

REGULAR ZONING BOARD OF APPEALS MEETING MINUTES – AUGUST 10, 2015 –  
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Present: Chairperson Eifrid; Vice-Chairperson Tillman; Members: Crossen, Maxwell, Mitchell, Raeder, Rass, Verdi-Hus; Alternate Members: Lepidi, Gessner

Absent: Donnelly

Also Present: Manager, Wilson

Alternate member Lepidi was seated as a voting member in the absence of Donnelly, constituting a full board of nine voting members present.

Chairperson Eifrid called the meeting to order at 7:32 p.m. in the Village of Beverly Hills municipal building at 18500 W. Thirteen Mile Road. Eifrid requested Vice-Chairperson Tillman act as chair of the meeting due to laryngitis. The board approved the change by affirmation.

Tillman proposed amending the agenda to add Public Comments to the agenda, before and after the published cases. The board approved the amendment by affirmation.

**APPROVE MINUTES OF ZONING BOARD MEETING HELD JULY 13, 2015**

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

Motion passed.

**PUBLIC COMMENTS ON ITEMS NOT ON THE PUBLISHED AGENDA**

None.

**CASE NO. 1279**

**Petitioner:** Susan & Timothy Weed

**Property:** 19324 Warwick

**Village Ordinance: 22.24.010 Addendum to Schedule of Regulations**

R-2B Single Family District requires a minimum setback from the side street equal to a minimum front setback for the Zone District, which is 40’.

**Deviation Requested:** To add an addition which would encroach 8.6’ into the required side open space.

Manager Wilson explained this home is a corner lot, therefore it is subject to the front yard setback requirements on both the front and side yard. He stated this home as existing is currently nonconforming. Photos of the subject property were presented. Wilson clarified the porch is not considered part of the principal structure since it lacks an exterior wall. The petitioner’s proposal meets regulations in the front of the property.

Vice-Chairperson Tillman 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. She further noted the petitioner must demonstrate that the variance must be reasonable and appropriate given the character of the neighborhood and relief cannot be accomplished with a lesser variance.

Kevin Hart, Architect for the Weed family, presented an overview of the proposed use of the addition to the principle building. He noted the current two-car garage is 22'x20' which is smaller than a standard 24'x24' two-car garage. He stated the proposed addition will maintain a setback comparable to the average front yard open space along Inglewood. Hart explained that as a nonconforming lot, any additions to the eastern side of the home would require a variance.

Eifrid remarked that the house is an existing nonconforming and irregular lot therefore it would be difficult to build an addition within the ordinance.

Tillman inquired if the garage portion would increase from a two-car to a three-car garage. Crossen asked whether a car could fit in the smaller bay. Hart explained the third door was not a full bay. Tillman reiterated this request was not increasing the nonconformity and the hardship is due to the existing lot which is irregular and nonconforming. Wilson stated the surrounding homes also appear to be nonconforming.

Motion by Raeder, second by Maxwell, to grant approval of an 8.6' variance to the side yard setback, for a 22'6" addition to the side of the house, in Case No. 1279, Village Ordinance 22.24.010 Addendum to the Schedule of Regulations R-2B Single Family District. Approval is based on the irregularity of the lot, and existing nonconformance of current structure.

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

Member Verdi-Hus left the meeting at 8:25 pm, Alternate Member Gessner was seated as a voting member in her absence maintaining a full board of nine voting members.

### **CASE NO. 1280**

**Petitioner:** Martin Edwards, 3916 Elmhurst, Waterford, MI

**Property:** 30130 Leemoor

#### **Village Ordinance: 22.24.010 Addendum to Schedule of Regulations**

R-A Single Family District section 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 of 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 which would result in a 50 foot setback requiring a variance of 24 feet from the average front yard setback of 74 feet.

Manager Wilson explained this is not a rehearing, but a new petition after the previous request was denied. The current petition is a lesser request from the previous request, in addition, the petitioner prepared a side entry garage option based on input from the Board at the previous meeting; however that option would require a 34' variance. The petitioner elected to propose the lesser variance to the Board with a front entry garage. Wilson confirmed the measurements for neighboring homes, which are set farther back than the petitioner's home, are correct. Wilson provided an overview of the petitioner's request and details on the rationale for submitting a front entry garage.

Martin Edwards, petitioner in Case No. 1280, addressed the Board. He stated their intent is to modify the house to accommodate their disabled seven-year old daughter. He outlined the reason for selecting the home; including the need to garage a 20' transportation vehicle with sufficient space to load/unload their daughter while protected from the weather, and to create a barrier-free room which will serve her needs into adulthood. The petitioner explained a side entry garage is possible, but would require removal of substantial landscaping to accommodate the transportation vehicle, and a greater variance. He restated the home was purchased with the understanding the front yard setback was 40' and the addendum which necessitates the variance was accidentally missed.

Mitchell asked whether a front entry garage would require a variance. Wilson explained the requirement for a side entry garage would be a deed restriction, which would be civilly enforced through the homeowner's association. Tillman commented that she believes the entire neighborhood is bound by a deed restriction prohibiting front entry garages. She confirmed the requirement is not part of any Village ordinance.

Crossen inquired whether placing the garage in the rear of the property was feasible. Petitioner Edwards explained the structural makeup of the home, and need for wheelchair access to the bedroom limited that option. Eifrid inquired whether the petition was only for a front entry garage. Wilson clarified a petitioner may only request a specific variance; however, his Architect had prepared a design with a side entry garage in the event the Board requested that modification. Maxwell asked why new construction wasn't considered. The petitioner provided an overview of their search for a new home which did include vacant land; however their daughter's medical, therapy, and educational needs limited their search. Raeder stated he is opposed to a front entry garage, and expressed concern that there is a deed restriction prohibiting one.

Tillman expressed concern that this hardship was created by the property owner and inquired whether the situation was unique to this property. Edwards restated he misunderstood the front open space requirement and providing a handicap accessible vehicle garage and living space present a unique challenge.

Wilson stated it appears there is a restriction in place due to the lack of any front entry garages in the area, and restrictions of that nature are typically civilly enforceable. He wanted to ensure the

petitioner understood a variance from the Board would not allow a front entry garage where prohibited by deed restriction. Tillman reiterated homeowner associations will frequently enforce deed restrictions. Tillman inquired whether the garage could remain a two-car garage, and be side entry which would require a lesser variance. Edwards stated a third bay is necessary to allow space for side-loading his daughter and would also result in the loss of a mature tree.

A written communication was received from A.J. and Judith Miller, 30245 Leemoor, stating no objection to the deviation request and requesting Board consideration for the Edwards family's special needs.

The following people voiced support for the variance request, noted the variety of homes in the neighborhood, and stated support of a front or side entry garage:

William Gulker, 30125 Leemoor  
Ingrid Fuderer, 16036 Dunblaine  
Thomas Prysby, 30155 Leemoor  
Gayle Kirby, 30195 Leemoor  
Frank Lewandowski, 20700 Northome, Southfield, MI  
David Sullivan, 31240 Stafford

Eifrid questioned whether the Board could approve a variance for front or side entry dependent upon confirming the existence, or lack thereof, of any deed restriction. Wilson explained the Board must grant a variance on set dimensions per submitted proposal. Tillman expressed concern about granting a variance allowing only 40' of front open space and a front entry garage. Members discussed the feasibility of building a two-car attached garage and an additional detached garage in lieu of the attached three-car garage. Raeder expressed concern about the size of the front entry garage door that could accommodate their handicap accessible vehicle.

Tillman noted the Board could grant a conditional variance which would limit the garage to side entry. Wilson confirmed that is an allowable action since the variance is allowing the petitioner to build outside of the Village Ordinance.

The Board took a five minute recess.

Martin Edwards stated his acceptance of a change in the dimensions of his proposed addition to the front of the house to allow 40' of open space and a side entry garage.

Motion by Tillman, second by Rass, to grant approval of a 34' variance to the front yard setback, for a side entry garage placed 40' from the lot line with all garage doors facing south, in Case No. 1280, Village Ordinance 22.24.010 Addendum to the Schedule of Regulations R-A Single Family District section a. Front Open Space. Approval is based on existing condition of the property and placement of the structure, and maintaining the existing character of the neighborhood.

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

**PUBLIC COMMENTS**

None.

**LIAISON COMMENTS**

Abboud asked whether the Board was required to have a member serve as secretary. Wilson confirmed that was a requirement for the Planning Commission only. Abboud read a statement to the Board thanking the members for their volunteer service.

**ADMINISTRATION COMMENTS**

Wilson updated the Board on the Planning Commission's work on the Master Plan update and plans to update additional Village ordinances. He announced Erin Wilks will be appointed as the Planning and Zoning Administrator. Wilson relayed concerns raised at the Planning Commission and Council regarding the Village's fence ordinance.

**ZONING BOARD COMMENTS**

Raeder asked for an update on the ordinance regulating temporary storage containers. Wilson explained the Village will be eliminating the Zoning Board variance option for use longer than 14 days, and instead parties will be subject to a civil infraction penalties.

Eifrid expressed gratitude to the Board for their work to serve the residents of Beverly Hills.

Mitchell requested to be added to any Board email communications.

Motion by Raeder, second by Rass, to adjourn the meeting at 9:25 pm.

Motion passed.

**David Eifrid**  
**Chairperson**

**Ellen Marshall**  
**Village Clerk**

**Erin Wilks**  
**Recording Secretary**