

Present: Vice-Chairperson Tillman; Members: Crossen, Donnelly, Maxwell, Mitchell, Raeder, Rass, Verdi-Hus; Alternate Member: Lepidi

Absent: Chairperson Eifrid

Also Present: Village Manager, Wilson

Zoning Board Vice-Chairperson Tillman called the regular Zoning Board of Appeals meeting to order at 7:30 p.m. in the Village of Beverly Hills municipal building at 18500 W. Thirteen Mile Road.

**REVIEW AND CONSIDER APPROVAL OF MINUTES OF A REGULAR ZONING BOARD MEETING HELD AUGUST 10, 2015.**

Tillman requested the following amendments to the August 10, 2015 minutes: on page 2, first paragraph, second sentence add word “that” after “petitioner must demonstrate”; replace phrase “will not alter” with “must be reasonable and appropriate given”; and replace phrase “the objective” with “relief”, and on page 3, sixth paragraph, first sentence change “and whether this was” to “and inquired whether the situation was”.

Motion by Crossen, second by Rass, that the minutes of the regular Zoning Board of Appeals meeting held August 10, 2015 be approved as amended.

Motion passed.

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

None.

Alternate Member Lepidi was seated at 7:35 pm due to the absence of Chairperson Eifrid constituting a full nine-member board.

**CASE NO. 1281**

**Petitioner:** Marcel Zughaib, 4310 S. Bay, Orchard Lake, MI 48323

**Property:** 15580 Birwood

**Village Ordinance: 22.08.150 Fence, Wall, and Privacy Screen Regulations**

B. Requirements in Single Family Residential Districts:

2. Privacy Screens: Privacy screens that do not exceed six feet in height above grade are permitted as follows:

a. In rear and side yard 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 build a privacy screen greater than 25% of the lot line portion of the rear yard, and closer than 10ft from the side and rear lot lines.

Manager Wilson explained that the petitioner is requesting a 50 foot privacy screen which exceeds the allowable length by ordinance, and is requesting to install the screen closer than 10 feet from the lot line. He explained the request is the result of the tenant's concerns with the neighbor's dog.

Petitioner Marcel Zughuib stated the property owner to the east has a German Shepard dog which is 3 months old. He claimed the dog is very aggressive when residents are using the backyard and he expressed concern that the dog may be able to jump the fence when it reaches full size. He inquired about the status of a 6 foot privacy screen located at the lot line to his north which appears to be recently installed.

Maxwell asked for the date of purchase and whether the screen in place to the north was installed at that time. Tillman sought clarification on the ownership of the privacy screen to the north. Zughuib clarified the fence was in place when he purchased the home in July 2015 and is not on his property.

Tillman asked the petitioner to explain how his situation was unique, and whether he had filed complaints to the Village about the dog. Zughuib stated he owns and likes dogs, but feels this particular dog is exceptionally aggressive. He has not filed complaints with the Village. Wilson confirmed he is not aware of any complaints filed with the police department or with animal control services.

Tillman read a letter dated August 28, 2015 from the Layer Family, 15562 Birwood, in support of the privacy screen. The entire letter is available at the Village Office.

Verdi-Hus queried what alternatives the petitioner will pursue if the variance request is denied. Rass requested a general outline of steps taken by animal control if a complaint is filed. Wilson explained that the ordinance requires an owner to be in control of their dog at all times. He stated the animal could potentially be removed if it cannot be contained or controlled. Crossen inquired whether dog pens are allowed in the Village. Wilson stated they could, in theory, be allowed depending on the structure. Mitchell also inquired about animal control procedures and the potential for training the dog. Tillman stated she visited the site and the residents did not express concern, nor did she experience any issue with the dog. Lepidi mentioned young children sometimes invoke play behavior in young dogs. Tillman suggested providing treats to the dog. Raeder requested clarification from the Village about the steps to address the neighbor's nonconforming fence.

Motion by Crossen, second by Mitchell, to grant approval of a variance from the ordinance in height and openness to allow a 6 feet solid fence, 10 feet along the north lot line and 50 feet along the east lot line following the existing 4 foot chain link fence.

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

**CASE NO. 1282**

**Petitioner:** Daniel Nunez

**Property:** 16128 Marguerite

**Village Ordinance: 22.08.150 Fence, Wall, and Privacy Screen Regulations**

**B. Requirements in Single Family Residential Districts:**

2. Privacy Screens: Privacy screens that do not exceed six feet in height above grade are permitted as follows:

- a. In rear and side yard 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 build a privacy screen greater than 25% of the lot line portion of the rear yard, and closer than 10ft from the side and rear lot lines.

Wilson stated the petitioner is requesting a privacy screen along his entire rear lot line and a portion of his west lot line which is greater in length than the allowable length and closer than 10 feet to the lot line. He provided an overview of the existing conditions, including the extensive arbor vitae and other greenery that has been planted as a green barrier. The area where the screen is being requested currently has a wrought iron fence. Wilson displayed the petitioner-submitted photos showing the struggling green barrier and tree canopy in the area.

Petitioner Daniel Nunez explained he feels his situation is unique due to the existing canopy from mature trees which prevents a green barrier in that area. He stated he sought advice from Michigan State University for alternative plantings, and was informed hemlock was the only viable option. Nunez reiterated his strong desire to maintain a green barrier and feels the fence is his only option. He acknowledged the concerns of his neighbor's home which is in close proximity to his rear lot line, and stated he intends to install an attractive fence.

Verdi-Hus expressed concern that a 6 foot privacy screen would diminish the appearance of the property and suggested petitioner consider grape vines as a green barrier.

Tillman inquired whether the petitioner has planted hemlock in the area. She noted the lot has extensive green barrier except for the area in question and acknowledged the petitioner's desire for privacy. She suggested installing a privacy screen 10 feet from the lot line in the area lacking green barrier, which would be allowable by ordinance. Tillman noted the absence of evidence of undue hardship in this case.

Raeder and Maxwell indicated their agreement with Tillman's comments.

Annette Hobrecht, 16144 Marguerite, stated the existing green barrier along their property line interferes with snow removal in winter. She expressed concern that building a six foot privacy screen will negatively impact neighbors to the north at the rear property line. She suggested the petitioner move his outdoor seating eastward where there is existing green barrier.

Chris Michaud, 16125 Amherst, explained he installed the existing fence to secure their dog and elected to use wrought iron to match neighboring fencing. He stated he is unaware of any green barrier planted in the area to the west of the existing arbor vitae.

Tillman read a letter emailed to the Board from Kathy Reid, 16056 Marguerite, stating her support for the proposed privacy screen. The entire letter is available for review at the Village Office.

Harold Wasner, 16151 Marguerite, requested clarification on the requirement to allow privacy screens 10 feet off the lot line and how those requirements benefit the community. Tillman provided rationale for the regulations.

Deborah Limage, 17004 Marguerite, stated concern that not allowing 6 foot privacy fences results in poor quality screens. She noted her neighbors have a screen which is in disrepair.

Tillman stated privacy screens require permits and problematic screens or fences are investigated when brought to the Village's attention. Raeder reiterated the Zoning Ordinance does apply to privacy screens, however the intent of the ordinance is to build a community atmosphere which is why 6 foot privacy fences are not permitted.

Nunez noted he was seeking to address the need for privacy for both his property and that of his neighbor to the north. He asked about the option of amending his petition to only install a privacy screen along the area where there is no green barrier instead of along the entire rear yard.

Maxwell clarified the request would then only require a variance from the regulation for placement 10 feet from the lot line. Raeder stated the modifications will need specific measurements and suggested the petitioner request the item be tabled. Tillman elaborated the Board would need to decide on a petition for a specific length and location, and suggested the petitioner work with the neighbors to seek a solution that is agreeable to all parties. She expressed agreement that tabling the case until October would be necessary for any modifications to the petition. Tillman suggested the petitioner seek the least possible variance and provide the Board with additional information on what he intends to install.

Nunez requested the case be tabled until the next Zoning Board of Appeals meeting to be held October 12, 2015.

The Board agreed to table the petition at the request of the petitioner by consensus.

#### **PUBLIC COMMENTS**

Hillary Morgan inquired about Zoning Board of Appeals procedures for petitioners.

#### **LIAISON COMMENTS**

Abboud noted that the Layer's letter regarding Case #1281 listed the petitioner's address incorrectly. He commended the Board for working with petitioners to explore all available options. He stated the Council has appointed a new Council member to complete the term after

Jacqueline Kelly resigned and that the Council is considering changing liaison and alternate assignments.

**ADMINISTRATION COMMENTS**

Wilson stated Market Fresh has submitted a request to the Planning Commission for changes to their signage under the new ordinance guidelines. He stated administration has been in contact with Nexus to modify their building sign. He elaborated on changes to the sign ordinance. Wilks noted there are two new petitions and the tabled case from tonight's meeting on the agenda for October. Wilson notified the Board that alternate member Gessner is no longer a resident of the Village and an announcement for a new alternate will be made by Council.

**ZONING BOARD COMMENTS**

Raeder expressed gratitude to the Planning Commission and Council for modifying the ordinance addressing PODS and temporary storage. He noted the delay in construction on Lahser Road.

Motion by Crossen, second by Rass, to adjourn the meeting at 8:55 pm.

Motion passed.

**Michelle Tillman**  
**Chairperson**

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

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