

Present: Chairperson Raeder; Vice-Chairperson Tillman; Members: Crawford, Gatowski, Oen, and Mitchell; Alternate: Gennari

Absent: Members: Crossen and Jawad

Also Present: Planning and Zoning Administrator, LaPere  
Council Liaison, George

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.

### **ELECTION OF OFFICERS**

Raeder opened the floor for nominations for Chairperson and Vice-Chairperson of the Zoning Board of Appeals.

Mitchell nominated Raeder as the Zoning Board of Appeals Chairperson. There were no further nominations. Raeder was elected chairperson by acclamation.

Crawford nominated Tillman as the Vice-Chairperson of the Zoning Board of Appeals. There were no further nominations. Tillman was elected vice-chairperson by acclamation.

### **REVIEW AND CONSIDER APPROVAL OF MINUTES OF A REGULAR ZONING BOARD MEETING HELD JUNE 10, 2019**

Motion by Mitchell, second by Gatowski, that the minutes of a regular Zoning Board of Appeals meeting held June 10, 2019 be approved as submitted.

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. 1367**

**Petitioner:** John and Christina Simon

**Property:** 18953 Bedford

**Village Ordinance: 22.08.070 Corner Lot Setback on the Side Street in Residential Zone Districts** All Residential Zone Districts require minimum setback from the side street equal to the minimum front setback for the Zone District where there is an abutting interior residential lot.

**22.30.040 (a) Nonconforming Structures** All Residential Zone Districts require any alteration or enlargement to an existing nonconforming structure conform to the Ordinance.

**Deviation Requested:** The petitioner seeks to reconstruct an addition on the first floor of an existing nonconforming home that will remain 32.6 feet from the side street where the required

setback is 40 feet.

The property is zoned R-2B, Single Family Residential. Section 22.08.070 requires minimum setback on the side street equal to the minimum front setback for the Zone District where there is an abutting interior lot. The required street side setback for this property is 40 feet. The proposed first and second floor additions and interior renovations will result in a remodeled kitchen and additional living space on the first and second floor. The portion of the work that requires a variance is at the rear corner where the petitioner is seeking to reconstruct an existing first floor addition that was built by the prior owner.

The house was constructed in 1950, eight years prior to the Village incorporation, and is existing nonconforming with a varying street side setback of 25 feet to 32.6 feet from Beaconsfield. The porch landing off the rear of the home was enclosed with walls and roof at some point by a prior owner. The porch was not constructed to support the enclosure and the petitioner has submitted documentation of the structural failures necessitating its replacement. The existing house as a whole is nonconforming due to the proximity to Beaconsfield and the proposed work will not encroach further into the setback than the existing building. The proposal otherwise meets the requirements of the Village Zoning Ordinance. Also submitted was a letter of support received by the Village from the abutting property owner to the south at 32464 Beaconsfield.

Simon explained they were aware of the foundation issues upon purchase of the property and the necessary repairs were including in the bargaining during the purchase. However, upon further inspection, the scope of the project expanded. The current space was formerly a porch and it was enclosed without permits. It is not structurally sound and is therefore unusable. The intention is to create an addition that is structurally sound and complements the design of the home.

Motion by Tillman, second by Oen, that the Zoning Board of Appeals grants a variance from requirements of Village Ordinance, Chapter 22, Section 22.08.070 Corner Lot Setback on the Side Street in Residential Zone Districts and Section 22.30.040 (a) Nonconforming Structures to rebuild an existing addition constructed on the rear of an existing, nonconforming house located at 18953 Bedford St that will be no closer than 32.6 feet at the southwest corner due to practical difficulties of the location of the existing structure and foundation deficiencies that make it unsafe and unusable.

Roll Call Vote:  
Motion passed (7-0)

### CASE NO. 1368

**Petitioner:** Jennifer Cook  
**Property:** 19218 Warwick St

**Village Ordinance: 22.24 Area, Height, Bulk, and Placement Regulations:** Residential Zone District R-2B requires rear open space of 40 feet.

**Deviation Requested:** The petitioner seeks to construct a one-story addition onto an existing home that will be 34 feet 11 inches from the rear property line.

The property is zoned R-2B, Single Family Residential. Section 22.24 requires a minimum setback

of forty (40) feet for the principal building. The proposed first floor addition and interior renovations will result in additional living space, specifically a bedroom, bath, and closet. The existing ranch house was constructed in 1955 and has three bedrooms and two baths.

Cook explained that her family needed more space in the home if they were to continue to live there. The intention is to add a master bedroom; creating a second story would render the project cost prohibitive. The addition will not expand any further than the current patio off the rear of the house.

The Commission inquired about the steps taken to evaluate other options to expand the home included whether they had considered making the room wider instead of deeper to allow for a lesser variance. Cook explained that the sole windows for the family room negate that option; any further expansion would cover those windows. The width includes the master bathroom and closet. The edge of the building and windows create limits of how the home can expand.

Motion by Mitchell, second by Tillman, that the Zoning Board of Appeals grants a variance from requirements of Village Ordinance, Chapter 22, Section 22.24 Area, Height, Bulk, and Placement Regulations to construct a one-story addition on the existing house located at 19218 Warwick that will be no closer than 34 feet 11 inches from the rear property line, due to practical difficulties of the home no longer meeting the needs of a family for modern usage and any lesser variance would not meet acceptable standards.

Roll Call Vote:

Gatowski	yes
Oen	yes
Mitchell	yes
Raeder	yes
Tillman	yes
Gennari	yes
Crawford	no
Motion passed (6-1)	

**CASE NO. 1366**

**Petitioner:** Terry Nosan, Nosan Signature Homes  
30600 Northwestern Hwy, Ste 400  
Farmington Hills, MI 48334

**Property:** Lot 5, Lahser Road, TH-24-03-302-003

**Interpretation of Village Zoning Ordinance Text**

Petitioner Terry Nosan, 30600 Northwestern Hwy, Ste 400, Farmington Hills, MI 48304, for property at the northeast corner of Lahser and Hampstead, Parcel ID TH-24-03-302-003, Lot 5 Lahser Road, is seeking an interpretation by the Zoning Board of Appeals (ZBA) of two sections of text, Section 22.08.070 Corner Lot Setback on the Side Street in Residential Zone Districts, and Section 22.08.100 Accessory Buildings, Structures, and Uses subsections b and c, of Chapter 22 Zoning Ordinance as applied to the aforementioned property. The Michigan Zoning Enabling Act (MZEA) empowers the ZBA to review the determination by administration as to the interpretation of the text within the Zoning Ordinance.

***Interpretation One***

**22.08.070 Corner Lot Setback on the Side Street in Residential Zone Districts** Every corner lot in any residential Zone District which has on its side street an abutting interior residential lot, shall have a minimum setback from the side street equal to the minimum front setback for the Zone District in which such building is located; provide that this requirement shall not reduce the buildable width of any lot to less than thirty feet (30'). Where there is no abutting interior residential lot on said side street, the minimum side street setback shall be fifteen feet (15') for the permitted principal building and twenty feet (20') for permitted accessory buildings.

Administration has determined this section refers to the stated minimum setback for front open space enumerated in Section 22.24 Schedule of Regulations, Area, Height, Bulk, and Placement Regulations which is forty (40) feet in every Residential Zone District. The petitioner has expressed concern that the averaging requirements as described in Section 22.24.010 (a) Front Open Space could be applied to the street side setback on a corner lot. Section 22.24.010 (a), in part, states "...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...". The measurement to which the regulations of 22.08.070 are being applied is the side open space, and not the front open space as described in 22.24.010 (a) therefore administration contends the regulations for front open space averaging do not apply to Section 22.08.070.

Motion by Tillman, second by Oen, that the Zoning Board of Appeals confirms the determination by administration that front open space requirements of Section 22.24.010 (a) do not apply to street side setback requirements for corner lots as described in Section 22.08.070.

Roll call vote:  
Motion passed (7-0)

***Interpretation Two***

**22.08.100 Accessory Buildings, Structures, and Uses**

- b. No detached accessory buildings, structures, or uses shall be erected in the front or required side open space or within permanent easements.
  
- c. Detached accessory buildings or structures may occupy a portion of the rear open space and shall be at least five feet (5') from all adjoining lot lines and shall not exceed fifteen feet (15') in building height, except as otherwise provided herein.

Administration has determined the language in Section 22.08.100, taken as a whole, to mean detached accessory buildings and structures are not permitted in the front or side yards. Per Section 22.04 Definitions, accessory buildings and structures include garages, sheds, fences, mechanical units, and recreational structures such as play equipment and sports courts. Additionally, in Section 22.04 Definitions, Open Space is defined as the unobstructed area from building to the "required setback", and front, rear, and side open space all include measurement to the "required setback" in the definition.

Based on the language in definitions, Administration finds the inclusion of the word "required" in Section 22.08.100 b to be redundant and not indicative of allowing buildings, structures, and uses in the side open space. Administration also referred to the current developed state of the Village,

including a review of the aerial imagery of the existing conditions in the Village, which supports the lack of structures and buildings in the front and side open spaces on residential properties. The petitioner believes that the inclusion of “required” side open space should be interpreted to mean an accessory building or structure is permissible within the side yard so long as it meets the stated setbacks of Section 22.24. Specifically, the petitioner is proposing to construct a home within the buildable envelope that establishes the front lot line along Lahser Road and have the front façade face Hampstead. This would mean the side yard/open space on the north of the house would function as a rear yard. As such, they would like the ability at some time in the future to be able to construct accessory structures, such as a deck, in that space so long as they maintained required setback (for this property that measurement would be 15 feet). As currently interpreted by Administration that would not be permitted without a variance from the Zoning Board of Appeals.

Motion by Tillman, second by Oen, that the Zoning Board of Appeals confirms the determination by administration that detached accessory buildings, structures, and uses are not permitted in the front or side yards irrespective of whether the proposed building, structure, or use meets the setback requirement for that Zone District.

Roll call vote:  
Motion passed (7-0)

**Village Ordinance: 22.24.010 (a) Front Open Space:** All Residential Zone Districts require front open space to be not less than the average front open space of existing homes within 200 feet on same side of the street.

**Deviation Requested:** The petitioner seeks to build a new home on a vacant lot that will be 40 feet from the Hampstead lot line where the average front open space is approximately 107.5 feet.

The property is zoned R-A, Single Family Residential. Chapter 22, Section 22.24.010 (a) requires front open space to be not less than the average front open space of existing homes within 200 feet on the same side of the street. Section 22.04, defines front lot line as follows “...In the case of a corner or double frontage lot, the line separating said lot from the street which is designated as the front street in the request for a building permit.” The petitioner is seeking to designate Hampstead as the front street and Lahser as the side street for the building permit to construct a new home on this property. By doing so, the front open space requirement is calculated based on the existing homes along the north side of Hampstead.

The vacant parcel is approximately 250 feet deep (east to west) and 150 feet wide (north to south), and includes 0.8834 acres of land. The lots to the north and south of the parcel front Lahser road, have similar dimensions and lot orientation, and have a front open space ranging from approximately 100-150 feet from the property line. The lots to the east, along Hampstead, are of a similar size and dimension but oriented so the depth is north to south. These homes are set back approximately 100-125 feet from the property line along Hampstead. Given the orientation and dimensions of the lot, the petitioner requires a variance to designate Hampstead as the front street. If the petitioner chose to designate the front street as Lahser, the variance would not be required as a building envelope exists large enough to construct a home that meets the minimum required usable floor area per Village Ordinance.

As a corner lot, Section 22.08.070 requires the street side have a minimum setback of 40 feet where there is an abutting interior lot. That condition exists on both Lahser and Hampstead so the

requirement for the street side will be a minimum of 40 feet regardless of the designation for the front street. Prior to permit issuance, a complete set of plans detailing compliance with all other applicable sections of the Village Ordinances and Building Code(s) will be required.

Nosan confirmed that there would be no issues for compliance with the side and front street requirements if this variance was granted.

Motion by Tillman, second by Crawford, that the Zoning Board of Appeals grants a variance from requirements of Village Ordinance, Chapter 22, Section 22.24.010 (a) Front Open Space to designate Hampstead as the front lot line to build a new principal building on the vacant lot located at the northeast corner of Lahser and Hampstead, Parcel ID TH-24- 03-302-003, that will be no closer than 40 feet from the property line along Hampstead due to practical difficulties of the topography and building envelope restrictions.

Roll Call Vote:

Raeder	no
Tillman	no
Gennari	yes
Crawford	yes
Gatowski	yes
Oen	no
Mitchell	yes
Motion failed (4-3)	

Motion by Oen that the Zoning Board of Appeals denies a variance from requirements of Village Ordinance, Chapter 22, Section 22.24.010 (a) Front Open Space to designate Hampstead as the front lot line to build a new principal building on the vacant lot located at the northeast corner of Lahser and Pierce, Parcel ID TH-24- 03-302-003, that will be no closer than 40 feet from the property line along Hampstead due to the absence of practical difficulty standards met.

Motion failed due to lack of a second.

Motion by Crawford, second by Tillman, that the Zoning Board of Appeals postpones all discussion on Case #1366 to the next meeting.

Motion passed.

**PUBLIC COMMENTS**

None.

**LIAISON COMMENTS**

George expressed his regret that Reanan Maxwell was not reappointed to the Board and has encouraged her to reapply. He thanked all of the Board for their time and hard work.

Motion by Tillman, second by Raeder, that the Zoning Board of Appeals encourages former vice-chairperson Reanan Maxwell to reapply for the open position on the Board. The Board also encourages Village Council to support her reappointment. The Board also thanks her for her participation, hard work, and dedication.

Motion passed.

**ADMINISTRATION COMMENTS**

LaPere reported that Council is taking applications for a full member of the Board as well as an alternate position. Planning continues to work with their subcommittees on rezoning standards, planned unit development, principal and special land uses, and off-street parking regulations. Council adopted changes related to minimum separation, and also updates to the child care and adult foster care regulations. A second reading is scheduled for updates to the construction fencing ordinance.

**ZONING BOARD COMMENTS**

None.

Motion by Oen, second by Mitchell, to adjourn the meeting at 9:10 pm.

Motion passed.

**Charles Raeder**  
**Chairperson**

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

**Elizabeth M. Lyons**  
**Recording Secretary**