

Present: Vice-Chair Tillman; Members: Crossen, Donnelly, Fox, Maxwell, Raeder.
Alternates: Mitchell and Lepidi

Absent: Eifrid, Rass, Verdi-Hus

Also Present: Village Manager, Wilson
Council liaison, Abboud

Vice-Chair 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 13, 2015

Motion by Raeder, second by Crossen, that the minutes of the regular Zoning Board of Appeals meeting held on April 13, 2015 be approved as submitted.

Motion passed.

CASE NO. 1274

Petitioner: Mark Van Wyke

Property: 17465 Kirkshire

Village Ordinance: Section 22.30.040 Nonconforming Structures

Subsection a. No such structure may be enlarged or altered in a way that increases its nonconformity. Such structures may be enlarged or altered in a way that does not increase nonconformity.

Deviation Requested: To add a second story addition 4'-10" into the front setback. Current front setback is non-conforming at 35'-2".

Manager Wilson stated that, based on the drawings submitted, the house in question is 34' from the right-of-way. The deviation requested should be changed from 35'2" to 34 ft. Wilson added that the petitioner is also asking for an interpretation of the ordinance in this case in terms of how it applies to his proposed addition.

There is an existing nonconformity with the front of the house located 34 ft. from the front right-of-way in lieu of the required 40 ft. Wilson outlined the extent and location of the proposed addition with the use of a site plan and photographs of the property. The ordinance states that no structure may be enlarged or altered in a way that increases its nonconformity. The Village usually deals with cases involving variance requests to extend an existing nonconformity horizontally.

Wilson was not clear about the interpretation of the ordinance in terms of building a second story over an existing nonconforming setback. He was not comfortable with approving this building application administratively. Wilson consulted with LSL Planning and with Attorney Tom Ryan regarding how to proceed. He suggested a modification to the ordinance language that would

provide better direction to Administration. Ryan recommended that the case come before the Zoning Board of Appeals for a determination.

This case is before the Zoning Board for an interpretation as to whether building a second story on the foundation of this house is considered an expansion of the existing nonconformity. If it is not considered an expansion of an existing nonconformity, a variance is not needed. If it is considered to be expanding a nonconformity, the Zoning Board can decide whether to issue a variance. There was agreement that it would be appropriate for the Board to discuss whether or not a variance is needed before considering the merits of the petitioner's request for variance.

Questions and comments regarding the proposal were addressed by Wilson and the applicant. It was determined that the proposed second story addition was not out of keeping with the character of the homes in the neighborhood.

There followed a lengthy discussion by Board members on the topic of whether the second story addition constitutes increasing an existing nonconformity. Concern was expressed relative to whether the bulk of a second story would encroach on air space and adversely affect the character of the neighborhood. There were members who expressed the view that a variance would not be needed if an addition was built within the maximum allowed height and within the same footprint of the existing nonconforming structure. The comment was made that no additional variances shall be allowed if the Zoning Board interprets the ordinance to allow a second story on a nonconforming structure.

There was concern expressed about setting a precedent that would allow construction of a second story addition over an existing nonconformity without coming before the Zoning Board of Appeals. A Zoning Board interpretation of this ordinance would effect the entire Village. The question is whether a vertical expansion of an existing nonconformity that does not increase the footprint of the home is or is not in violation of the ordinance. It was suggested that the Board could make a determination that the ordinance does not apply in this case due to the unique nature of the applicant's property on Kirkshire and considering that the vertical expansion would not be out of character in this neighborhood.

Tillman requested a legal opinion from Village Attorney Ryan before the Zoning Board offers an ordinance interpretation that would potentially have a long-term effect and legal liability on the Village. The Board could proceed by interpreting the ordinance language as it applies to a specific property.

Motion by Raeder, second by Crossen, to table discussion on interpretation of Zoning Ordinance Section 22.30.040 Nonconforming Structures pending receipt of a legal opinion from the Village Attorney within 90 days.

Motion passed (8 – 0).

The Zoning Board considered the variance request from Mark Van Wyke at 17455 Kirkshire. The applicant stated that he is proposing a second story addition for the reason that he wants to

retain his back yard open space for use by his family. He affirmed that the proposed addition will be consistent with the character of the neighborhood.

Wilson stated that he advised the petitioner that the Village discourages apartments above garages. The applicant has indicated that there will be no outside entrance to the addition and it will be connected to the rest of the house.

Decision: Motion by Crossen, second by Mitchell, to approve the request to continue the existing nonconforming front yard setback of 34 ft. in order to construct a second story addition above the garage and breezeway at 17455 Kirkshire contingent on: 1) no further exceptions or variances, and 2) no separate entrance to the addition, which will be connected to the main part of the house. Approval of this request is based on the fact that it is a continuation of an existing nonconformity and the addition does not diminish the neighborhood.

Roll Call Vote:

Donnelly - yes
Fox - yes
Maxwell - no
Raeder - yes
Tillman - yes
Mitchell - yes
Lepidi - yes
Crossen - yes

Motion passed (7 – 1).

CASE NO. 1275

Petitioner: Thomas Jeffers

Property: 16905 Buckingham

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 longer than 25% of the lot line portion of the rear yard.

Manager Wilson referred to photographs to describe the request for variance and indicate the proposed location of the privacy screen on the site. The ordinance allows 15 ft. of screening on a 60 ft. rear lot measurement; the applicant is requesting a 26 ft. privacy screen. The lot is located at the corner of Buckingham and Pierce across from the Queen of Martyrs church and school.

Questions and comments were addressed by the petitioner. Jeffers discussed the amount of road and pedestrian traffic passing his property and the need for privacy for the backyard and patio. Lights shining onto his property from Queen of Martyrs school was also an issue. Jeffers mentioned that he is selling his house and has an offer contingent upon erecting a privacy screen. The proposed screen would be 6 ft. high and 10 ft. from the property line. Jeffers said that his abutting neighbors are in agreement with the need for privacy.

The Board discussed the request to erect a 26 ft. privacy screen. Members suggested that the homeowner plant a row of evergreens in lieu of a privacy screen or erect a 15 ft. long privacy screen and supplement it with evergreens. The applicant pointed out that a large canopy tree in the backyard blocks sunlight from reaching most of the yard and would keep foliage from growing.

Decision: Motion by Fox, second by Donnelly, to approve the requested variance of 11 additional feet for a 6 ft. high privacy fence along Pierce Road on the subject property for the reasons of practical difficulty due to uniqueness of the property located on a public thoroughfare and across from a school and church.

Roll Call Vote:
Motion fails (8 – 0).

LIAISON COMMENTS

Aboud thanked the Zoning Board members for doing a good job. He mentioned that the Planning Commission will be looking at the ordinance addressing nonconforming structures. Aboud related information on upcoming revisions being considered to the Village Sign Ordinance.

ADMINISTRATION COMMENTS

Manager Wilson informed the Board of a reception for Ms. Bernard on May 28 in Beverly Park to recognize her long years of service to the Village as recording secretary.

Wilson related that he has advertised for the position of zoning and planning administrator for the Village. The new zoning and planning administrator will be taking on the administrative liaison duties for this Board and the Planning Commission.

ZONING BOARD COMMENTS

Raeder questioned if a large lease sign at the corner of 13 Mile and Lahser is legal and how long it can be displayed. Wilson will take a look at the sign. Raeder noted that the variance allowing a sign in the window of the pet supply business on Southfield Road has expired. The sign should be removed. Wilson responded that the owner has been noticed about his window sign.

In response to an inquiry, Wilson listed upcoming road construction projects that will occur in and around the Village.

Tillman thanked Ms. Bernard for everything she has done for the Village on behalf of this Board.

PUBLIC COMMENTS

None

Motion by Fox, second by Raeder, to adjourn the meeting at 8:39 p.m.

Motion passed.

Michele Tillman, Vice-Chair
Zoning Board of Appeals

Ellen E. Marshall
Village Clerk

Susan Bernard
Recording Secretary