, this application and all required documents and materials must be submitted by the established deadline date for the next regular meeting of the Council, Planning Commission, and/or Zoning Board of Appeals. Submittal by deadline does not guarantee placement on the agenda. Incomplete submittals will not be considered. The applicant or a representative must be present at ALL meetings.

Zoning Board Use Only	
Decision: <input type="checkbox"/> Approved <input type="checkbox"/> Denied - Chairperson: _____	Date: _____
Conditions of Approval or Reason for Denial: _____	

PROPOSAL

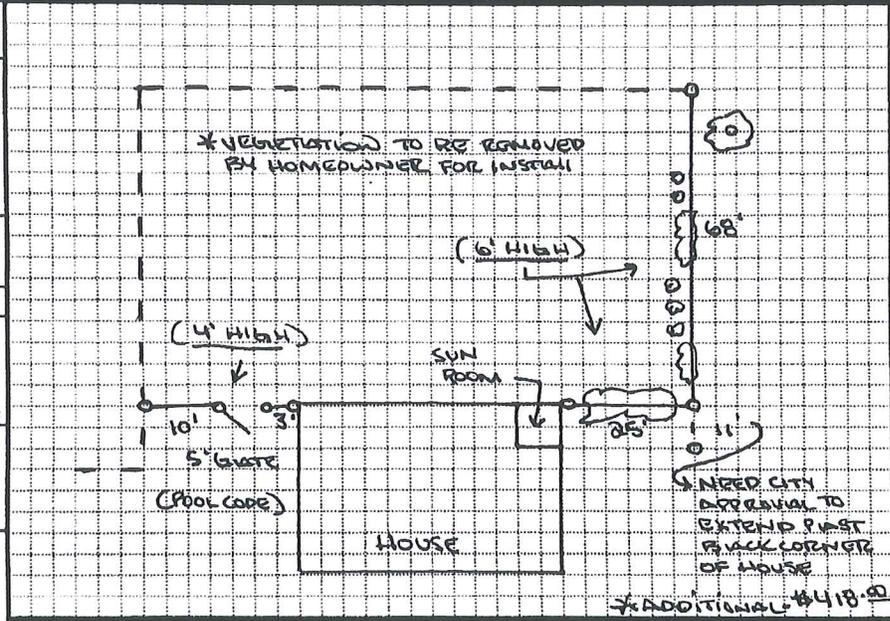
ACTION FENCE of Michigan Inc.
 4248 Delemere Court • Royal Oak, MI 48073
 www.actionfenceofmi.com

Proposal No. _____
 (248) 542-3900 Fax: (248) 542-6903
 Email: actionfence24@sbcglobal.net

PROPOSAL SUBMITTED TO CHRISTINE OLOANI		DAYTIME PHONE XXXXXXXXXXXX	DATE 9/1/20
STREET 17965 KIRKSHIRE AVE		JOB NAME	
CITY, STATE AND ZIP BEVERLY HILLS, MI 48035		JOB LOCATION (S) W. 14 MILE RD (E) SOUTHFIELD RD	
ESTIMATOR TOM	REFERRED BY WAK-IN	EMAIL XXXXXXXXXXXX	<input type="checkbox"/> NEW CONSTRUCTION

We hereby submit specifications and estimates for:

<input type="checkbox"/> Landscaping involved?
Install Fence <input type="checkbox"/> Level <input checked="" type="checkbox"/> Follow Grade
Obstruction in Fence Line Above Ground <input checked="" type="checkbox"/> Owner's responsibility to leave clear access <input type="checkbox"/> Contractor's responsibility <input type="checkbox"/> No obstructions
Wood Fence N/A Nice Side Faces <input type="checkbox"/> In <input type="checkbox"/> Out
<input type="checkbox"/> Remove Fence N/A
<input checked="" type="checkbox"/> Installer shall call Miss Dig for location of underground utilities. Customer is responsible for locating all other lines.
<input checked="" type="checkbox"/> Additional charges will be made for abnormal digging conditions or removal of dirt off property
<input checked="" type="checkbox"/> Where does excavated dirt go on property? ADVISE: - or hauled away @ \$140.00



Total Footage 13' 5' GATE - 4' HIGH 93' - 6' HIGH
Type of fence 4' x 6' PVC SOLID *WHITE*
Post Specs. NEW ENGLAND
Extra features or Special Tools Needed POOL CODE GATE HARDWARE

I customer, hereby agree to stake the fence(s) depicted above. By this, each end, corner, or gate post shall have a stake at that point. Failure to do so will result in a \$150 return trip charge. Payable upon completion of job. **ACTION FENCE WILL NOT IN ANY WAY BE HELD LIABLE FOR INCORRECTLY STAKED LINES. ACTION FENCE HOLDS NO RESPONSIBILITY FOR DAMAGE TO SPRINKLER LINES, GAS BAR-B-QUE LINES, OR ANY OTHER SUCH LINES. IT IS THE RESPONSIBILITY OF THE CUSTOMER TO MARK WHERE SUCH LINES ARE.**

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workman's Compensation Insurance. Fence materials remain property of Action Fence till paid in full.

Final Payment Due Upon Completion

For the Sum of \$
Haul-Away \$
Building Permit \$
Sales Tax \$
Total \$
Down Payment \$
Balance Due \$

Acceptance of Proposal

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

TCP

Signature

X

Customer Signature

X

Date of Acceptance

Petition to Zoning Board of Appeals

Description of request:

Address:

17965 Kirkshire Ave.

Beverly Hills, MI 48025

My request is to extend a privacy fence, along the west side of my property, further into the side yard by 11 feet. The fence would then enclose a sunroom which is at the southwest corner of our home.

- West side of property is next to multi-family housing
- Sunroom is currently full windows and fence would allow privacy from multifamily housing driveway.
- West of the multifamily housing is Southfield Rd. The fence would provide continued privacy, reduction in noise, and increase in safety since the sunroom is all windows.



The overgrown bushes will be removed. These bushes have not been maintained in quite a few years and are very over grown. A lot of the overgrown bushes are buckthorn, chokecherry,

dead bushes, and one box elder tree. Once removed that side will be exposed to the multifamily housing driveway, increase the noise from Southfield Road, and decrease privacy.



The extra 11 feet that we are requesting would extend to the edge of the sunroom to provide the extra privacy and noise reduction.



This picture is only showing the style of the fence. It will be the white vinyl with similar caps on the post. It will be 6 feet in height (picture shown is 8 feet).