

Present: Chairperson Eifrid; Members: Crossen, Donnelly, Maxwell, Mitchell, Raeder, Rass, Verdi-Hus;
Alternate: Gessner

Absent: Vice-Chairperson Tillman
Alternate: Lepidi

Also Present: Village Manager, Wilson
Council Liaison, Abboud

Alternate Member Gessner was seated as a voting member in the absence of Vice-Chairperson Tillman, constituting a full board of nine voting members present.

Chairperson Eifrid called the meeting to order at 7:30 p.m. in the Village of Beverly Hills Municipal Building, 18500 W. Thirteen Mile Road.

APPROVE MINUTES OF ZONING BOARD MEETING HELD MAY 11, 2015

Motion by Raeder, second by Crossen, that the minutes of the regular Zoning Board of Appeals meeting held on May 11, 2015 be approved as submitted.

Motion passed (9-0)

CASE NO. 1276

Petitioner: Titus Sgro

Property: 18721 Walmer Lane

Village Ordinance: 22.08.150 Fence, Wall and Privacy Screen Regulations

Subsection B1c. Rear Yard: A fence in a rear yard shall not exceed 48 inches in height above grade.

Deviation Requested: To erect a six foot green chain link fence on the rear sides of property.

Manager Wilson stated all aspects of the appeal are in compliance with the exception of the requested six foot height of the chain link fence in the rear yard exceeding the ordinance regulation of 48 inches. Photos of the subject property were presented. The location of the fence is fine. There is an existing fence on the neighboring property, including a section of six foot fence bordering 13 Mile Road that is allowable under the Village ordinance regulations regarding property abutting a major road. The property is located on Walmer Lane where there is a cul-de-sac effect.

Chairperson Eifrid noted the appeal is for a dimensional variance requiring five affirmative votes for approval and compelling demonstration of a hardship which was not created by the property owner.

Titus Sgro presented pictures to the Board of his former residence with a similar six foot fence. He stated he has a large dog and is concerned about containment with a four foot fence.

Members expressed concern that allowing a six foot fence would set an unfavorable precedent with a long-term effect. Alternative containment was suggested including an invisible fence or leashing the dog.

Mr. Sgro stated he would be willing to remove the fence in the event it was no longer needed. He addressed problems he had in the past with an invisible fence not being a deterrent for his dog.

A written communication was received from Dion and Cynthia McDonald, 18651 Walmer Lane, objecting to the subject petition for a six foot chain link fence. They expressed an appreciation for continued fence regulation to avoid an eyesore and limitation of viewing ground beautification from one house to another.

Pamela Williams, 18745 Walmer Lane, stated she is the neighbor to the west and had no concerns regarding a four foot fence or a six foot fence.

Dick Maxwell, 18701 Walmer Lane, indicated he is the property owner to the east of the petitioner. He questioned how this matter got this far along in the permitting process without it going to the subdivision architectural committee for approval. He does not want to have the dog jumping the fence; and he also does not want to be placed in the position of being animal control for Southfield Township.

Manager Wilson stated if we were aware of any deed restrictions, they would be made known to the petitioner; but we do not have the authority to allow or disallow any deed restriction. Any private association or deed restrictions are a civil enforcement matter. The authority of the Village Zoning Board is to address the petition for a deviation from ordinance regulations.

Mr. Sgro indicated he has been unable to contact the president of the homeowners association. It was noted there is a new head of the homeowners association, and he is present tonight in the audience.

Harriet Brown, 18772 Walmer Lane, expressed her understanding of the issues regarding the dog. They also wanted to have a fence for a dog when they moved in, but did not pursue it. It is her understanding that the property is platted in a way to give a sense of freedom. There are many people in the neighborhood who have dealt with the same situation.

Decision: Motion by Raeder, second by Verdi-Hus, to grant the variance request in Case No. 1276, Village Ordinance 22.08.150 Fence, Wall and Privacy Screen Regulations, Subsection B1c., to allow a six foot chain link fence on the rear sides of the property at 18721 Walmer Lane, Beverly Hills, due to an undue hardship created by the need to contain an overactive dog.

Roll Call Vote:

Ayes: None
Nayes: Maxwell, Mitchell, Raeder, Rass, Verdi-Hus, Gessner, Eifrid,
Crossen, Donnelly

Motion Failed (9 – 0).

CASE NO. 1277

Petitioner: Brad & Debra Romalia, 18700 Walmer Lane, Beverly Hills

Property: 18700 Walmer Lane, Beverly Hills

Village Ordinance: 22.24.010 Addendum to Schedule of Regulations
R-2 Single Family District requires 40 foot rear open space.

Deviation Requested: Six foot one inch variance requested to add addition to rear of house.

Member Crossen recused himself from participation in Case No. 1277 based on a conflict of interest. He serves on the board of the homeowners' association, along with Mr. Romalia.

Manager Wilson stated the house currently conforms to the side and rear yard requirements. The addition proposed would extend beyond the rear yard setback by six feet one inch. It would be 33' 11" from the rear setback instead of the required 40 ft. Photographs were presented from various angles outlining the proposed addition.

Chairperson Eifrid requested the petitioner to address how enforcement of the Ordinance may create exceptional or undue hardships.

Debra Romalia stated they would like to add a 14' x 18' addition (den) to the back of the house which will connect to an 8' 9" x 10' addition (storage) off the back of the garage. When they purchased the house in 2009, the lack of a basement was not an issue, however their family has grown with the birth of their daughter, and they require additional storage, living, and office space.

Board members expressed concern with the 14' x 18' dimensions of the proposed room and questioned whether the petitioner would consider something smaller than 14' or perhaps building upward. It was noted that the variance requested is six feet one inch.

Ms. Romalia stated it is more expensive to build upward. She would be agreeable to changing the proposed room to 12' x 18'.

Manager Wilson noted the lots in this area have depth variation due to the winding road. There are some existing rear yard encroachments, and some are adjacent to the petitioner's property.

Dick Maxwell, 18701 Walmer Lane, stated he lives across the street from the property and expressed support of the proposed addition. He has lived in the area over 45 years, and there are

homes with larger encroachments than what is being requested by Mr. and Mrs. Romalia. They have also already made significant aesthetic improvements to the property.

Joe Hustek, President of the homeowners' association for the subject subdivision stated when the subdivision was constructed; the ordinance in effect at that time was a setback of 40 feet from the street to the front of the home and 20 feet from other property lines.

Discussion followed on reducing the size of the proposed addition. Manager Wilson confirmed that the variance may be changed without the petitioner having to file another appeal if the petitioner expresses acceptance of the change on the record.

Debra Romalia stated her acceptance of a change in the dimensions of their proposed addition to the rear of the house to 12 ft. x 18 ft. The variance would be four feet one inch.

Decision: Motion by Maxwell, second by Raeder, to grant approval of a four foot one inch variance to the rear yard setback, for a 12 ft. x 18 ft. addition to the rear of the house, in Case No. 1277, Village Ordinance 22.24.010 Addendum to Schedule of Regulations R-2 Single Family District. Approval is based on an undue hardship issue of a lack of storage, living, and office space.

Roll Call Vote:

Ayes: Mitchell, Raeder, Rass, Verdi-Hus, Gessner, Eifrid, Donnelly,
Maxwell
Nays: None
Abstain: Crossen

Motion Passed (8 – 0).

CASE NO. 1278

Petitioner: Martin Edwards, 3916 Elmhurst, Waterford, MI

Property: 30130 Leemoor, Beverly Hills

Village Ordinance: 22.24.010 Addendum to Schedule of Regulations

a. Front Open Space. Where a front open space of greater or less depth than forty feet (40') exists in front of a single family residence or residences presently on one side of a street in any block and within two hundred feet (200') of the lot or parcel, the depth of the front open space of any building subsequently erected or remodeled on that side of the street in that block shall not be less than the average depths of the front open space of such existing residences.

Deviation Requested: To add an addition on the front of the home resulting in a 45 foot setback requiring a variance of 29 feet from the average front yard setback of 74 feet of homes within 200 ft.

Manager Wilson stated the petitioner is requesting to build on three separate areas of the property. Photos were presented showing the existing structure and the proposed master bedroom extension, barrier free bedroom, and garage modification and addition. The proposal for the master bedroom extension is compliant. The proposed garage modification and addition, which is a 4' and 15' extension beyond the existing garage, would result in a 45 foot front setback requiring a variance of 29 feet from the average front yard setback of 74 feet of homes within 200 feet. The purpose of the expansion is to allow some modifications to the house to provide barrier-free access for the petitioner's disabled daughter. The proposed bedroom expansion is to address the child's special needs and provide a separate entrance. The petitioner purchased the home thinking that the setback is 40 feet for the front yard; however, the setback is actually the average for the homes surrounding the property which is 74 feet.

Manager Wilson noted another point that has been raised is whether there are any deed restrictions for front-facing garage doors; and he is not aware of any for this area. He suggested this be checked with the homeowner's association. It was noted by board members that there are no front-facing garages in this area.

Martin Edwards, the petitioner in Case No. 1278, addressed the Board. He stated their intent is to modify the house to accommodate their disabled seven-year old daughter. As a result of a car accident in 2012, she is a quadriplegic. They currently live in Waterford Township. Before purchasing the home, they researched the setback requirements, but they missed a footnote for setbacks and discovered after purchasing the home that the setback is not 40 feet, but rather an average of surrounding homes, which is 74 feet. In order to modify the home and create a living space for their daughter, provide an area to park her transportation vehicle, and provide an enclosed loading/unloading area, they are requesting a variance of 29 feet for the front setback. This request is necessary in order to accommodate her special needs and medical requirements. Without the variance, the home will not be useable for her, and will need to be sold. They have spoken with the neighbors close to their house and they stated they are ok with the modifications to accommodate their daughter.

Mr. Edwards stated also present tonight is Henry Ofiara, Architect, who has extensive experience in barrier free design, and Jeff Kraus of Lane In-Home Therapy Services. They have worked together to develop a plan that promotes his daughter's independence and safety for the present and as she grows older. The proposed addition provides a new separate entrance to the home serving as a point of egress in the event of emergency and allowing his daughter to exit her living space without having to pass through the rest of the home. The proposed addition also includes the provision of an elevator which will allow access to the basement.

Manager Wilson presented additional photos of the existing home and proposed modifications. Mr. Edwards pointed out areas of the house that will also be improved, including siding, roof, front porch, and brick work.

Board members expressed concerns about the proposed garage with three doors visible from the street. Suggestions were provided for moving the garage back, elimination of the large window to be replaced with a skylight, or the possibility of having a side garage entrance.

Mr. Edwards discussed the large size of the transport vehicle (20') and space required for pulling in, dropping the ramp, loading and unloading in a protected area. He noted a wheelchair ramp is to be included along the back wall of two garage bays which must meet ADA requirements. Elimination of the large window is not an option due to issues with seasonal affective disorder. The front entrance also serves as an emergency exit and a separate entry for the caregiver.

Member Raeder expressed concerns with the large front-facing garage and the need to protect the rest of the subdivision, discussed garage door size, side yard requirements, rear lot size, and recommended further architectural review and plan amendments to find feasible alternatives.

Mr. Edwards further discussed the wheelchair ramp that goes along the back wall of the garage, size requirements for the doors, barrier-free design, and space requirements for wheelchair accessible play structures for the back area.

A written communication was received from Mr. and Mrs. Frank Lewandowski, 20700 Northome, Southfield, MI, stating no objection to the deviation request for an addition to the front of the home located at 30130 Leemoor.

Nancy Maxwell, 18701 Walmer Lane, stated there are no neighbors here complaining. She suggested the Village find out if there are deed restrictions on front-facing garage doors.

Member Verdi-Hus suggested the petitioner contact Lawrence Technological University architect students for additional design ideas. Mr. Edwards addressed costs, timing, ADA requirements, and the difficulty of retaining barrier-free contractors.

Board Members expressed understanding of the hardship and the uniqueness of the situation; but noted it is a large variance request that impacts the surrounding neighborhood.

Decision: Motion by Mitchell, second by Crossen, to grant approval of an addition on the front of the home at 30130 Leemoor, Case No. 1278, resulting in a 45 foot setback requiring a variance of 29 feet, Village Ordinance: 22.24.010 Addendum to Schedule of Regulations, a. Front Open Space. Approval of this request is based on an exceptional family hardship and their need to accommodate a disabled child.

Roll Call Vote:

Ayes: Gessner, Eifrid, Donnelly, Mitchell

Nays: Raeder, Rass, Verdi-Hus, Crossen, Maxwell

Motion Failed (5 – 4).

ELECTION OF CHAIRPERSON AND VICE-CHAIRPERSON

Chairperson Eifrid opened the floor for nominations for chairperson of the Zoning Board of Appeals. Raeder nominated David Eifrid as chairperson. There were no further nominations. David Eifrid was elected chairperson by unanimous acclamation.

Chairperson Eifrid opened the floor for nominations for vice-chairperson of the Zoning Board of Appeals. Raeder nominated Michele Tillman for vice-chairperson. There were no further nominations. Michele Tillman was elected vice-chairperson by unanimous acclimation.

LIAISON COMMENTS

Abboud requested the addition of “Public Comments” to the standard agenda format for Zoning Board of Appeals meetings. He further stated that the action taken tonight by the Zoning Board in first case denying the fence was clear. In the second case the Board affected a compromise by allowing a little, but not as much as requested, and let it go through. On the third case the Board got this 100% wrong. There are three hardships in this case. The petitioner has a special needs daughter. He was very articulate and brought with him an architect and occupational therapist. That should send a message to the Village. He chose Beverly Hills, but the action taken by a majority of the Board is forcing this family to leave the Village. The neighbors do not have an issue and were not complaining. He understands this was an emotional case, and the Board is doing their job; but the action taken was 100% wrong.

ADMINISTRATION COMMENTS

Manager Wilson expressed concern about the consistency of decisions made by the Zoning Board of Appeals on the cases decided tonight.

ZONING BOARD COMMENTS

Case No. 1278 was referenced. Donnelly stated this was a very difficult and emotional case. Eifrid expressed agreement with comments made by Abboud and Wilson. Verdi-Hus stated she thinks the architect will come up with an alternative plan. Raeder stated he had concerns with the industrial size front-facing garage door, and as a builder with 40 years of experience, thinks there are viable design alternatives.

Motion by Crossen, second by Maxwell, to adjourn the meeting at 9:25 p.m.

Motion passed (9 - 0)

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

**Ellen E. Marshall
Village Clerk**

**Sandra Gadd
Recording Secretary**