

Present: Chairperson Tillman; Vice-Chairperson Schafer; Members: Berwick, Donnelly, Fox, Kelly, Mueller and Rass

Absent: Meah and Verdi-Hus

Also Present: Village Manager, Wilson
Council Liaison, LaFerriere

Chairperson Tillman called the meeting to order at 7:30 p.m. in the Village municipal building at 18500 W. Thirteen Mile Road.

APPROVE MINUTES OF ZONING BOARD MEETING HELD NOVEMBER 14, 2011
Berwick questioned an item under “Public Comments” regarding the variance request from the Beverly Hills Community Garden, which was addressed by Chairperson Tillman.

Motion by Schafer, second by Rass, that the minutes of the regular Zoning Board of Appeals meeting held on November 14, 2011 be approved as submitted.

Motion passed (8 – 0).

CASE NO. 1235

Petitioner/Property: Market Fresh
31201 Southfield Road
Sidwell 99-00-920-010

Deviation requested: Petitioner requests permission to display the following:

- 1) April 19 - July 15, 2012: flowers, plants, soil, mulch - 10 parking spaces for display.
- 2) August 1 – November 4: pumpkins, straw, gourds, plants, corn stalks, firewood.
- 3) November 5 – January 6, 2013: Christmas décor, wreaths, grave blankets, roping, firewood.

Nick Karmo, store manager for Market Fresh, requested a variance from the ordinance in order to display and sell seasonal items outside of the store on the 12’ sidewalk along the building. Market Fresh has undergone an expansion and site improvements in the last year. Karmo outlined what would be needed with the new configuration as compared with past years.

Most of the plants and flowers will be located on the sidewalk on the eastern side of the building with a limited amount on the southern side. Only five parking spaces will be used for displays this year, with none of those spaces being handicapped spots. Karmo affirmed that the displays will only use about 4’ of the 12’ wide sidewalk.

Karmo asked to amend his petition to add the use of a temporary tent during the spring/summer season in order to provide shade for plants located on the eastern side of the building. Prior to the

renovation, the building had permanent awnings covering the sidewalk. He displayed a sample of the tent material and provided information on the dimensions and locations of two tents. Karmo would also like to be able to store shopping carts outside Starbucks under the covered walkway.

In response to an inquiry, Manager Wilson thought it would be appropriate for the Board to approve the tent request with the understanding that the building official will ultimately determine the acceptability of the tents. He recommended that a motion approving the variance request include a requirement that a 6' path remain clear around the building for pedestrian traffic. Fox thought that it was inappropriate to amend the petition at this meeting to add a tent request for the reason that a separate section of the ordinance was involved.

Karmo addressed questions from the Board regarding the building renovation, location of plants relative to café tables on the east side of the building, tent structures and restrictions, the draft ordinance amendment, and location of shopping carts.

Wilson related that the Village Council will be considering an ordinance amendment to regulate and permit outdoor sales and seating in the business district, which would eliminate the need for annual ZBA approval of this variance request. The Planning Board has submitted a draft ordinance that is being reviewed by the Village Attorney at this time. Wilson outlined the issues discussed as part of preparing this ordinance amendment.

Decision: Motion by Schafer, second by Donnelly, to approve a variance to allow specific outdoor displays at Market Fresh on the requested dates in the listed locations. It has been determined by the Zoning Board of Appeals that this is a reasonable and appropriate use for the property in question. It does not impose an undue hardship on the community or nearby properties. It does not compromise the public health, safety or general welfare, and it is unique to the property in question.

- 1) April 19 - July 15, 2012: flowers, plants, soil, mulch.
- 2) August 1 – November 4: pumpkins, straw, gourds, plants, corn stalks, firewood.
- 3) November 5 – January 6, 2013: Christmas décor, wreaths, grave blankets, roping, firewood.
- 4) Allow the use of two temporary tents in accordance with the provisions of the Zoning Ordinance through July 15, 2012.
- 5) Carts may be stored to the north of the Starbucks entry under the covered walkway.
- 6) The height of stacks of mulch and topsoil must be limited to 5 feet.
- 7) There must be at least a 6 ft. clear walkway for pedestrian traffic on the east and south sides of the building.

8) The 5 parking spaces used for display will not be handicapped spaces.

Wilson remarked that there is an excess of 14 parking spaces at that location per our current code. If Market Fresh used the 10 parking spaces originally requested, it would still be in compliance with the parking code.

Roll Call Vote:

Berwick	- yes
Donnelly	- yes
Kelly	- yes
Mueller	- yes
Rass	- yes
Schafer	- yes
Tillman	- yes
Fox	- no

Motion passed (7 – 1).

CASE NO. 1236

Petitioner/Property: Starbucks
31201 Southfield
Sidwell # 99-00-004-003

Deviation requested: Petitioner requests permission for 6 outdoor tables with 3 umbrella stands and 12 chairs on the east porch in front of Starbucks from March 13 through November 30, 2012.

Nick Karmo, store manager for Market Fresh, was present on behalf of Starbucks to request the use of patio furniture outside of the store from March 13 through November 30, 2012. It was noted that installation of a rail fencing was required when this request was first granted in order to create a separation from the sidewalk and parking lot. Wilson said that the parking lot now includes parking blocks, which provides protection and customer security. The renovation plan included reorientation of the lot and parking spaces.

Karmo affirmed that a 6' clearance for pedestrians will be maintained. There was some conversation about whether Starbucks will choose to have their tables and chairs closer to the building or on the other side of the outdoor sales items. Wilson stated that he was at the Planning Board meetings when the renovation design was approved. It was the understanding at the time that the tables and chairs would be located under the covered section in front of Starbucks. Mr. Karmo indicated that he and the Starbucks manager had not worked out which business would use the area underneath the roof on the east side of the building north of the Starbucks door and which would use the area outside further east.

Decision: Motion by Fox, second by Schafer, to approve the request for variance from Starbucks to place 6 outdoor tables, 12 chairs and 3 umbrellas with

stands in front of the store from March 13 through November 30, 2012 provided that there is a 6' perimeter maintained around the tables and the parking area.

Roll Call Vote:

Motion passed (8 – 0).

PUBLIC COMMENTS

None

ZONING BOARD COMMENTS

Berwick stated that the Zoning Board denied a variance request related to the fence for the Beverly Hills Community Garden on the grounds of Beverly United Methodist Church. She understood that the Village building official issued a permit to allow the fence.

Tillman responded that the Zoning Board did not approve the request for variance for that fence. The applicant was given a period of time to come into compliance. It was up to Village code enforcement and administration to determine compliance.

Manager Wilson added that the petitioner had 30 days upon denial of the ZBA variance to modify the fence to bring it into compliance or remove it. At that time, a representative of the Community Garden met with him and Attorney Ryan to discuss a proposal to modify the fence, which involved enclosure of the side door of the church building facing Evergreen Road. It was Mr. Ryan's interpretation that the fence was in compliance with the ordinance based upon the modifications undertaken, which were reviewed by the building official and code enforcement officer. A fence permit was issued.

There was a question in regard to a plastic material used on the fence as a critter guard. Wilson referred to an ordinance section that addresses plastic inserts and fencing. It was Ryan's recollection that this section referred to weaving plastic inserts into chain link fencing. Wilson approached a representative of the Community Garden to determine if the group would be agreeable to using a chicken wire insert to keep animals out, which would comply with the ordinance.

Tillman commented that members are in receipt of a letter from Board member Meah indicating that he will be resigning from the Zoning Board and relocating to Florida. Tillman wished him the best on behalf of the Board; he will be missed.

Motion by Fox, second by Schafer, to adjourn the meeting at 8:15 p.m.

Motion passed (8 – 0).

Michele Tillman, Chairperson
Zoning Board of Appeals

Ellen E. Marshall
Village Clerk

Susan Bernard
Recording Secretary