

Present: Chairperson Tillman; Vice-Chair Schafer; Members: Delaney, Donnelly, Eifrid, Fox, Mueller, Raeder 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 8, 2013

Motion by Delaney, second by Fox, that the minutes of the regular Zoning Board of Appeals meeting held on April 8, 2013 be approved as submitted.

Motion passed.

APPROVE MINUTES OF ZONING BOARD MEETING HELD JUNE 10, 2013

Motion by Delaney, second by Fox, that the minutes of the regular Zoning Board of Appeals meeting held on June 10, 2013 be approved as submitted.

Motion passed.

CASE NO. 1249

Petitioner/Property: Mike Palmer/Premier Pet
31215 Southfield Road
99-00-920-009

Village Sign Ordinance 22.32: e. Window signs are allowed provided they do not exceed 25% of the total window pane area and do not exceed ten (10) square feet, whichever is less.

Deviation requested: Petitioner requests to erect window sign 223 in. x 48 in. (74 sf); window size is 577 in x 84 in. (336 sf).

Manager Chris Wilson outlined the variance request at the Premier Pet store on Southfield Road. There was a sign erected in the window at this location that exceeds the maximum size allowed by the Village sign ordinance. The ordinance permits window signs if they are not more than 10 square feet in area and do not to exceed 25% of total window area, whichever is less. The sign in question is a 48” x 223” banner type sign affixed to the front window. Wilson displayed a photograph of the sign. The sign is somewhat transparent and does not advertise a product.

The Village does not require a permit for window signs, but window signs are subject to ordinance requirements. The code enforcement officer visited the property and notified the business owner that the window sign did not comply with the ordinance. Mr. Palmer decided to come before the Zoning Board to request a variance to allow the sign to remain.

Fox understood that the purpose of the sign was to shield the stacking of goods inside the store. She questioned whether a window sign would be permissible if the petitioner put up a blank paper without printing for the purpose of screening. Wilson responded that a blank surfaced shield may be allowed, but he would have to defer to the planning consultant. Tillman noted that other stores have covered a window with a design such as Market Square on 14 Mile and Southfield Road.

The Zoning Board discussed whether the request before them was a use variance or dimensional variance. The decision was made to treat this case as a dimensional variance, which requires five affirmative votes for approval.

Mike Palmer, owner of Premier Pet Supply, stated that he has been in this location for 21 years and is proud to be part of the community. He requested that resident Rosanne Koss speak on his behalf to describe how he got to this point.

Rosanne Koss of 17506 Kinross, former Council member, provided background on this establishment and factors that placed Mike Palmer in this position. When Market Fresh requested a build out of its facility on the corner of 13 Mile and Southfield Road, there were concerns from the businesses to the north, primarily Premier Pet and Brady's Tavern, that their visibility would be blocked from 13 Mile Road. It was originally planned to list Premier Pet Supply and Brady's on signage facing 13 Mile Road. The request for signage went before the Planning Commission following the construction at Market Fresh. It was determined that the maximum sign area allowed by the ordinance would not accommodate the businesses to the north.

Koss suggested that the Planning Commission address the fact that the existing pole sign for the shopping strip located in the parking lot only accommodates six signs; there are seven businesses north of the market. Before the market reconstruction, a pet grooming business came into that strip. Mike Palmer offered that business his space on the pole sign to promote their new business.

Koss related that this is not a promotional sign; it is recognition of a Village business as being the number one pet supply store in the Metro Detroit Community. Mr. Palmer is willing to ask that a condition be placed on his petition to grant the variance for a one year period. It is hoped that the lack of signage for businesses north of Market Fresh could be addressed in that time. Mike Palmer is most affected with the store being tucked into the corner location. His business cannot be seen from 13 Mile Road.

Palmer commented on the hardship experienced by his business since the build out of Market Fresh, which allowed for an expansion of their building outward 12 feet to the east and an additional 10 feet of canopies in the same direction. The reconstruction blocked any visibility of his business from 13 Mile Road and almost all visibility from Southfield Road for those traveling north at 45 mph. Palmer thought that his sign was tasteful and aesthetically appealing. His business has been voted the #1 pet supply store in three publications for three years in a row in metro Detroit. He hopes for some leniency in granting approval of the window sign for a year.

The petitioner addressed questions from Board members regarding the sign composition, how it was installed, and its function as a window treatment. The window sign in question does not exceed 25% of the total window pane area requirement but it exceeds 10 square feet. It was noted that the Village prepared an inventory of all currently nonconforming signs in the community prior to the adoption of the new sign ordinance in April of 2013. The window sign section was not changed in the new sign ordinance.

It was understood that Mr. Palmer was expecting signage to be provided for his business in connection with the Market Fresh expansion, which has not occurred. He gave up his signage rights on the monument sign for the strip to the pet grooming business. Palmer stated that he was waiting for the pole sign to be replaced with a conforming monument sign that would include Premier Pet Supply. The property manager had indicated that this would happen some time this year.

Board members considered the purpose and intent of the ordinance. It was suggested that the request for variance is in compliance with the intent and purpose of the sign ordinance. It is supportive of the business climate in general and what the Village wants to see in terms of businesses.

Rosanne Koss stated that Premier Pet is an asset to the community. Mike Palmer has repeatedly contributed to community events monetarily and with his participation.

Lee Peddie of 17540 Kinross, former Council member and current Planning Commission member, stated that she was unaware of the assurances and expectations of sign frontage on 13 Mile Road as part of the Market Fresh expansion. She concurred that the visibility of Premier Pet has been affected by the build out of Market Fresh plus the addition of canopies and plants. Peddie thought that window sign regulations should be reviewed at the Planning Commission level.

Decision: Motion by Schafer, second by Mueller, to approve the petitioner’s request to allow the existing window sign to remain at Premier Pet Supply for another 12 months from the date of this meeting for the reason that the spirit of the Zoning Ordinance is observed by virtue of the type of signage, the physical limitations of the petitioner’s location, and the recent expansion of the neighboring property. The existing sign does substantial justice to both the petitioner and the community, and it does not obstruct public safety.

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

CASE NO. 1250

Petitioner/Property: Kerstin Baumann
21655 W. 13 Mile Road
24-10-102-024

Village Fence Ordinance: 22.08.150; “A fence in the front yard shall not exceed 36 inches in height above grade...”. Definition of ‘front yard’ “The full width of the lot enclosing the area bounded by the front lot line...”

Deviation requested: Petitioner requests to install a 5 foot gate across the driveway.

Manager Wilson displayed pictures of the property including the home, the driveway, and a large berm on the site. He pointed out the proposed location of a 5 ft. high gate structure across the driveway about 48 ft. from the edge of the road. There is a narrow driveway off of 13 Mile Road leading to the residence.

Wilson said that there are limited instances of other gates across driveways that have been allowed. The ordinance does not address gates across driveways, which is why this request is before the Zoning Board. A variance from the ordinance would not be required if the height of this gate conformed to the ordinance.

The property owners, Dr. Thomas Baumann and Kerstin Baumann, presented their request for a variance to allow a 5 ft. gate across the 8’8” driveway with no fence. They purchased the home in 2005. Kerstin Bauman related that, due to heavy traffic at peak times on 13 Mile Road near the intersection of Lahser Road, they have experienced cars coming into their driveway and then seeking a way to back up or turn around. Vehicles have ended up on the grass in an attempt to exit the property, or they go around the circular drive. The Baumanns are concerned that their dog will not be seen by motorists; the dog is secured by an invisible fence and has access to the front yard.

Board members questioned whether a 3 ft. high gate would be acceptable to the applicants. The petitioners did not think a 3 ft. high gate would be aesthetically attractive considering the height of the landscaping. The point was also made that a large vehicle pulling into the driveway may not see a 3 ft. high gate. Questions and comments from Board members were addressed by the Baumanns. The fence would be located about 24 ft. from the road right-of-way. The homeowners intend to pull in and press a button to open the gate. Kerstin Baumann stated that they spoke with their neighbors, who had no objections to the installation of a gate.

In answer to an inquiry, it was stated that the Zoning Ordinance does not address gates. A gate is considered part of the fence structure; the ordinance does not distinguish between fences and gates.

Tillman mentioned a previous Zoning Board case regarding a gate at a house on Thirteen Mile across from Groves High School. The gate was erected in violation of the ordinance and a ticket was issued. The Zoning Board did not grant a variance. The owners sued the Village to keep the fence; the Village prevailed. Tillman reviewed the history relative to Planning Board review and Council adoption of an ordinance amendment to allow 36 inch front yard fences with restrictions.

Decision: Motion by Fox, second by Verdi-Hus, to approve a variance from the 3 ft. height requirement for front yard fences to allow a 5 ft. high gate due to the peculiar or exceptional practical difficulties presented with this particular lot in that there is an extensive berm and existing mature arbor vitae; the 5 ft. gate would not be intrusive or visible from 13 Mile Road and would be more fitting for the purpose that the petitioners are requesting. Approval of this request is conditioned on the petitioner erecting a gate substantially similar to the photograph submitted and in the location shown on the plans presented, which is 48 ft. from the street and approximately 24 ft. from the right-of-way. The gate must be 35% open to air and light.

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

CASE NO. 1251

Petitioner/Property: Brian Brannigan
16039 Lauderdale
24-01-407-001

Village Fence Ordinance: 22.08.150:Fences are not permitted in side yards that do not abut roads or streets.

Deviation requested: Petitioner requests a variance from the ordinance to allow an 8 ft. barricade side yard fence abutting the house next door.

Manager Wilson stated that the petitioners have requested to erect an 8 ft. privacy fence in their side yard to muffle the sound of the neighbor's furnace exhaust pipe. The unit is a natural gas powered furnace that is loud and noticeable when operating. Wilson displayed photographs of the petitioner's residence, the neighbor's house, and the location of the pipe.

Verdi-Hus stated that she spoke with the Village code enforcement officer, who indicated that the nuisance code says that any buzzing, humming or noise from a mechanical device could be addressed under the code enforcement provision. The officer has not inspected the property nor registered the extent of the noise issue.

Joan and Brian Brannigan described the situation that led to the fence request. They moved into the house in November of 2012. During the winter, they noticed the noise created when their neighbor's Lennox Pulse 21 gas furnace was running. It is a high-efficiency gas furnace that runs much like a vehicle engine in that it has a combustion chamber and uses a mix of air and gas fuel-injection to produce heat/energy. The furnace exhaust pipe is located on the west wall of the neighbor's house 25 ft. from the east wall of their house. The Brannigan's master bedroom, bath and second bedroom are on that side of the house. Mrs. Brannigan said that the force of the furnace sound creates a vibration type of hum that can be heard and felt within their rooms.

Joan Brannigan said that she approached their neighbors Eric and Stephanie Stileski about the noise issue. In lieu of filing a complaint, the Brannigans decided to request a variance from the ordinance to erect an 8 ft. fence, which would solve the problem and give both neighbors the privacy they desire.

Board members questioned what the least possible variance would be to relieve this problem. The Brannigans did not think a 4 ft. or 6 ft. fence would mitigate the noise level, and they were not amenable to installing a berm or planter to screen noise and vibrations. The point was made that the Zoning Board has never granted a variance to erect an 8 ft. fence in Beverly Hills.

Eric Stileski said that the furnace sound is not heard within his house; it is a humming sound that comes from the pipe. He purchased the house in March of 2011 with the Lenox Pulse 21 system from 1997; the system is no longer supported by Lenox. Stileski recently installed an elbow in the pipe in an attempt to redirect the sound, but hasn't tested it yet. He would like to make the neighbors happy short of buying a new furnace. Stileski noted that he did not receive any complaints from the previous neighbor.

Delaney asked if there was a possibility of tabling this case since the problem is not occurring this summer. He added that it would be optimal if the parties worked together to resolve the situation before the Board votes on this request for variance. It was noted that the homeowner adjacent to the petitioner may be in violation of the noise ordinance, which would make him responsible for resolving the problem. The neighbor's attempt to redirect the pipe has not been tested. Stileski has indicated that there may be a couple of options available to absorb some of the sound.

The petitioners questioned their options. The homeowners could ask to have their case tabled or they could request that the Board vote on the petition. Manager Wilson added that there is an avenue for Village Administration to get involved with both homeowners to assess the situation to determine what remedies are available.

The petitioners Brian and Joan Brannigan requested that their case be tabled at this time.

CASE NO. 1252

Petitioner/Property: Hao Zheng
31645 Southfield Road
24-02-427-007

Village Parking Ordinance: 22.28.020 (d): “One for each employee and/or service operator, plus two for each service chair and one additional for every two stationary hair dryers.”

Deviation requested: Variance from ordinance minimum parking requirements.

Manager Wilson displayed a couple of photographs of the building on Southfield Road located next to the former McDonald's property. The building had previously been occupied by Flagstar Bank, Detroit Deli, and a scrapbooking business. There is currently a nail salon located in the

front portion of the building. Those tenants are seeking to occupy a vacant portion of the building behind and to the west of the nail salon. They plan to open a separate operation that would be called a “Blow Dry Bar”.

The issue has come up with regard to parking for this property. The structure was built with a sufficient amount of parking spaces for retail use. There are 13 spaces; four in the front and nine across the rear. The parking ordinance has a standard for a service unit that addresses beauty and barber shops. There is no specific reference in the ordinance regarding nail salons, but Wilson has discussed this with the Royal Oak building official and the Village planning consultant to estimate the current parking needs for the building. It was determined that 13 spaces are required for the nail salon, which means that the nail salon would occupy all the parking spaces available. Based on the planning consultant’s calculations, eight spaces are required for the proposed blow dry bar.

In order for the petitioner to open up the space behind the nail salon for a full service salon, it would require a variance from the ordinance section requiring eight parking spaces. If this were a strictly retail establishment, parking would not be an issue. Wilson reviewed the site plan for the hair salon with Board members.

Wilson referred to a picture showing five parallel parking spaces marked off on the side of the property. These are not parking places allowed by the ordinance, and the Village is not taking them into consideration for this petition. He will ask the Public Safety Department to address these spaces.

Wilson indicated that there is vacant commercial property next door to this building that was formerly a McDonald’s restaurant. There will be redevelopment on this site at some point. The Beverly Hills club has a cross parking arrangement with the owner of that property. Wilson related that the Village has dealt with parking issues in the vicinity previously.

The petitioner Hao Zheng was present with building owner Bernard Rosenthal, who has owned property in the Village since 1971. Rosenthal owned a dry cleaning business in the 13 Mile and Southfield Road shopping strip. The proposed business at 31645 Southfield Road will be a blow dry bar with only two chairs. Hao Zheng has been operating the nail salon for about two years and requests a parking variance in order to open a hair salon in the building. The two businesses will share the parking spaces.

Rosenthal stated that the petitioner met with the Planning Commission and the Village manager. He maintained that it would be a hardship if half of the building could not be occupied. About 30% of the building will not be available for use with the nail salon and blow dry bar. Parking has not been an issue with the nail salon; Hao Zheng has been a good tenant.

Questions and comments from Board members were addressed by Wilson. It was indicated that parking for the building is adequate for use as one retail space. Based on the parking ordinance, the number of spaces required is tied to different standards based on the type of use requested. There is no additional space for parking on the site.

There followed questions and comments from Board members. It was questioned how a multi-tenant structure was allowed to be built with only 13 parking spaces. Members discussed the parking situation. Wilson related that the Beverly Hills Club has a parking arrangement with the McDonalds property. The Club has also purchased a piece of property off of Gould court. In response to an inquiry, Wilson thought that any cross parking arrangement would have to come to the Zoning Board of Appeals for consideration. These agreements are handled on a case by case basis. Wilson indicated that Village parking regulations may be revised in the future with the adoption of a form based code in conjunction with the redevelopment of the Southfield Road business corridor.

Wilson stated that the ordinance requires 21 parking spaces to accommodate both of the businesses. The blow dry bar will not receive a Certificate of Occupancy from the Village without a variance approved by the Zoning Board of Appeals.

Steven Satovsky, owner of the Beverly Hills Club at 31555 Southfield Road, stated that the Club has had a long term lease with the McDonald's property owner for parking on their site. The lease remains in place even though the McDonald's building is no longer there. Satovsky pays rent on the spaces along the building and in the back and pays for maintenance of the lot. Satovsky distributed photographs showing nail salon staff or patrons occupying parking spaces in the lot leased by the Beverly Hills Club. The nine spaces in the back of the building are difficult to reach, which is probably why people choose to park in the McDonald's lot. Satovsky has not taken action to stop this activity, but said that approving a variance to the ordinance requiring eight spaces would be problematic. If the Club and a potential new owner of the former McDonalds site do not come to an agreement in the future, there will be an increased parking problem.

Decision: Motion by Delaney, second by Donnelly, that the request for a variance from the Zoning Ordinance relative to parking regulations in Case #1252 be approved.

Roll Call Vote:
Motion fails (9 – 0).

ELECTION OF CHAIR AND VICE CHAIR

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

Delaney 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.

Delaney nominated Todd Schafer as vice-chair. There were no further nominations. Todd Schafer was elected as vice-chair by acclamation.

Tillman acknowledged alternate member of the Zoning Board, Toni Grinnan in the audience.

PUBLIC COMMENTS

None

ZONING BOARD COMMENTS

None

MANAGER COMMENTS

None

Motion by Fox, second by Mueller, to adjourn the meeting at 10:32 pm

Motion passed.

Michele Tillman, Chairperson
Zoning Board of Appeals

Ellen E. Marshall
Village Clerk

Susan Bernard
Recording Secretary