

Present: Chairman Eifrid; Vice-Chair Tillman; Members: Crossen, Donnelly, Fox, Maxwell, Raeder, Rass, Verdi-Hus. Alternates: Mitchell and Lepidi

Absent: None

Also Present: Village Manager, Chris Wilson

Chairman Eifrid called the meeting to order at 7:30 p.m. in the Village municipal building at 18500 W. Thirteen Mile Road. Eight regular members were present; alternate Mitchell took a seat at the table.

**APPROVE MINUTES OF ZONING BOARD MEETING HELD JANUARY 12, 2015**

A correction was made on page 3, last paragraph, to change the first sentence to read, “It was noted that five affirmative votes are needed to grant a dimensional variance.” On page 2, paragraph 2, add the following text after the first sentence, “Crossen suggested that Ms. Fox recuse herself as a sitting member on this case.”

Motion by Rass, second by Raeder, that the minutes of the regular Zoning Board of Appeals meeting held on January 12, 2015 be approved as amended.

Motion passed.

**CASE NO. 1273 (re-hearing)**

**Petitioner:** Edward Paley

**Property:** 20120 Village Drive

**Village Ordinance:** **Section 22.08.150 Section B2.** Privacy Screens: Privacy screens that do not exceed six feet in height above grade are permitted as follows:

a. In rear and side yards to enclose an area on up to three sides only that is located a minimum of 10 feet from any lot line and with a total horizontal length that does not exceed 25% of the lot line portion of the rear yard.

**Deviation requested:** To erect a privacy fence closer than 10 feet from the lot line.

Ms. Fox recused herself from voting on this case and took a seat in the audience for the reason that she is the neighbor abutting the applicant’s property. The second alternate Zoning Board member Lepidi took a seat at the table.

This variance request was heard at the January 12, 2015 ZBA meeting. The case was postponed to the next regularly scheduled meeting at the request of the petitioner. The property at 20120 Village Drive is in an R-A zoning district. The homes in Evergreen Village were developed similar to a cluster development; the setbacks do not conform to a traditional R-A development. It is a large residential complex developed with park area set aside.

The applicant is requesting to erect a privacy fence. The fencing in question is existing; it exceeds six feet in height and is not located 10 feet from the rear lot line as required. The more finished side of the fence faces the interior and should face the exterior of the lot in accordance with the ordinance.

Wilson stated that Village staff has dealt with this petitioner and the abutting neighbors for some time relative to privacy issues and the condition of the large lot to the rear of the applicant's property. In an attempt to resolve the problem, Mr. Paley planted and tried to maintain a living fence along the lot line. The middle section of arbor vitae trees died and were replaced twice. The resident's contractor erected an approximately 9 ft high wood panel along a portion of the rear lot line without seeking a fence permit. Wilson displayed photographs of the property and the wood panels in the rear yard located close to an existing chain link fence on the lot line.

At the January Zoning Board meeting, the case was tabled to allow Mr. Paley to look into alternative plantings. Wilson offered to have the Village's forester visit the property to determine if there was a species that would grow in the designated area. Both the applicant's landscaping firm and J.H. Hart Forestry from the Village could not recommend a planting that would grow in the area where the screen was constructed, primarily due to lack of sunlight.

The Board discussed whether to consider a variance on an existing privacy screen or a fence. If the structure is considered a privacy screen, there are multiple violations: the fence is not located 10 ft. from the lot line; it exceeds 6 ft. in height; the finished side should face the outside. It could be considered a fence because it is located on the rear lot line. However, the fence exceeds 6 ft. in height; it is not 35% open to air and light; and the finished side is facing the inside rather than the outside.

Paley stated that the screen is about two feet from the lot line where there is a chain link fence. Due to the configuration of the lot, moving the fence 10 ft. forward from the lot line would result in losing a large portion of usable back yard area. It would also entail removing mature trees on the property. Paley said that Davey Tree built the screen 9 ft. high; the fencing is elevated approximately one foot off the ground. It was noted that there was a grade elevation difference between the petitioner's property and the abutting neighbor's property.

Board members including Ms. Fox had questions and comments regarding the existing screen and offered input on the resolution of this case. Topics of discussion included the height of the fence; the condition of the neighbor's yard; lack of an accord between the neighbors; and possible solutions that would allow the fencing to remain in some form.

Ms. Fox on Glenhill Court spoke as a member of the public. She provided the Board with information regarding her personal background and service to the community. Fox spoke about the condition of their yard noting that her 1.3 acre property abuts the Douglas Evans nature area; the back yard is wooded for half of the year. Fox and her husband were cited by the Village relative to outdoor storage several years ago. Fox expressed the view that they have been cited for activities that are not a violation of the ordinance; she requested equal treatment with respect to ordinance requirements. Fox did not think that there was a basis upon which to grant the petitioner's request under the Village ordinance and standards for a variance.

Vice-Chair Tillman entered the meeting at 8:04 p.m. and took a seat at the table whereupon alternate member Mitchell moved to the audience.

Manager Wilson disputed some of the statements made by Ms. Fox regarding violations related to her property and asserted that he has never denied anyone equal treatment under the law. He chastised both abutting neighbors for the inability to resolve their issues and for involving the Village in their dispute for over ten years.

Chairman Eifrid affirmed that this issue has not been amicably worked out between the abutting neighbors. This case is before the Zoning Board for a decision on the petitioner's request for variance to allow the fencing in some form given the hardship involved with the configuration of the lot and concerns relative to the condition of the abutting property.

Vice-Chair Tillman asked Mr. Paley if he would be acceptable to a lesser variance than requested. Paley indicated that he would prefer that the fence remain higher than 6 ft. and remain in the existing location. There was some discussion on the grade of the property and the fence placement. It was indicated that the Village will determine the grade on site in accordance with the ordinance stating that privacy screens cannot exceed six feet in height above grade. Paley referred to letters submitted to the Village from two neighbors who support the requested deviation.

Motion by Tillman, second by Rass, to approve the applicant's request for a variance to allow a privacy screen that complies with all requirements of Ordinance 22.08.150 Fence, Wall and Privacy Screen Regulations with the exception of location. The privacy screen may be located at the current location, which is approximately two feet in front of an existing chain link fence. The variance is based on a hardship related to the topography of the property in question and soil conditions.

Roll Call Vote:

Crossen	- yes
Donnelly	- no
Eifrid	- yes
Maxwell	- yes
Raeder	- no
Rass	- yes
Tillman	- yes
Verdi-Hus	- no
Lepidi	- no

Motion passed (5 – 4).

**ZONING BOARD COMMENTS**

Raeder mentioned that enforcement issues relative to temporary storage pods were not addressed at the joint Council and Planning Commission meeting held in February. Zoning Board members have asked for review of this ordinance by the Planning Commission and Council.

Raeder questioned the procedure for seating of alternate Zoning Board members at a meeting. Wilson will consult with the Village Attorney to clarify that process. He will follow up on storage pod regulations.

Raeder mentioned that a sign at the pet supply business on Southfield Road was granted a variance by the Zoning Board for one year, which has expired. Wilson will look into this.

### **PUBLIC COMMENTS**

Thomas Jeffers at 16905 Buckingham stated that he lives at the corner of Buckingham and Pierce across the street from Our Lady Queen of Martyrs school and church. He is proposing to submit an application to be heard before the Zoning Board of Appeals. Jeffers will be requesting to erect a security screen that will violate the ordinance section requiring that the total horizontal length does not exceed 25% of the lot line portion of the rear yard. The immediacy of the issue is due to the fact that he has an offer on the sale of his house contingent on being able to erect a security screen. Jeffers would like a sense of the members in terms of granting a variance for a six foot high security fence or screen on the property line.

In answer to an inquiry, Jeffers said that he has a serious potential buyer but does not have a signed purchase agreement. He related that there are lights on the school that shine directly into his backyard. A six foot fence would give some protection from that light and also provide privacy from traffic on Pierce.

Wilson remarked that representatives from Queen of Martyrs could be requested to adjust the lights on the school building. Eifrid informed Mr. Jeffers that, historically, the Zoning Board has not approved many six foot fences. Tillman mentioned that the Board has recommended planting evergreens in addition to a four foot fence in lieu of erecting a six foot privacy fence. Jeffers thanked the Board for its input.

### **ADMINISTRATION COMMENTS**

Wilson informed the Board that recording secretary Sue Bernard will be retiring in June.

Wilson related that there will be a case before the Zoning Board at its May meeting involving altering a nonconforming structure to construct a second story on the east side of the Village. The question relates to what it means to increase the nonconformity of a structure.

Motion by Tillman, second by Crossen, to adjourn the meeting at 8:54 p.m.

Motion passed.

**David Eifrid, Chairperson  
Zoning Board of Appeals**

**Ellen E. Marshall  
Village Clerk**

**Susan Bernard  
Recording Secretary**