

Present: Chairperson Tillman; Vice-Chair Schafer; Members: Delaney, Donnelly, Fox, Kelly, Mueller and Verdi-Hus

Absent: Rass

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 APRIL 9, 2012**

Motion by Schafer, second by Verdi-Hus, that the minutes of the regular Zoning Board of Appeals meeting held on April 9, 2012 be approved as submitted.

Motion passed.

**CASE NO. 1238**

**Petitioner/Property:** Cliff Lunney, CWL Investments (on behalf of Jimmy John's)  
31255 Southfield Road  
24-02-480-001

**Village Ordinance:** **Section 22.22.020....** Permitted Principal Uses (d): The uses permitted shall be conducted without the outside sale or display of products, goods or services or the outside storage of goods or services, material or equipment.

**Deviation requested:** Petitioner requests permission to have three outside tables w/chairs for outdoor seating in front of Jimmy John's restaurant from June through October 2012.

Manager Wilson reviewed that a Jimmy John's restaurant opened recently at the shopping center at Thirteen Mile and Southfield Road. Upon opening the store, tables and seats were placed outside for use by patrons. The issue of outside sales and temporary outside seating has been going on for quite some time in Beverly Hills. The Planning Board is in the process of drafting an ordinance amendment to allow outdoor seasonal sales and seating to occur on an administrative basis with standards. Currently, the ordinance does not allow outside seating without a variance from the Zoning Board of Appeals. Wilson displayed photographs showing the storefront and two tables with chairs placed in front of Jimmy John's.

Chris Conklin with CWL Investments representing Jimmy John's was present requesting a variance to allow two tables with four chairs at each table in front of the restaurant. The franchisee is trying to create a positive experience for customers without infringing on anyone in the shopping center or altering the character of the area.

Questions and comments from Board members were addressed by Mr. Conklin. The petitioner affirmed that the umbrellas would be properly anchored; the tables will stay within the Jimmy John's storefront area; tables will not block the windows or front door; the outside space will be a non-smoking area; the use of outdoor tables will be weather dependent; the outside area will be kept free of debris; the tables will be kept out of the walkway area of the strip mall.

Member Kelly commented that she had no objections with the tables. She had a concern with holding businesses to the same standard of variances as residents and not rezoning by variance.

A resident on Beechwood observed that Brady's had positioned two Adirondack chairs outside of their restaurant. He thought that each business should be held to the same standard. Wilson remarked that these issues were discussed by the Planning Board and will be addressed in the proposed ordinance amendment.

**Decision:** Motion by Fox, second by Schafer, to approve the request from franchisee CWL Investments for a use variance to allow the temporary placement of two tables with four chairs per table in front of Jimmy John's at 31255 Southfield Road from June through October of 2012 to be located between the storefront and the inside pillars with the following conditions: the umbrellas shall be properly anchored; the area shall be kept clean; the tables shall not impede the outside walkway. The temporary outside use is not contrary to the public interest; it does not alter the essential character of the area; it is compatible with the use in the district.

Roll Call Vote:

Delaney - yes  
Donnelly - yes  
Fox - yes  
Kelly - no  
Mueller - yes  
Schafer - yes  
Tillman - yes  
Verdi-Hus - yes

Motion passed (7 – 1).

**CASE NO. 1239**

**Petitioner/Property:** John Baker (agent for Mary Anderson)  
19500 Riverside  
24-02-104-010

**Village Ordinance:** Section 22.24... R-1 single family residential requires minimum 15 ft. and 20 ft. side yard setbacks.

**Deviation requested:** Petitioner requests a variance from side yard setback requirement to enlarge current attached garage.

Manager Wilson referred to a diagram and letter submitted by the homeowner Mary Anderson outlining her request for variance of 6.3 ft. to make the garage more functional and attractive. The homeowner will also be replacing the porch at the rear of the house with a larger, year-round structure. The petitioner proposes to enlarge the existing 2-car garage on the west side of the property to meet the needs of her family. The property is zoned R-1, which requires side yard setbacks of 15 ft. on one side and 20 ft. on the other side. The diagram shows that the existing garage is 8.7 ft. from the west lot line. The petitioner proposes to continue the existing line of the house and expand the garage toward the front of the property. An existing nonconforming side yard cannot be expanded without a variance from the Zoning Board.

Wilson commented on the odd shape of the lot. The west lot line is straight; the east side goes back at an angle towards the river. Wilson displayed photographs of the property and the house from various angles. The rear addition is within the buildable area. Wilson noted that the front yard open space is in excess of the required minimum 40 feet with the proposed garage addition. He believed that the adjacent houses are relatively uniform in terms of front yard setback.

John Baker representing Mary Anderson addressed the basis for requesting a dimensional variance. He distributed a photo representation showing a view of what is proposed. The home was built in the early 1950s with a typical garage that met the Zoning Ordinance in existence. The ordinance has been amended since the house was constructed, which makes Ms. Anderson's garage nonconforming. They are asking to expand the nonconformity to the front and to the rear. It is proposed to bring the garage forward on the west side equal to the east wing so that the structure is symmetrical across the front of the house. The garage will be extended to the rear to gain extra space. The size of the existing garage creates a hardship in terms of storage of household goods.

Questions from Board members were addressed by the applicants. It was pointed out that there are dormers existing above the garage. The petitioner assured the Board that the space would continue to be used as an attic for storage with a pull-down ladder; it will not be living space. Inquiries on the dimensions of the garage addition as it relates to the existing house and lot were answered by Baker and Anderson. The addition is not moving closer to the west side lot line than the existing structure. The new garage door will be wider. There is no issue with the front and rear setback. The petitioner is asking to extend an existing nonconformity.

The possible placement of a utility structure on the lot was discussed. Although the lot is large, the topography prevents building a structure in the back of the house. The petitioner referred to a photograph and pointed out where the property takes a severe drop towards the flood plain.

A letter submitted to the Board from neighbors two homes to the west, Andrea and Allan Brink, stated that they have no objections to the side yard variance to enlarge Mary Anderson's existing attached garage.

Kristin Grake of 19526 Riverside Drive, neighbor adjacent to the proposed garage, stated that she had no concerns about building the garage addition as long as there was no living space over the garage.

Alda Marie McCook of 19270 Riverside Drive commented that Mary Anderson is doing a good job of renovating her house, which will improve the neighborhood.

**Decision:** Motion by Schafer, second by Delaney, that the variance requested be approved with the condition that the attic area above the proposed garage is not accessible through the main structure. The variance is approved based on the topography of the property, the placement of the house on the lot, and the width of the lot.

Roll Call Vote:  
Motion passed (8 – 0).

### CASE NO. 1240

**Petitioner/Property:** Wayne Richards  
17891 Beechwood  
24-01-157-001

**Village Ordinance:** Section 22.08...Fences in rear yard shall not exceed 48 inches in height....be 35 percent open to air and light.

**Deviation requested:** Petitioner requests a 6 ft. privacy fence in rear yard to block a condominium parking lot.

Manager Wilson stated that the petitioner is requesting to erect a 6 ft. fence along their rear lot line that will not be 35% open to air and light. The property abuts a condominium unit and parking lot. He noted that there are exceptions to the 6 ft. fence height for properties abutting major streets. Wilson displayed photographs showing the view of the condominium property from the homeowner's lot.

Petitioner Wayne Richards stated that a practical difficulty exists as a result of his single family residence abutting a multi-family condominium property. There are eight other R-M zoned properties in the area, five of which are along Southfield Road and three along 13 Mile Road. The R-M property abutting his lot is the only one where parked cars are facing an adjoining residential property. There is a lack of a buffer between the condominium property and his residence.

The hardship to the Richards family include the following. Parked cars from the condominium face into their rear yard. The property is exposed to headlights and noise at all hours of the day. There are security lights on the condominium that shine into their yard. The noise from Southfield Road is significant.

Richards stated that he added a six ft. high fence along the Southfield Road property line with the Board's approval, which helped to reduce the noise level. As far as security concerns, there is foot traffic along the Southfield Road sidewalk and ingress and egress of cars in the parking lot adjacent to their rear lot line. Richards asserted that a 4 ft. fence would not provide the same relief because of the topography of his rear yard that results in a direct view into the

condominium property. A 6 ft. fence has been requested to screen the backyard from lights, exposure, noise and to provide security. The existing situation would be a major deterrence to someone purchasing the home in the future. A six ft. fence is the minimum height necessary to overcome the practical difficulties that result in hardship. Richards stated that their neighbors are in support of the request for variance.

Letters were submitted to the Village indicating that the following property owners have no objection to Wayne and Joan Richards installing a professionally constructed six foot fence on their rear lot line.

Bruce and Kara Cobb	18010 Beverly Road
John and Patricia Hahn	17890 Beechwood
Jeannie Mayo	18000 Beverly Road

Board members had questions and comments on the variance request. There were members of the Board who suggested that the petitioner consider a privacy screen in the rear yard or a 4 ft. high fence combined with evergreens. Richards responded that a solid 6 ft. fence is requested for approximately 92 ft. along the rear yard. He did not think that the problems discussed would be solved with the erection of a 4 ft. fence and greenbelt. He has planted Cedar trees along the rear lot line that are not doing the job.

Tillman remarked that commercial or condominium developments in the Village generally have a 6 ft. wall between those properties and adjacent residential property. Manager Wilson thought that there would have been a buffer requirement in the site plan if the adjacent multiple dwelling would have been developed today.

Richards understood that the condo association would be allowed by Village code to erect a 6 ft. wall. He asked the Board to consider this.

Adjacent neighbor Brent Auerbach of 17881 Beechwood stated that he and the petitioner are living behind a parking lot with 12 parking spaces. The slope of the property limits the relief provided by a 4 ft. fence. A 6 ft. fence would provide security and eliminate a lot of the noise and issues caused by the parking lot.

Linda Tremblay on Beechwood commented that everything done on the Richards home both inside and outside has been impeccable. The fence erected along Southfield Road is top quality. The proposed fence construction will enhance the neighborhood.

**Decision:** Motion by Delaney, second by Mueller, to grant a variance to allow a 6 ft. high fence based upon a hardship unique to this property considering the multiple units and parking lot abutting the petitioner's rear lot line and due to the topography of the homeowner's lot.

Roll Call Vote:

Fox	- yes
Kelly	- yes

Mueller - yes  
Schafer - no  
Tillman - yes  
Verdi-Hus - yes  
Delaney - yes  
Donnelly - no

Motion passed (6 – 2).

**ELECTION OF CHAIR AND VICE CHAIR**

Tillman opened the floor to nominations for the office of Zoning Board chairperson.

Schafer nominated Michele Tillman for the office of chairperson. There were no further nominations. Tillman was elected as chair by acclamation.

Tillman opened the floor for nominations for the position of vice-chairperson.

Donnelly nominated Todd Schafer as vice-chair. Schafer nominated Mr. Donnelly as vice-chair.

Todd Schafer was elected as vice-chair by acclamation.

**PUBLIC COMMENTS**

None

**ZONING BOARD COMMENTS**

The Board welcomed new members Jim Delaney and Sharon Fox.

Council Liaison LaFerriere thanked the Board for their sensitive deliberations on the issues before them.

Motion by Fox, second by Donnelly, to adjourn the meeting at 9:25 p.m.

Motion passed.

**Michele Tillman, Chairperson**  
**Zoning Board of Appeals**

**Ellen E. Marshall**  
**Village Clerk**

**Susan Bernard**  
**Recording Secretary**