

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

Absent: Tillman

Also Present: Assistant Village Manager, Marshall
Council Liaison, LaFerriere

Vice-Chair Schafer 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 8, 2013

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

Motion passed.

CASE NO. 1253

Petitioner/Property: Phillip Kresch, property owner
15521 W. 14 Mile Road
24-01-226-023

Village Fence Ordinance: 22.08; “Fence in a side yard that abuts a road or street shall not exceed 36 inches in height”.

Deviation requested: The petitioner requests side yard fence (6-ft. barricade) around the corner to block traffic view and noise from corner of 14 Mile Road and Greenfield Road.

Phillip Kresch identified himself as the property owner. He introduced Diana Boesky as the new tenant living in the rental property. Ms. Boesky described her request for a variance. Because the house is situated at the corner of two main roads, she had a gate constructed across the carport where her front door entrance is located in order to obtain privacy and security. Boesky related incidents where people have driven up onto her driveway for various reasons. Headlights shining into her house has also been an issue.

Photographs of the property and fence were viewed on the interactive display board. The fencing extends across the entrance of the car port. There is additional 6 ft. fencing with gate erected at the northwest corner of the lot extending from the house to the lot line. This fence was erected to enclose the yard, contain the dog, and provide privacy from 14 Mile Road. The code enforcement officer became aware of the nonconforming fencing when the rental house was inspected in accordance with the Village code.

There were questions and comments from Board members regarding the property. It was mentioned that the section of driveway access to Greenfield Road in addition to the 14 Mile driveway may encourage cars to turn around on the property. Kresch responded that it is difficult

to get in and out of the property; backing out onto 14 Mile Road is a problem. There were negative comments about the appearance of the existing 6 ft. stockade fence across the carport entrance and front door.

Even though the front door faces Greenfield, the property has a Fourteen Mile Road address because of the location of the primary driveway off of Fourteen Mile Road. This would make the section of fence from the house to the lot line a front yard fence. However, there was some ambiguity in terms of the back yard and side yard. It was noted that the maximum fence height is 48 in. and a fence must be 35% open to air and light.

Board members described the fence as functioning as a gate across the car port and not a privacy screen. It is a fence/gate affixed to the carport to function as a carport door. The request is for a privacy screen; however a privacy screen is not allowed to be attached to the house. This situation is not clearly defined in the ordinance. It was suggested that, if a permit was issued to frame in the carport and build a garage door, there would be no issue. Another member countered that the structure would not comply with Village garage standards if a door were constructed across the carport. It was mentioned that this request violates too many code restrictions that the Village tries to maintain.

Schafer clarified that the Zoning Board is empowered to consider a variance for a privacy screen on this property according to the petition submitted.

Mike Bilas on Arlington commented that the current tenant has improved the appearance of the house and property. This particular property will have problems because of its location. He urged the Board to allow the fence to remain.

Schafer commented that this request for variance is difficult in that it does not fit into any situation defined in the ordinance. He is not convinced that there is no lesser option available for screening the carport. The other fence or privacy screen on the property violates a number of ordinance provisions without any basis for granting a variance. The property does have unique issues and is challenged due to its location. The applicant can file a revised petition for something that is closer in line with the ordinance if the request is not granted.

Decision: Motion by Eifrid, second by Mueller, to approve the request for variance for a carport privacy gate/fence due to the unique location of the property on a corner and the layout of the house.

Roll Call Vote:

Verdi-Hus	- no
Grinnan	- no
Delaney	- no
Donnelly	- no
Eifrid	- yes
Fox	- no
Mueller	- no
Rass	- no

Schafer - no

Motion fails (8 – 1).

Motion by Fox, second by Rass, to approve a variance to allow the existing fence/gate on the northwest side of the structure as a deviation from type, placement and opacity because of the uniqueness of the property fronting on Fourteen Mile Road.

Roll Call Vote:

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

Motion passed (8 – 1).

Schafer stated that the applicant has 30 days from the approval of these meeting minutes to remove the structures. He suggested that the petitioner could talk to the code enforcement officer and Manager Wilson to determine if there is a lesser variation that would provide the tenant with some degree of privacy and security.

CASE NO. 1254

Petitioner/Property: Michael Casey
32346 Arlington
24-01-278-006

Village Fence Ordinance: 22.08: “Fence in rear yard shall not exceed 48 in. in height and shall be 35 percent open to air and light.”

Deviation requested: The petitioner requests to install 6-ft. shadow board fence in rear yard, not extending to side yards.

Michael and Alise Casey have been residents of Beverly Hills for three years. They were present to request a deviation from the ordinance to allow them to install a 6 ft. shadow board fence along their rear property line only. Michael Casey referred to the photographs of the house and property displayed on the interactive screen. There is currently an existing 4 ft. chain link fence along the back and sides of the lot.

Casey related that there have been instances where the dog from the residence to the rear (32255 Auburn) had jumped over their 4 ft. fence. The Caseys have a new Greyhound dog and at times entertain young children in their back yard. Their intent is to secure their residence from the neighbor to the rear. The abutting homeowner has six dogs, and barking is also a problem. Erecting a 6 ft. wood fence would block the view between the properties and prevent the neighbor's dog from entering their yard.

Alise Casey stated that they looked at other options including a greenbelt, which would not contain the neighbor's dog. They have planted evergreen trees to screen the neighbor's shed. She is concerned for the safety of her family. Casey mentioned that the property owner to the rear is well known by area residents; their neighbors are in favor of the request for variance to erect a 6 ft. fence.

Board members pointed out that the intrusion of the neighbor's dog onto their property is a public safety violation. Alise Casey responded that they have called the police about the dogs. She was told that officers have left tickets in the mailbox. Clerk Marshall affirmed that violations have been issued to the offending homeowner more than once or twice.

Delaney requested a report from Village Administration on what has been done in terms of citing the individual on Auburn for code violations to control the situation at that house. Before voting on this case, he would like to know if this matter has gone to court, if someone has been fined, and how many times. He understands that the people before the Board are asking for relief from the current condition.

Mike Bilas on Arlington commented that there are things about the neighbor in question that affect his property. Bilas has called the Public Safety Department about this individual, and there would be a record of the citations issued. He added that this has been an ongoing problem and safety issue in the area for 14 years.

Motion by Schafer, second by Rass, to table Case No. 1254 for one month in order to compile additional information.

The Zoning Board requested a report from Administration outlining violations issued to the property at 32255 Auburn and a summary of options that may be available to remediate the situation. The petitioners were in agreement with tabling the case.

Motion passed (9 – 0).

Notification will be mailed to area residents regarding a re-hearing of this case at the September meeting.

CASE NO. 1255

Petitioner/Property: Steven Wiercinski
31851 Beverly Court
24-01-429-003

Village Zoning Ordinance: 22.24: R2-B single family residential requires minimum 40-ft. front and rear yard setback.

Deviation requested: Petitioner requests a 7.32 ft. front yard variance for a garage addition to provide barrier free availability and a 4 ft. rear yard variance for a kitchen addition.

Board member Verdi-Hus left the meeting at 8:45 pm. There are now eight members present. The petitioner was informed that five affirmative votes are needed to approve a variance.

The homeowners Steven and Melissa Wiercinski were present along with their architect Mark Mrozek. Steven Wiercinski explained his condition, which requires use of a power chair for mobility. He has a van with a powered side entry ramp, but cannot park the van in his garage at present. The proposal is to renovate the single car garage to provide a two-car garage that will allow barrier-free accessibility for the van and a ramp. The proposed garage/mudroom addition will require a 7.32 ft. front yard variance.

The applicant related that a 4 ft. rear yard variance is also required to expand the existing non-conformance at the rear for a proposed barrier-free kitchen/nook addition. Wiercinski stated that the nook area would provide space for him to maneuver around the table. He pointed out that the two houses behind their home are situated off to the left and right of the proposed addition, which will give the appearance of larger open space. Board members viewed the photographs on the display board to orient themselves to the house and property.

Schafer stated that this home is in an R2-B zone district, which requires a 40' rear yard setback and a 40' front yard setback, subject to the average of the front yards on the street. The house currently sits 38' from the rear lot line; the petitioner is requesting to go to approximately 36' from the rear lot line. The front yard setback is currently 29'; the homeowners request a variance to allow a 24' front yard setback. It was noted that the distance from the gravel road to the property line is about 30 ft. with another 24 ft. from the property line to the house.

Board members discussed the proposal. The applicants and architect addressed questions and comments regarding the extent of the deviation, the current layout of the house, architectural considerations related to the renovation drawings, removal of a large maple tree, size of the road right-of-way, ADA Standards for Accessible Design, and the possibility of a lesser deviation. It was noted that the lot is pie shaped, with more space at the back than at the front.

The following adjacent neighbors have reviewed the expansion plan and have no objections to the variance request: Patrick Traynor of 31835 Beverly Court and Bill and Marilyn Gale of 31871 Beverly Court. Melissa Wiercinski mentioned that they have not met their neighbors to the rear. Clerk Marshall stated that the homeowners require written permission from the adjacent neighbor in order to locate an air conditioning unit on the side of their house. The architect suggested locating the AC unit behind the mud room, which would be in the rear.

Decision: Motion by Fox, second by Delaney, to approve the requested setback variances for the front and rear yards for the reason that the property has a unique shape and frontage and due to the difficulty and hardship of building to accommodate barrier free and accessibility standards within the renovation plans.

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

PUBLIC COMMENTS

None

ZONING BOARD COMMENTS

Mueller related that there has been concern in the community about extended use of storage pods in driveways. He commended the Planning Commission for its quick action to amend the existing ordinance to augment the regulations regarding use of temporary and portable structures such as dumpsters and storage pods.

Rass referred to an article in the August 7 edition of the Observer and Eccentric newspaper entitled “Beverly Hills boy becomes an ambassador for juvenile diabetes research”. His son Ethan Rass is featured as raising money for the Juvenile Diabetes Research Foundation in a recent lemonade sale at Market Fresh. The family raised \$1,000 for JDRF.

MANAGER COMMENTS

None

Motion by Delaney, second by Rass, to adjourn the meeting at 9:21 pm.

Motion passed.

**Todd Schafer, Vice-Chair
Zoning Board of Appeals**

**Ellen E. Marshall
Village Clerk**

**Susan Bernard
Recording Secretary**