

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

Absent: None

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 8, 2013

Approval of the April 8, 2013 meeting minutes was postponed to the next meeting for the reason that copies were not distributed to Board members.

CASE NO. 1245

Petitioner/Property: Edward Nepa
18507 Devonshire
#02-280-005

Village Ordinance: 22.24.10. R2B single family residential zoning district requires minimum side yard setbacks of 5 and 10 ft.

Deviation requested: Petitioner requests a variance from side yard setback requirement to construct an attached garage 5'-7" from the lot line.

Manager Chris Wilson stated that the petitioner is requesting a variance from the side yard setback requirement in order to construct an attached garage onto the existing home. The side yard setback requirements in the R-2B zoning district are 5 ft. on one side and 10 ft. on the other side. The new attached garage would be 5'-7" from the lot line in lieu of the required 10 ft. The other side has the required 5 ft. side yard setback.

Wilson displayed photographs of the house and property from various angles and described the location of the proposed attached garage. A building plan has been submitted but could not be approved by the Village due to the setback issue. The petitioner submitted numerous letters of support from abutting neighbors.

It was questioned by the Board whether there would be enough space for an emergency vehicle to reach the back of the house. Wilson responded that rear yard access is difficult in much of the Village for various reasons including fencing, trees, shrubs, etc. He did not think that rear yard access would make a significant difference in this case.

The petitioner Edward Nepa commented on the hardship involved in his case due to the size of the lot, which is 50 ft. wide as opposed to the predominantly 75' wide lots on Devonshire. Their family would like to have the opportunity to benefit from an attached garage. The homeowners will gain a lot of green space in their backyard by removing the detached structure. The plan is

for a two-car garage, with the cars stacked two deep as opposed to side-by-side. There will be storage space for toys and lawn equipment. Nepa added that the attached garage will add to the aesthetics of the neighborhood.

Letters in support of the proposal were submitted by the adjoining homeowners Kate Johnson of 18485 Devonshire and from Ryan and Jessica Quinn at 18531 Devonshire. Other letters in favor of the garage construction were from Mary Wallace of 18360 Devonshire, Greg and Betsy Ross of 18266 Devonshire, Peter Arvant of 18271 Devonshire, Leah and Darryl Kompus of 18508 Devonshire, Matt and Carin Goodrech of 18547 Hillcrest, Amy and Benjamin Glime of 18921 Devonshire, and David G. Hagner of 18231 Devonshire. Patrick Westerlund, who lives directly across the street on Devonshire, is the architect for the project.

Questions from Board members were addressed by Mr. Nepa. He affirmed that the existing garage will be removed. The home and garage were constructed in 1953, prior to the adoption of the Zoning Ordinance. The lot size does not conform to current zoning ordinance standards. Nepa referred to photographs to answer questions regarding the proposed plan. He affirmed that they would not use the dormer space above the garage structure for living space. There is access to the garage from the existing side door and from the back of the home.

The size of the garage was a topic of discussion. The applicant stated that a narrower garage space would make it difficult to store household items and open car doors. Nepa reiterated that the majority of his neighbors have larger lots, and his family would like the benefit of having an attached garage. Fox questioned whether a practical difficulty has been demonstrated that would justify approval of this variance request.

Fred Tourelotte of 31650 Eastlady had questions regarding fire safety and the roofline of the proposed garage, which were addressed by the petitioner.

Decision: Motion by Schafer, second by Delaney, to grant the request for variance based upon the size of the lot and the placement of the house on the lot, with particular reference to the required size and width of lots in the R-2B zoning district. Approval is conditioned on the existing detached garage being removed; the proposed structure will be one story; the structure will not contain any living space.

Roll Call Vote:

Verdi-Hus - no
Delaney - yes
Donnelly - yes
Eifrid - yes
Fox - no
Mueller - yes
Rass - yes
Schafer - yes
Tillman - yes

Motion passed (7 – 2).

CASE NO. 1246

Petitioner/Property: Robert Cox
31555 Eastlady
#03-402-010

Village Ordinance: Section 22.28.100(f) limits the area of accessory buildings to not more than 50 percent of usable floor area of the principal building.

Deviation requested: Petitioner requests to build a pole barn addition to existing garage increasing total size of garage beyond the ordinance “50 percent” limitation.

Wilson provided background information on this case. The petitioner is requesting to expand the existing garage on this property located in the bend between Eastlady and Westlady streets. Wilson displayed photographs of the property and referenced the locations of the house, existing garage and proposed addition. The ordinance allows a garage that is no larger than 50% of the existing square feet of the first floor of the home, which is why a permit was not issued for construction of this garage addition.

The petitioner Robert Cox related that a hardship exists relative to a need for additional space. The house has no basement nor usable attic space. The existing two-car garage is not large enough to house their three cars, one of which is a classic car that is stored in the garage during the winter. Additional space is needed for storage of tools and to accommodate work space for his hobby, which is building and flying electric airplanes. The petitioner proposes to add space to his existing garage with a 20’ x 20’ addition. The addition will be 83-87 sq. ft. depending how the structure is measured.

Cox has letters of approval from five neighbors. Three of the letters were provided to the Board from the following residents: David Kelter of 31525 Westlady, Lyle Raines of 31560 Eastlady, and Richard Rutter of 31530 Eastlady.

The petitioner addressed comments and concerns from Board members regarding square foot calculations, configuration of the house as it relates to the garage, front of the house, and whether a hardship has been demonstrated in this case. The homeowner was asked if he could build a structure in compliance with the ordinance that would be useful and useable. Cox responded that he could build a smaller structure, but it would not be as functional as the proposed addition in terms of space. It was observed that the petitioner’s house is small by today’s standards. Board members mentioned that there is room on the lot to increase the size of the home with an addition that would not require a variance from the ordinance.

Wilson brought up an issue addressed by LSL Planning in terms of identifying the front yard on the lot in order to determine the setbacks. That determination is tricky on this property because the house is located on the bend between two streets. If it is considered that the front of the house is where the circular driveway is located, then the rear yard would be facing Westlady. The house has an Eastlady address. Wilson would consider the functional entrance of the house off of Eastlady, establishing the 33’ distance indicated on the plan as a side yard measurement.

Bill McConnell on 31574 East Bellvine Trail asked if the building is a pole barn and requested to see architectural drawings. Cox responded that he is proposing a vinyl sided building with insulation, drywall and electrical. McConnell questioned whether the structure would meet the architectural standards of the neighborhood. Cox indicated that he has not submitted his plans to the homeowner association building committee. It was noted that the Zoning Board does not consider subdivision restrictions in their review of a case.

Fred Tourellotte of 31650 Eastlady expressed concern that the proposed garage conform with the architectural style in the area. The facing on the building and how the roof is tied into the existing roof is important; property values are at stake.

Decision: Motion by Fox, second by Verdi-Hus, to approve the variance requested to increase the size of the garage to beyond 50% of the usable floor area of the principal building based on the small size of the home and the lack of basement storage space or attic storage space. Approval is contingent on the addition being in conformance with the restrictions of the Peaceful Valley subdivision.

Roll Call Vote:

Delaney	- no
Donnelly	- no
Eifrid	- yes
Fox	- no
Mueller	- no
Rass	- no
Schafer	- no
Tillman	- no
Verdi-Hus	- no

Motion fails (8 – 1).

CASE NO. 1247

Petitioner/Property: Gianluigi Gennari
16058 Birwood Ave.
#01-206-013

Village Ordinance: 22.08.150. “...Fence shall not extend toward the front of the lot farther than the rear of the house except when the house has commonly and consistently used side door entrance.”

Deviation requested: Petitioner requests a variance from the ordinance to allow the fence to go beyond the rear on one side of the house (not to enclose door).

Schafer added that a variance is also required to have a 4 ft. fence in the side yard.

Manager Wilson displayed photographs of the house and lot, noting the location of the proposed fencing. He mentioned that there is significant reconstruction taking place at this home. The

petitioner is asking to install a new section of fence and gate farther forward than the rear of the house on the west side of the house. It would shield a new air conditioning unit on the side of the home. Wilson said that it is the policy of the Village to require A/C units in the rear yard; units are allowed in the side yard only with the approval of the adjoining neighbor.

The petitioner Gianluigi Gennari referenced the written permission from their adjacent neighbor to place the A/C unit on the side of the home. He also submitted a letter from Michele Gallo of 16078 Birwood stating that she has no objection to the proposed location of the fence and gate. Gennari clarified that the section of fence and gate on the east side of the house fully complies with the ordinance.

The petitioner explained that the proposed westerly gate and fence would be in line with the current fencing owned by the neighbor and would extend from the lot line to the Gennari home. The fence requested is a standard black aluminum vertical bar fence that would not exceed 4 ft. in height.

Gennari remarked that they considered planting arborvitae to screen the A/C unit; however, landscaping around the unit would obstruct the view from their new dining room window. In addition, the homeowners feel that a fence and gate would provide better security for their home. Gennari stated that the proposed location of the fence would give their family more back yard living space.

The petitioner addressed questions from Board members regarding the location and necessity of the fence. Gennari stated that he spoke with Dan Nelson, who reviews construction plans for the neighborhood, and he had no objections to the proposed fence and gate location. Wilson commented that it appears that the proposed fence will comply with the 33% open air requirement of the fence ordinance.

Decision: Motion by Schafer, second by Delaney, to approve the variance request to locate a 4 ft. high fence and gate in the side yard forward from the rear of the house on the west side of the lot based on the location of the house on the lot and the location of the neighbor's adjoining fence.

Roll Call Vote:
Motion passed (9 – 0).

CASE NO. 1248

Petitioner/Property: Michael King
31315 W. Rutland
#01-376-004

Village Ordinance: **22.30.040(a)** No such structure may be enlarged or altered in a way which increases its nonconformity. Such structures may be enlarged or altered in a way which does not increase nonconformity.

Deviation requested: Petitioner requests to obtain an interpretation and/or variance of the ordinance allowing enlargement of the garage within the existing nonconforming footprint.

Manager Wilson displayed photographs of the property and pointed out the existing 20' x 20' detached garage, which is 3'-3" from the side lot line. The garage is currently nonconforming; the ordinance requires a 5' side yard setback. There is an existing 20' x 11' concrete slab at the back of the garage. This foundation was poured and approved by the City of Royal Oak in November of 2012. Wilson inquired of the building department why a permit for a foundation was approved without a permit for the entire garage; he does not have a good answer. The petitioner is now requesting to build a structure on the slab to increase the size of the existing garage to 20' x 30'. The addition will be 10' from the rear lot line, which complies with ordinance requirements.

George Bogaert with Tuff Shed Inc. was present on behalf of the homeowner Michael King regarding the variance request necessary in order to build a garage addition. Bogaert met with the homeowner and looked at the inspected and approved foundation. He applied for a building permit and was informed by the building department that the existing garage was a nonconforming structure, and he would require a variance from the Zoning Board of Appeals. Bogaert referred to elevation drawings and described the construction of a 20' x 30' barn style garage. Two walls of the existing structure will remain; there will be a new roof. The garage will have a second floor for storage that will not be used as living space.

Board members had questions and comments on the proposed variance request. It was indicated that the property abuts Acacia Park Cemetery. The petitioner was informed that the area of an accessory building is limited to not more than 50 percent of usable floor area of the principal building. In answer to an inquiry, Wilson stated that the request for a concrete slab permit should have been addressed as a constructible foundation by the building department at that time.

Lynn Ingberg of 31300 W. Rutland, neighbor across the street from the Kings, stated that other accessory structures in the neighborhood are 10 ft. from the Acacia Park fence line.

The Zoning Board is considering an increase in the nonconforming side yard setback. The building department will review construction plans for conformity to the municipal code before a building permit is issued.

Decision: Motion by Eifrid, second by Tillman, to approve the request for variance in order to build a 10' x 20' garage addition with a 3'- 3" side setback on the assumption that the existing garage was constructed prior to the adoption of the Village Zoning Ordinance and based on the fact that the proposed garage size is not out of character with the rest of the community. Approval of the variance is contingent on there being no living space on the second floor of the structure and adherence to the 10' rear yard setback requirement.

Roll Call Vote:

Eifrid - yes
Fox - yes
Mueller - yes

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

Motion passed (7 – 2).

PUBLIC COMMENTS

None

ZONING BOARD COMMENTS

Schafer referred to the building department approval of a concrete slab permit without addressing it as a constructible foundation. He is aware that Administration is evaluating in-house staff versus contracting with a neighboring community for building department services. Schafer noted that there are potential problems when a building official is not housed in the community.

Wilson responded that the building permit for the foundation referenced in Case No. 1248 was issued in house. The City of Royal Oak does the inspections for the Village.

In answer to an inquiry, Delaney was informed by Wilson that the fence ordinance is clear on what side of a fence should face outward. Delaney observed that a homeowner who was granted a variance by the ZBA in recent months for a 6 foot high fence has constructed the fence with the unfinished side out. Wilson will take a look at the privacy fence in question.

MANAGER COMMENTS

Wilson stated that there currently four cases on the agenda for the July Zoning Board of Appeals meeting.

Motion by Fox, second by Rass, to adjourn the meeting at 9:28 p.m.

Motion passed.

Michele Tillman, Chairperson
Zoning Board of Appeals

Ellen E. Marshall
Village Clerk

Susan Bernard
Recording Secretary