

**Village of Beverly Hills  
Zoning Board of Appeals Meeting  
Monday, April 12, 2021**

**Municipal Building  
18500 W. 13 Mile Rd.  
7:30 p.m.**

**Virtual Meeting Link: <https://us02web.zoom.us/j/85240167264>**

**Meeting ID: 852 4016 7264**

**Dial In: 1-646-876-9923**

### **AGENDA**

1. Roll Call.
2. Review and consider approval of minutes from a regular Zoning Board of Appeals meeting held March 8, 2021.
3. Public comments on items not on the published agenda.
4. Case No. 1385  
Petitioner: Bret Mitea  
Property: 31613 Auburn Drive, Beverly Hills, MI 48025  
  
Village Ordinance: 22.30.020 (a)  
  
Deviation Requested: Allow splitting of two contiguous non-conforming lots.
5. Receive and file 2020 Zoning Board of Appeals Annual Report.
6. Public comments.
7. Liaison comments.
8. Administration comments.
  - a. Introduction of Mark Lloyd, Planning and Zoning Administrator.
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.

Due to the COVID-19 pandemic, this meeting will be held remotely via Zoom. If you are unable to attend the meeting and would like to submit a comment, please email [mlloyd@villagebeverlyhills.com](mailto:mlloyd@villagebeverlyhills.com) prior to the meeting.

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 Clerk by writing 18500 W. Thirteen Mile, Beverly Hills, MI 48025 or calling (248) 646-6404.

**Present:** Chairperson Tillman; Vice-Chairperson Crossen; Members: Bugenski, Crawford, Gatowski, Jawad, Mitchell, and Oen; Alternates: Keller  
All Board members participated remotely via Zoom from Beverly Hills, Michigan.

**Absent:** Member: Maxwell; Alternate: Gennari

**Also Present:** Village Manager, Wilson  
Village Clerk/Assistant Manager, Rutkowski

Tillman called the regular Zoning Board of Appeals meeting to order at 7:30 p.m. remotely via Zoom due to the ongoing COVID-19 pandemic.

**REVIEW AND CONSIDER APPROVAL OF MINUTES OF A REGULAR ZONING BOARD MEETING HELD JANUARY 11, 2021**

Motion by Oen, second by Crossen, the minutes of a regular Zoning Board of Appeals meeting held January 11, 2021 are approved as submitted.

Roll Call Vote:  
Motion passed (9-0)

**PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA**

None.

**CASE NO. 1384**

**Petitioner:** Brendan Quinn  
**Property:** 17234 Beechwood

**Village Ordinance:**

Section 22.30.040 (a) Nonconforming Structures. Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, open space or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- a. No such structure may be enlarged or altered unless the proposed enlargement or alteration conforms to the provisions of this Ordinance.

Section 22.24.010 (a) Front Open Space. Where a front open space of greater or less depth than forty feet (40') exists in front of a single family residence or residences presently on one side of a street in any block and within two hundred feet (200') of the lot or parcel, the depth of the front open space of any building subsequently erected or remodeled on that side of the street in that block shall not be less than the average depths of the front open space of such existing residences.

**Deviation Requested:**

The petitioner seeks to be allowed to construct a second floor addition on a nonconforming structure and to alter the existing nonconforming entryway from 27 ft to 31 ft from the front lot line where a setback of 40 ft is required.

Tillman provided an overview of the request. The petitioner, Brendan Quinn, 17234 Beechwood Ave, is requesting a variance from Chapter 22, Zoning Ordinance, Section 22.30.040 (a) Nonconforming Structures and Section 22.24.010 (a) Front Open Space to build a second floor addition on a nonconforming structure and to alter an existing nonconforming entryway from 27 feet to 31 feet from the front lot line.

The property at 17234 Beechwood is zoned R-2A, Single Family Residential. The petitioner wishes to construct a 1,878 sqft second floor addition on the current nonconforming structure and alter the current entryway with a covered stoop. The Zoning Ordinance Section 22.24 Area, Height, Bulk and Placement Regulations state that the zoning district R-2A has a 40ft minimum front open space. The petitioner has a front open space of 27ft. There are several nonconforming homes within 200 sqft of the home. And the average front open space per Section 22.24 (a) is 33 feet.

In November 2015 the petitioner applied for and was granted a variance to construct a second floor addition 31ft from the front lot line. The Board was provided a copy of the current petition, a portion of the minutes from the November 9, 2015 Regular Zoning Board of Appeals Meeting addressing the petitioners case (case number 1290), and all supplemental material from the petitioner.

The petitioner, Brendan Quinn, 17234 Beechwood, was in attendance and gave an overview of his request.

Gatowski confirmed that no Ordinances pertinent to the request have changed since the variance was originally granted in 2015.

Crossen stated that changing the setback from 27 ft to 31 ft would be decreasing the existing non-conformity on the property.

Motion by Crossen, second by Crawford, the Zoning Board of Appeals grants a variance from Chapter 22, Zoning Ordinance, Section 22.30.040 (a) Nonconforming Structures and Section 22.24.010 (a) Front Open Space to be allowed to construct a second floor addition on a nonconforming structure and to alter the existing nonconforming entryway from 27ft to 31ft from the front lot line due to the practical difficulty of an existing nonconformity on the property 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.

Roll call vote:  
Motion passed (9-0)

#### **PUBLIC COMMENTS**

None.

#### **LIAISON COMMENTS**

None.

**ADMINISTRATION COMMENTS**

Wilson stated that the Planning and Zoning Administrator position has been filled.

**ZONING BOARD COMMENTS**

None.

Motion by Mitchell, second by Crossen, to adjourn the meeting at 7:44 p.m.

Roll call vote:

Motion passed (9-0)

**Michele Tillman**  
**Chairperson**

**Kristin Rutkowski**  
**Village Clerk**

# Memorandum

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**To:** Chairperson Michele Tillman, Zoning Board Members  
**From:** Chris D. Wilson, Village Manager  
**CC:** Mark Lloyd, Planning and Zoning Administrator  
**Date:** 4/8/2021  
**Re:** Case No. 1385, 31613 Auburn Dr.

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The owner of the home at 31613 Auburn Drive is requesting an interpretation as to whether a portion of that property can be used as a buildable lot. 31613 Auburn is comprised of two (2) platted lots, 1236 and 1237. There are separate Sidwell numbers for each lot. Combined, the two lots have 100 feet (100') of frontage along Auburn and have a combined area of approximately 14,200 sq ft. The property is in the R2-B zoning district. Lots in this district are required to have a minimum of 75 feet (75') of frontage and a minimum area of 9,000 square feet.

The owner submitted a mortgage survey showing that the existing home is located on one of the lots, Lot 1237. Per the mortgage survey, the attached garage is either on or very close to the lot line. A formal survey would be required to determine if a portion this structure encroaches onto Lot 1236. Even assuming the existing home is entirely on Lot 1237, Village Administration informed the property owner that Lot 1236 would not be considered a buildable lot as it does not meet the minimum requirements for a lot in the R2-B district.

Per Village Code, Section 22.30.020 a. ... when two (2) or more of such nonconforming lots or any combinations of such nonconforming lots and/or portions of lots which are nonconforming are contiguous and owned by the same person at the time of passage or amendment of this Ordinance, said combination of lots or portions thereof shall be considered a single, individual lot for the purposes of this Ordinance, and no portions of said lot shall be used, occupied, divided or sold in any manner which would diminish compliance with the regulations of this Ordinance or which would leave remaining any lots that do not comply with the minimum lot width, minimum area of any other requirements of this Ordinance. {Ord. 243; 12-17-89}

Accordingly, Village Administration informed the property owner that a building permit could not be issued for a single family residence on Lot 1236 as both Lot 1236 and Lot 1237 were considered one property per Section 22.30.020. The property owner was advised that he would need to pursue a lot split of the property and that such a lot split would require multiple variances as both resulting lots would non-conforming as to size and setbacks of the existing detached garage. A lot-split request has not been submitted to date.

*April 8, 2021*

The property owner feels this is incorrect and as both Lot 1236 and 1237 are platted lots with separate tax identification numbers that Lot 1236 should be considered a buildable lot. The property owner has not submitted a site plan or permit for Lot 1236.

The property owner has submitted an application to the ZBA requesting an interpretation from the Board as to whether lot 1236 is a buildable lot. In the absence of a site plan or building permit, Village Administration felt this path was the best to allow the owner of the property to some recourse to what he feels is an incorrect decision by Village Administration. Unless otherwise directed by the ZBA, the position of Village Administration will be that the two platted lots that comprise the property at 31613 Auburn Drive is one lot for the purposes of the Zoning Code and any attempt to construct an additional residential structure at this address would require a lot split subject to the aforementioned variances.

I would be happy to answer any further questions or concerns relative to this matter.

Home ▾ My Map

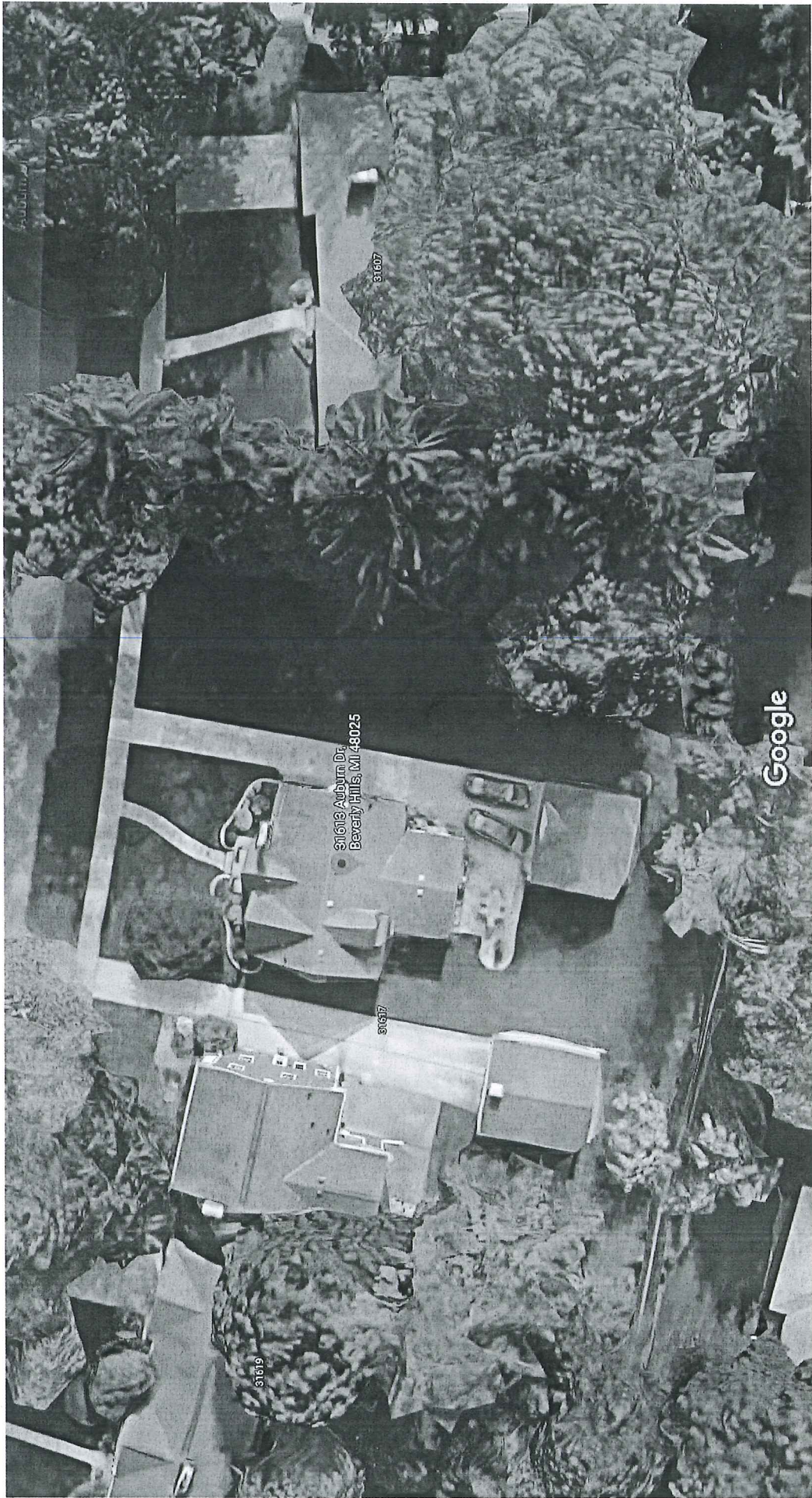
Details | Basemap

31613 Auburn X





# Google Maps 31613 Auburn Dr



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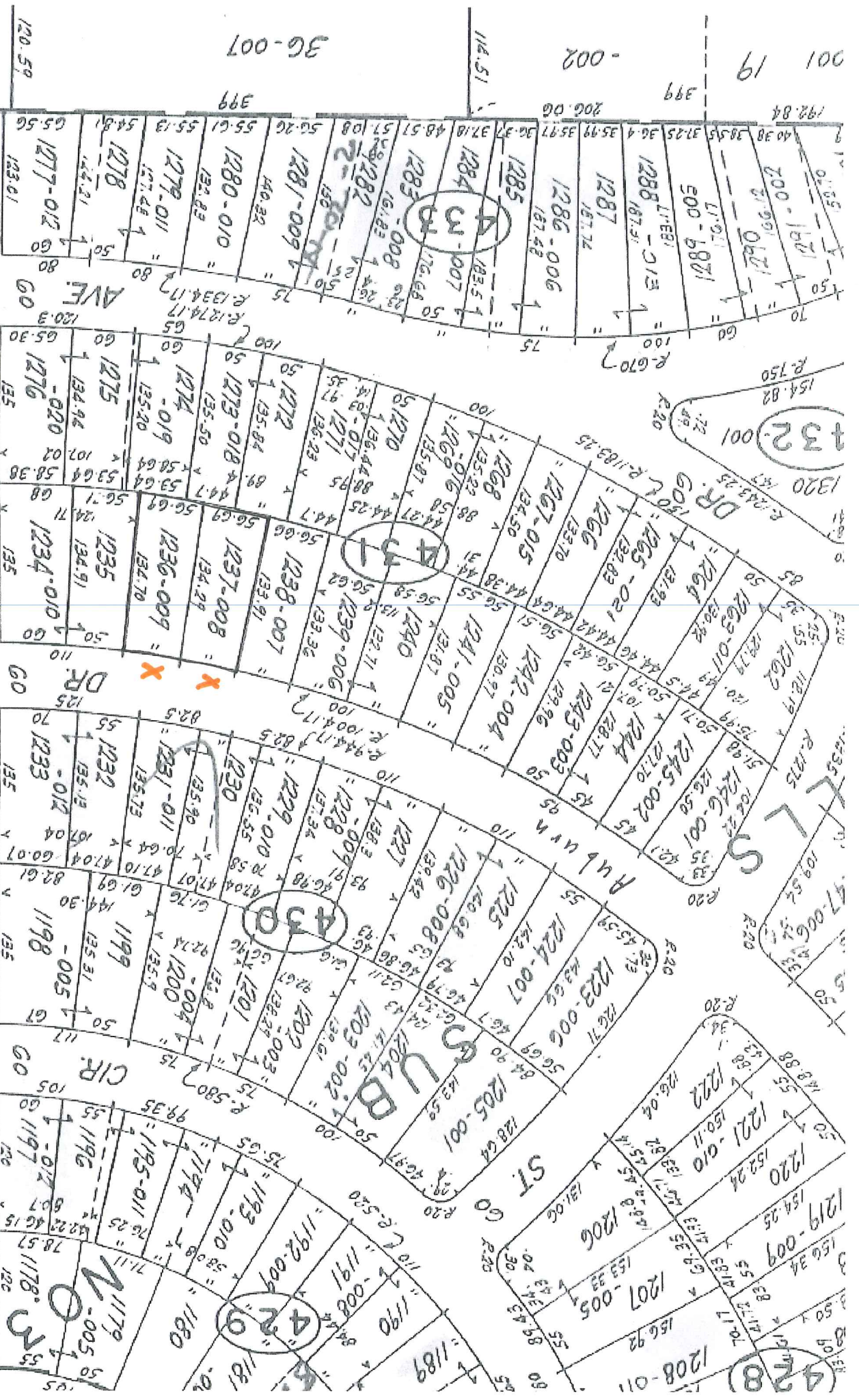
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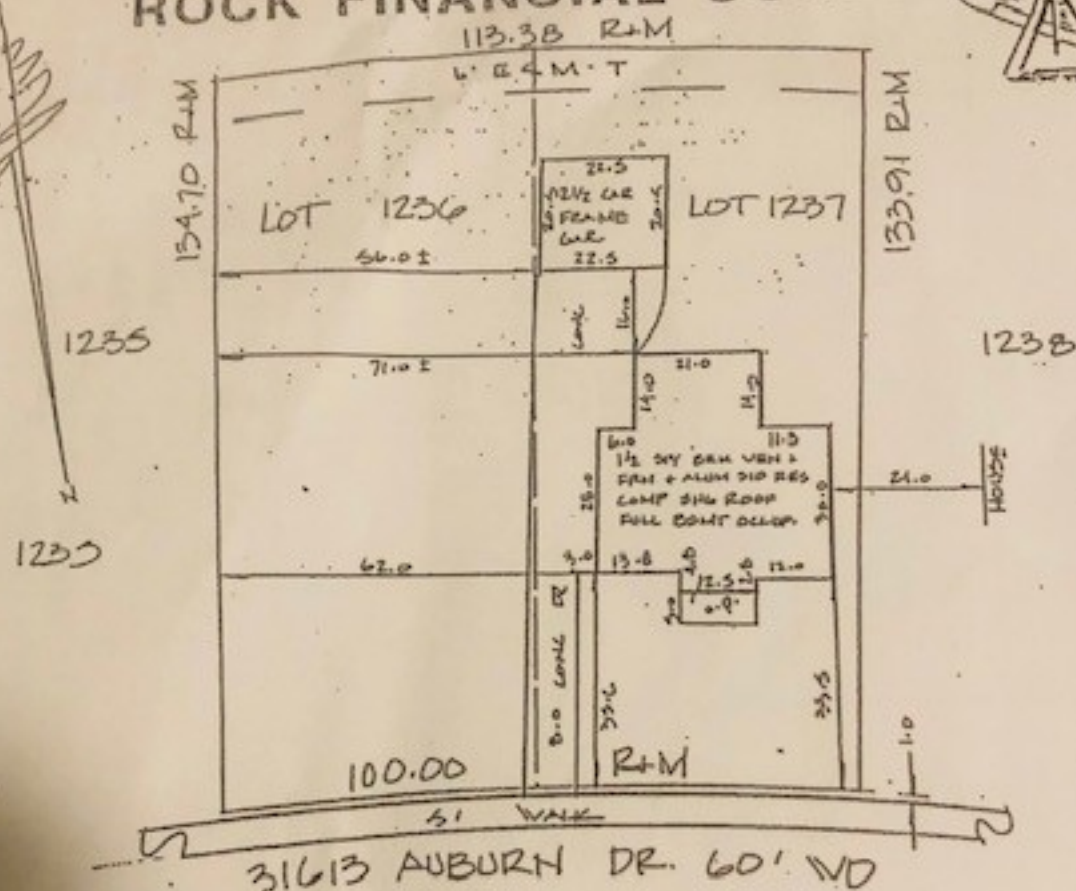
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Willey, Daniel

Survey # PH-279124  
CLIENT # 06060

6/29/90





**Zoning Board of Appeals  
Annual Report  
2020**

**Summary**

Zoning Board of Appeals activity is one indicator of the real world implications of the community's Zoning Ordinance. The global COVID-19 pandemic in 2020 has impacted every aspect of our lives in 2020 and Zoning Board of Appeals was no exception. For a period of time the Board did not meet and has resumed meeting virtually. We saw a reduced number of cases in 2020 which are likely due in part to the broader impacts that are expected to continue to be felt in 2021.

Unlike the Planning Commission, which is required to submit a written report to Council annually, the Zoning Board of Appeals (ZBA) has no such requirement. However, providing an overview of the prior year is beneficial to the Council, Planning Commission, and Administration in understanding how the Zoning Ordinance is affecting residents and property owner's ability to use or modify their property. This report will outline the past year and previous five-year ZBA activity. We will provide information as to which sections of the Zoning Ordinance are being cited for relief requests and where within the Village geographically we have received requests.

**Authority and Board Membership**

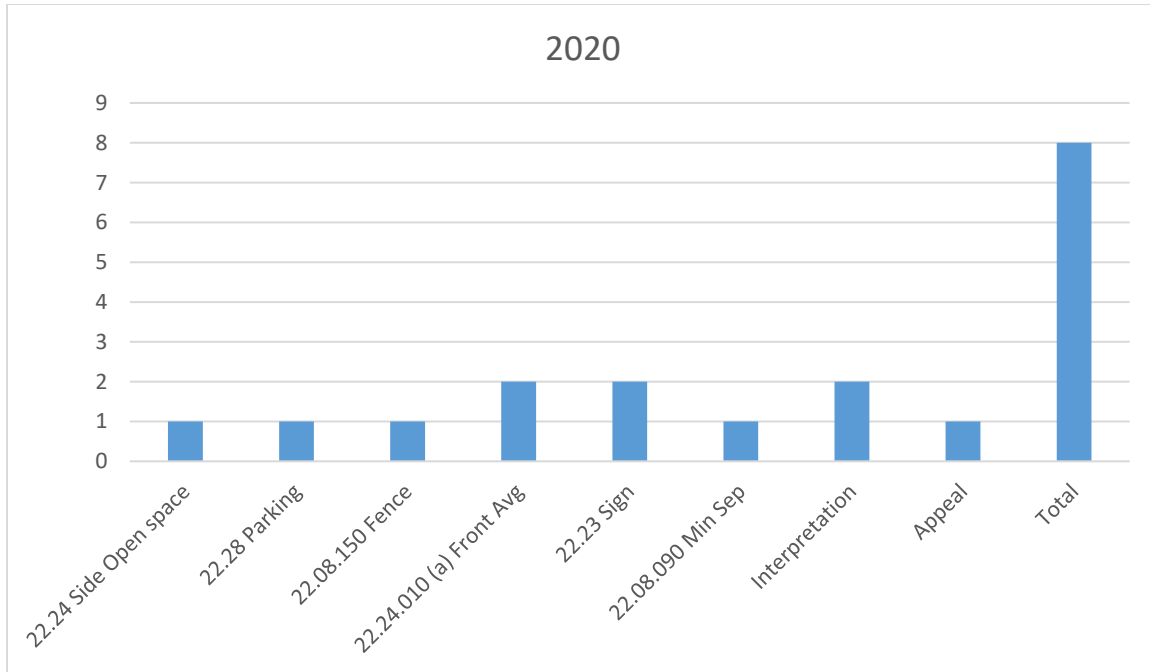
The Zoning Board of Appeals is granted authority by state statute (Michigan Zoning Enabling Act) and the Village Ordinances which, combined, allow the Board to grant a variance from the dimensional or the use restrictions of the Zoning Ordinance, hear appeals of administrative decisions, and interpret text of Zoning Ordinance. The main task the Board undertakes is hearing requests of dimensional, or non-use, variances. The Board is comprised of nine regular members and two alternate members. The current Board members are:

Michele Tillman, Chairperson  
Chris Crossen, Vice-Chairperson  
Mike Bugenski  
David Crawford  
Jan Gatowski  
Ahmad Jawad  
Reanan Maxwell  
Karen Mitchell  
Jon Oen  
Christina Gennari, Alternate  
Charlotte Keller, Alternate

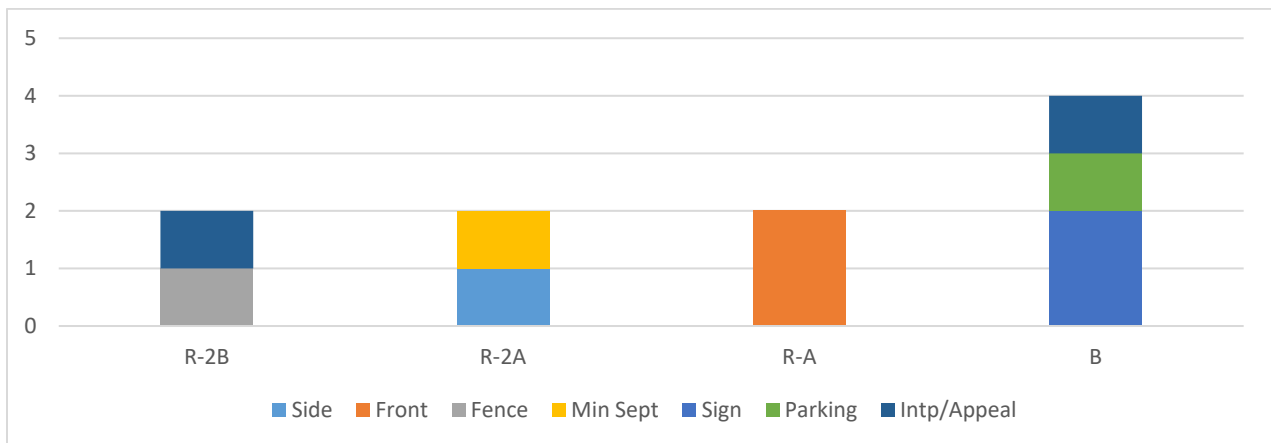
**Current Cases**

In 2020 the Zoning Board of Appeals held seven meetings and heard eight cases. The Board decided upon seven cases, one case was withdrawn by the petitioner. There were two requests for an ordinance text interpretation, six dimensional variance requests, and one appeal of an administrative decision. As detailed below, the most requests are for relief from requirements related to front open space

averaging for residential properties and sign regulations for commercial properties. It is worth noting that the request for relief from minimum separation and side open space requirements was submitted by a petitioner who had existing nonconforming circumstances. Additionally, the request for parking variance was requested for an existing property.

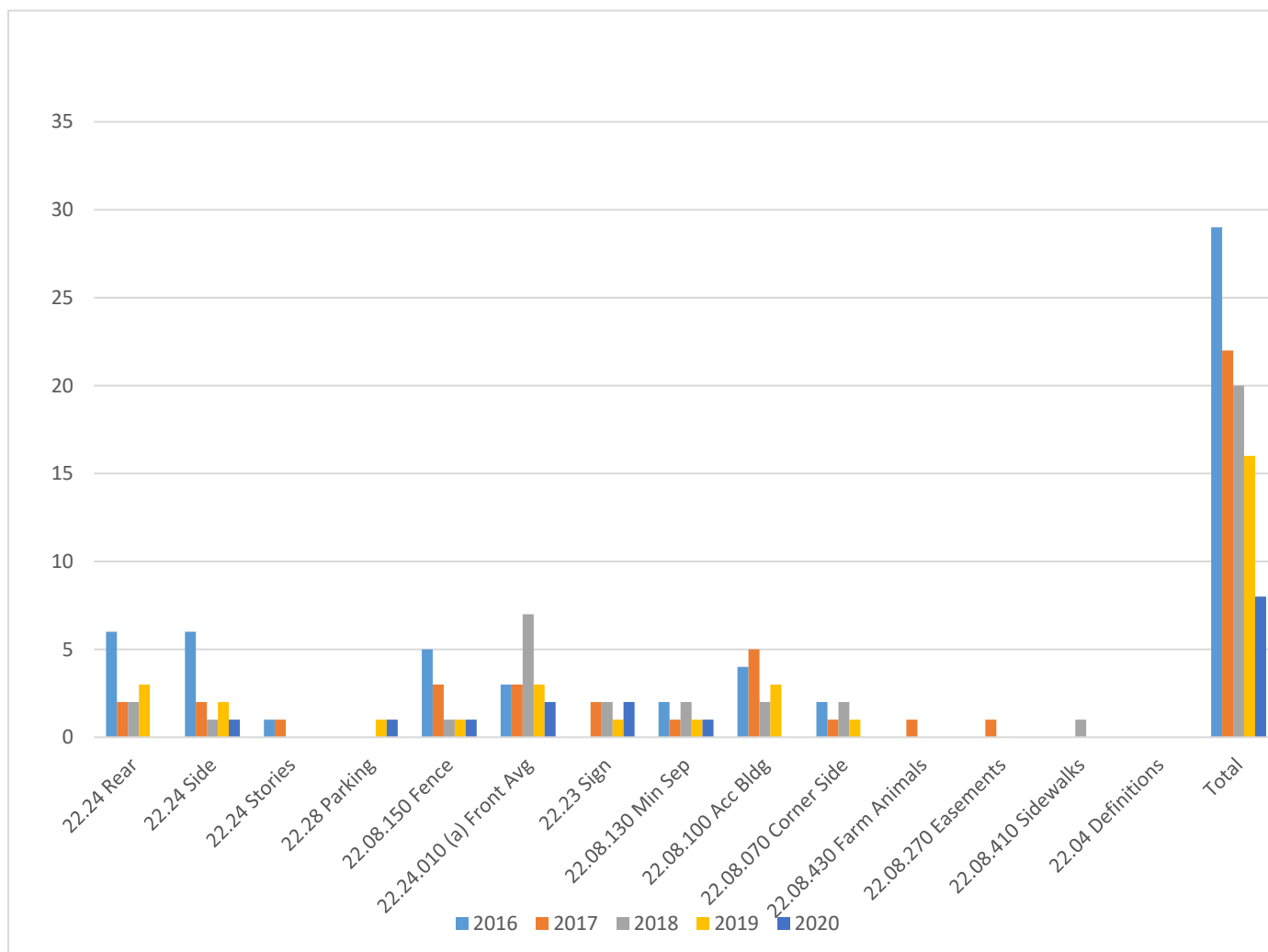


In addition to reviewing the sections of the Zoning Ordinance, requests by Zone District are important to review to understand the underlying issues that may be leading to certain areas requesting a greater number of variances. During the past year, the Board has received variance requests from the following Zone Districts:



### Historical Case History

The Zoning Board of Appeals has heard cases since the incorporation of the Village. Over the past five years, the Board has had requests for relief as detailed on the following page:



In the past five years, the Village has made a number of updates to its Zoning Ordinance. Most significantly was the update to the fencing regulations in 2018 which corresponded with a drop in requests for a variance from that section of the ordinance. Section 22.08.130, which regulated minimum separation between buildings, was also eliminated and merged with Section 22.08.090 in 2019 and the one request received was due to existing non-conformity.

Historically, the areas that the Village still sees a bulk of its requests from regulations related to rear and side open space, front open space averaging, and accessory building and structure placement. In reviewing the individual cases, the majority of the rear and side variance requests are for existing non-conforming structures. Given that, it appears the front open space averaging and accessory building/structure placement are two areas of the Ordinance that may warrant further consideration for potential amendments. The significant drop off in cases this year is likely partially attributed to the COVID-19 pandemic.

### Commercial Variance Requests

Given the primarily residential character of the community, the Village receives relatively few commercial variance requests. In the past five years we have received nine requests for commercially zoned properties, seven of which were requests for a variance from the sign ordinance. This high



percentage of requests is indicative of a need to review the ordinance language. Additionally, Administration has noted the sign ordinance should be reviewed for compliance with the Supreme Court case *Reed v. Gilbert*.

### Geographic Data

The Village has received petition requests in the following locations in 2020. There is no apparent geographic pattern to the requests.



Figure 1 – 2020

### Conclusion

During calendar year 2020, the Zoning Board of Appeals was petitioned to hear the lowest number of requests for relief from the Zoning Ordinance in the past five years. However, given the global COVID-19 pandemic, there is a likelihood that some of this is due to external factors. That being said, we have seen a reduction in the total number of variance requests from the five-year high of 29 in 2016. The downward trend is an indicator that updates to the Village's Zoning Ordinance have been effective at providing relief from areas which did not reflect current land use trends of the community.

Respectfully Submitted,

Michele Tillman  
Zoning Board of Appeals Chairperson

Chris Crossen  
Zoning Board of Appeals Vice-Chairperson

Erin E. LaPere  
Planning & Zoning Administrator