

Present: Chairperson Ostrowski; Vice-Chairperson Westerlund; Members: Borowski, Copeland, Drummond, Ruprich, Stempien and Wilensky

Absent: Member: Grinnan

Also Present: Planning and Zoning Administrator, LaPere
Planning Consultant, Borden
Council Liaison, Hrydziuszko

Chairperson Ostrowski called the regular Planning Commission meeting to order at 7:30 p.m. in the Village of Beverly Hills municipal building at 18500 W. Thirteen Mile Road.

AMENDMENTS TO AGENDA/APPROVE AGENDA

Motion by Westerlund, second by Borowski, to approve the agenda as published.

Motion passed.

REVIEW AND CONSIDER APPROVAL OF REGULAR PLANNING COMMISSION MINUTES OF MEETING HELD MARCH 27, 2019

Westerlund suggested amending the minutes, on page 1, under “Review and Consider Approval of Joint Council-Planning Commission Minutes of Meeting held February 13, 2109” change “second by Crossen” to “second by Copeland” and on page 5, under “Commissioners Comments” change “second by Crossen” to “second by Copeland”. .

Motion by Westerlund, second by Borowski, to approve minutes of a regular Planning Commission meeting held March 27, 2019, as amended.

Motion passed.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

None.

REVIEW AND CONSIDER APPROVAL OF A FACE CHANGE ON THE EXISTING GROUND SIGN AT 31333 SOUTHFIELD ROAD FOR NEW TENANT, MOTION ARTS

Borden reviewed the application requesting a sign face change within the existing collective ground sign for the building at 31333 Southfield Road. The proposed sign is for a new tenant within the building, Motion Arts. The subject site had a collective ground sign approved in 2016 and the only change proposed at this time is a new sign face for the new tenant.

The proposal has been reviewed for compliance with the requirements of the Village Zoning Ordinance. If the application is approved by the Commission, the applicant must obtain a permit prior to installation. Sections 22.32.095 and 22.32.110 provide regulations for wall signs, and the applicant follows all applicable regulations.

The Commission clarified with the applicant on the total illumination proposed and thanked the applicant for the detailed submission.

Motion by Westerlund, second by Wilensky, to recommend approval of a face change on the existing ground sign at 31333 Southfield road for new tenant, Motion Arts, as submitted.

Roll Call Vote:

Motion passed (8-0)

PUBLIC HEARING FOR DRAFT LANGUAGE AMENDING CHAPTER 22, SECTIONS 22.08.130, 22.08.090, 22.08.300, 22.04, 22.08.370, 22.14, AND 22.16 OF THE VILLAGE MUNICIPAL CODE

Ostrowski opened the public hearing at 7:40 p.m.

No one wished to be heard, therefore Ostrowski closed the public hearing at 7:40 p.m.

REVIEW AND CONSIDER RECOMMENDATION ON LANGUAGE AMENDING CHAPTER 22, TO ELIMINATE SECTION 22.08.130 AND TO MODIFY SECTION 22.08.090

Administration is aware of two sections with conflicting requirements for the minimum distance between buildings on adjacent properties, Sections 22.08.090 and 22.08.130. Upon reviewing the file of the various amendments to the Zoning Ordinance, Section 22.08.090 is the original language in place dictating spacing between residences tied to the minimum setback requirements of the Zone District. Section 22.08.130 was drafted and adopted by Council in response to concerns about spacing between homes during Zoning Ordinance updates that occurred in 2007. There was no reference to the existing language in the discussion recorded in the meeting minutes, therefore Administration is assuming that it was an oversight to create additional language.

In addition, the language in Section 22.08.130 conflicts with setback requirements and effectively imposes greater setback standards than the adopted minimums of 22.24. Furthermore, strict interpretation of the language "...within 15 feet of any structure..." could result in significant nonconformity throughout the Zone Districts identified in that section as our ordinance defines a structure as "Anything constructed or erected, the use of which requires location on the ground or attachments to something having location on the ground." Section 22.04 Definitions further defines accessory structures and gives examples as children's playhouse or play equipment. Based on discussion at the meeting when the language was drafted, it does not appear the intent was to prohibit a residence where the abutting property may have a swing set or fence less than 15 feet away, therefore Administration is proposing to eliminate Section 22.08.130.

Per the discussion at the Planning Commission meeting held March 27, 2019, administration has drafted modifications to the existing language of 22.08.090 to maintain the 15 foot separation between residential buildings in R-2A and R-2B Zone Districts and kept the separation linked to the minimum setbacks for all other single family residential districts. A review of Zoning Board of Appeals cases since adoption of Section 22.08.130 revealed over 60% of the requests for a variance from that section were in Zone District R-3. The changes proposed will eliminate a significant amount of nonconformity in that Zone District and including all the regulations for minimum separation in one section provides ease for reader. Additionally, the proposed language clarifies separation is between residential buildings.

Westerlund expressed concern relative to language that reduces the separation on smaller lots and how those requirements might impact setbacks in the R-3 Zone District. Borden explained that the allowance for the reduction potentially occurs in a non-conforming lot in larger lot districts, but the setback requirements would still apply. Westerlund requested the Schedule Regulation Chart be updated to reflect changes.

Motion by Westerlund, second by Drummond, that the Planning Commission recommends Village Council adopt an ordinance to amend language of Chapter 22, Section 22.08.090 Minimum Distance Between Residential Buildings to update the language for clarity and reduce existing nonconformity and to eliminate Section 22.08.130 Minimum Separation, with changes to the schedule of regulations.

Roll Call Vote:
Motion passed (8-0)

REVIEW AND CONSIDER RECOMMENDATION ON LANGUAGE AMENDING CHAPTER 22, SECTION 22.08.300 TO REFLECT STATUTORY REQUIREMENTS FOR NOTIFICATION OF PUBLIC HEARINGS AND UPDATE REFERENCES OF "PLANNING BOARD" TO "PLANNING COMMISSION"

Section 22.08.300 Procedures and Standards for Principal Uses Permitted Subject to Special Conditions of Chapter 22 describes the procedure for notification, including the applicable deadlines, for Special Land Use requests. This section of the MZEA was last updated in 2008 and notification deadlines in our ordinance do not match statutory requirements. While the notifications are being sent in accordance with state regulations, it is important that our ordinance language is correct to ensure clarity and consistency. Additionally, the text should be updated to reflect "Planning Commission".

Upon discussion by the Commission, Borden clarified the state regulations for the notification area.

Motion by Borowski, second by Ruprich, that the Planning Commission recommends Village Council adopt an ordinance to amend language of Chapter 22, Section 22.08.300 Procedures and Standards for Principal Uses Permitted Subject to Special Conditions to update the notification deadlines pursuant to the statutory requirements outlined in the Michigan Zoning Enabling Act and modify references of Planning Board to Planning Commission within that section.

Roll call vote:
Motion passed (8-0)

REVIEW AND CONSIDER RECOMMENDATION ON LANGUAGE AMENDING CHAPTER 22, SECTIONS 22.04, 22.08.370, 22.14, AND 22.16 TO REFLECT STATUTORY LANGUAGE REGULATING ADULT FOSTER CARE AND CHILDCARE FACILITIES

Administration noted the sections of the Zoning Ordinance that regulate in-home adult foster care and in-home childcare facilities were last updated in 1991. The Michigan Zoning Enabling Act (MZEA) section regulating adult foster care and in-home child care facilities have been updated multiple times since 1991 and the MZEA Section 125.3206 Residential use of property; adult foster care facilities; family or group child care homes specifically states that "...a state licensed residential facility shall be considered a residential use of property for the purposes of zoning and a permitted use in all residential zones..." and the exclusion of the adult group home and group child care homes in Single Family Residential Zone Districts is contrary to that provision and must be corrected. The MZEA does allow for group child care homes to be issued a special use permit in a city or village which allows for protections to ensure the operation of such use will not negatively impact character of the surrounding neighborhood.

The MZEA, and subsequently the Village's Zoning Ordinance, combines regulatory language regarding adult foster care facilities and child care homes. There is a need to update various sections of the Zoning Ordinance to properly address the changes to the MZEA. Specifically, Section 22.04, Section 22.08.370, Section 22.14, and Section 22.16 all require amendments.

Motion by Borowski, second by Westerlund, that the Planning Commission recommends Village Council adopt an ordinance to amend language of Chapter 22, Section 22.04 Definitions, Section 22.08.370 Foster Family Group Home and Child Care Centers, Section 22.14 R-A, R-1, R-1A, R-2, R-2A, R-2B, and R-3 Single Family Residential Districts, and Section 22.16 Multiple Family Residential District to update the language pursuant to the statutory requirements outlined in the Michigan Zoning Enabling Act for adult foster care and child care facilities.

Roll call vote:
Motion passed (8-0)

DISCUSSION ON PROPOSED MODIFICATIONS TO CHAPTER 22, SECTION 22.08.280 (B), FENCES TO MODIFY REGULATIONS FOR CONSTRUCTION FENCING

In 2017 the Village adopted an ordinance amending Chapter 22, Section 22.08.280 Nuisance Activities, to add subsection b, item 3 Fences which regulates fencing surrounding construction sites. At that time, the decision was to require a four (4) foot fence for the duration of time in which an open hole or excavation was accessible on the project site.

Since enacting the ordinance, the Village has had compliance concerns regarding the time such fencing is installed as well as the general security of the fencing. Language is printed on the building and demolition permits noting the requirement, as well as communicated verbally, to ensure contractors are aware of the regulations. Administration has reviewed other community's regulations relative to construction fencing and suggests modifying the language

to require higher fencing, a longer duration, and specific details regarding gates and accessibility.

Per Council discussion on this matter at their meeting held April 2, 2019, Administration drafted language for Planning Commission to review and discuss.

Procedurally, the Planning Commission must hold a public hearing prior to making a recommendation to Council. The Council must also hold a public hearing, and first and second readings prior to adoption. Upon adoption by Council, the language will take effect 20 days after publication.

Bill Wegert, Westlady, expressed his concerns related to construction fencing requirements.

Ostrowski noted that many of these items are typically not found in Zoning Ordinance and Borden confirmed that in his experience these regulations are handled either in other sections of a community's Municipal Code or as administrative task. There was consensus to update the ordinance reflecting required compliance with administrative rules.

Discussion took place amongst the Commission including specifications related to installation specifications, chain-link fences, screenings, what type of construction requires a fence, and whether the home is occupied during construction. They concurred that the fence needs to adequately contain construction and materials should not be stored on the road or in the right-of-way and that the Building Official should have discretion to modify requirements as needed.

Hrydziusko related Council's concerns related to requirements for portable restrooms and dumpsters on site.

The Commission requested Administration draft updates to the ordinance as discussed with a copy of the proposed rules to be provided to the Commission and to schedule a public hearing for May 22, 2019.

SUBCOMMITTEE UPDATES

PUD & Cluster Development: Ruprich/Grinnan

The subcommittee met and discussed some sample language provided. The intention is to focus on residential PUD which would replace the current cluster development.

Rezoning Standards: Borowski/Copeland

They plan to collaborate with Administration to draft recommended language upon review of sample language provided.

Principal Uses and Special Land Uses in Office and Business zoning districts: Westerlund/Wilensky

Borden suggested to start with expanding and clarifying on the current lists of uses in these districts based on the sample language provided.

Off-Street Parking: Drummond/Stempien

Borden suggested the subcommittee make recommendations based upon updates to commercial uses; contingent on the work done related to principal uses and special land use.

PUBLIC COMMENTS

None.

LIAISON COMMENTS

Hrydziusko reported that Detroit Country Day requested a postponement to July 2; they have agreed to remove the sports court and playground after the completion of this school year.

ADMINISTRATION COMMENTS

LaPere reported the Zoning Board will see two cases at their May meeting.

COMMISSIONERS COMMENTS

None.

Motion by Wilensky, second by Westerlund, to adjourn the meeting at 9:07 p.m.

Motion passed.

**George Ostrowski
Planning Commission
Chairperson**

**Kristin Rutkowski
Village Clerk**

**Elizabeth M. Lyons
Recording Secretary**