

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

Absent: Eifred

Also Present: Assistant Manager/Clerk, Marshall
Council member, Oen

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 JULY 9, 2012

Motion by Schafer, second by Mueller, that the minutes of the regular Zoning Board of Appeals meeting held on July 9, 2012 be approved as submitted.

Motion passed.

APPROVE MINUTES OF ZONING BOARD MEETING HELD JANUARY 14, 2013

Motion by Schafer, second by Fox, that the minutes of the regular Zoning Board of Appeals meeting held on January 14, 2013 be approved as submitted.

Motion passed.

CASE NO. 1241

Petitioner/Property: Daniel Ulep
15980 Dunblaine

Village Ordinance: 22.08.150 Fence, Wall and Privacy Screen Regulations

B.1. Fences: Fences with a vertical surface area that is at least 35% open to air and light (see Section 22.04 "Point of Observation") are permitted subject to the following:

B.1.c. Rear Yard: A fence in a rear yard shall not exceed 48 inches in height above grade and shall not extend toward the front of the lot farther than the rear of the house,.....

Deviation requested: Petitioner requests to obtain a variance from requirements of Ordinance 22.08.150: Allow 6 ft. fence; utilize shadow box slats.

Chairperson Tillman stated that this is a rehearing of Case #1241. Manager Chris Wilson and the petitioner Daniel Ulep presented this case at the January 14, 2013 meeting. Prior to a vote on the variance requested, Mr. Ulep requested that his case be tabled for the reason that only five board members were present. Approval of a dimensional variance would require the affirmative vote of all five members.

Tillman asked Ulep if he had any additions or amendments to his variance request. The petitioner responded that his application differs from the case submitted last month in that he proposes to bring the fence height down to four feet, which complies with the ordinance. The fence will be modified to reverse all stringers so that the finished side faces out. Ulep said that he will convert fence slats to a shadow box effect (2 slats out, 1 slat in) to increase the light and open air effect.

Board members questioned whether removing one slat out of three would meet the ordinance requirement that fences with a vertical surface area must be at least 35% open to air and light. Schafer suggested that the modified fence as proposed would be 33-1/3% open to air and light.

Ulep affirmed that he proposed to rework the fence slats to a shadow-box effect, which will require a 1-2/3% variance from the Ordinance Section 22.08.150.B.1. The petitioner indicated at the January Zoning Board meeting that their house sits further back on the lot than other homes on the street. Because the house was one of the first structures built on the block, the grade of the property is lower than surrounding lots. The lower grade and resulting angle makes it easier for neighbors to look into their rear windows. He made the point that the grade change issue has relevance to his request for variance.

In response an inquiry, Ulep stated that the side yard fencing will also be reduced to a four foot height. Clerk Ellen Marshall stated that the petitioner needs to address the debris existing in the rear yard regardless of the outcome of this case. Ulep agreed to remove debris from the old fence within 14 days.

Motion by Schafer, second by Fox, to approve the petitioner's request for a variance from the ordinance requirement that fences must be at least 35% open to air and light to allow a fence that is 33-1/3% open to air and light. Approval is based on the location of the house on the lot and the fact that the petitioner's house is closer to the rear property line than most nearby properties. Approval is subject to the removal of debris in the rear yard within 14 days.

Delaney questioned whether the fence modification proposed by the petitioner would comply with the ordinance and, therefore, not require a variance. Ulep was asked if he proposed to remove every third slat, which may bring the fence into compliance with the requirement for openness.

The petitioner clarified that he intended to convert the fence to a shadow-box effect by taking every third board and putting it on the other side of the fence. That would require a variance from the ordinance.

The motion on the floor is to approve a variance from 35% open to air and light to 33-1/3%, in whatever way that is accomplished. Schafer withdrew his motion in view of the lack of clarity on how the fence would be modified.

Ulep stated that he would like to revise his request to modify the fence by removing every third fence slat. He questioned whether that would still require a minimal 1-2/3% variance from the open air requirement. Tillman suggested that the petitioner meet with someone from the Village building department to have his fence modification plan reviewed and approved to assure that the ordinance requirement has been satisfied.

Schafer reinstated his motion with an amendment stating that the petitioner must comply with permit requirements under Section 22.08.150.A.1 of the Municipal Code. Fox reinstated her support of the amended motion.

Schafer commented that the proposed fence modification may not be something that he would approve for aesthetic reasons. There was not sufficient information to vote in favor of the motion.

Jon Oen, who was present as Council liaison to the Board, said that he could not comment on the disposition of a case. Speaking as resident, he suggested an alternative fence design that may be more attractive. He suggested that removing every other board, cutting it down, and reinstalling that board would increase the openness of the fence while providing some level of privacy.

Ulep stated that he has a court date this Friday, February 15 resulting from the ticket. The ticket would require him to remove the fence completely. Ulep questioned what would happen if he applied for a permit this week for fence modifications that would render his existing fence in compliance with the ordinance.

Tillman proposed that Village Attorney Tom Ryan be requested to contact the court and request that the hearing on February 15 be adjourned for a month. Mr. Ulep may not need a variance if he modifies the fence to conform to the ordinance.

Schafer withdrew his motion.

Motion by Schafer, second by Delaney, to table Case No. 1241 until the next regularly scheduled Zoning Board of Appeals meeting.

Motion passed.

PUBLIC COMMENTS

None

ZONING BOARD COMMENTS

None

MANAGER COMMENTS

None

Motion by Donnelly, second by Mueller, to adjourn the meeting at 8:02 p.m.

Motion passed.

Michele Tillman, Chairperson
Zoning Board of Appeals

Ellen E. Marshall
Village Clerk

Susan Bernard
Recording Secretary