

REGULAR ZONING BOARD OF APPEALS MEETING MINUTES – NOVEMBER 9, 2015 –
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Present: Vice-Chairperson Tillman; Members: Crossen, Donnelly, Maxwell, Mitchell, Raeder, Rass, Verdi-Hus

Absent: Chairperson Eifrid; Alternate: Lepidi

Also Present: Village Manager, Wilson
Planning and Zoning Administrator, Wilks
Council Liaison, Abboud

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 OCTOBER 12, 2015

Motion by Crossen, second by Rass, that the minutes of the regular Zoning Board of Appeals meeting held October 12, 2015 be approved as submitted.

Motion passed.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

None.

CASE NO. 1286

Petitioner: Brian Reemmer

Property: 18604 Devonshire

Village Ordinance: 22.24 Area, Height Bulk and Placement Regulations

Zoning District R-2B requires a minimum side open space of 5 feet for side one and 10 feet for side other.

Deviation Requested: To build an addition on the rear of the home which would encroach 1.2 feet into the required 5ft minimum side yard setback.

Administrator Wilks explained that the property is currently an existing nonconforming, and sits 3.8 feet from the lot line at the area where work is proposed. The petitioner is proposing to remove a portion of the existing home, and add two-stories of living space onto the rear of the principal building. The proposed addition would maintain the 1.2 foot encroachment along the side yard.

Tillman noted that the request is a continuation of an existing nonconformity. She asked Board members if there were any questions or objections to the request. Noting that there were none, Tillman waived discussion by the Board.

Motion by Mitchell, second by Donnelly, to grant approval of a variance of 1.2 feet from the stated 5ft minimum side open space requirement of Village Ordinance 22.24 for zoning district R2-B due to practical difficulties associated with the existing nonconforming lot.

Roll Call Vote:
Motion passed (8 - 0).

CASE NO. 1287

Petitioner: David Runde

Property: 32286 Verona Circle

Village Ordinance: 22.08.150 Fence, Wall, And Privacy Screen Regulations

1. Fences: Fences with a vertical surface area that is at least 35% open to air and light (see Section 22.04 "Point of Observation") are permitted subject to the following:
 - c. Rear Yard: A fence in a rear yard shall not exceed 48 inches in height above grade and shall not extend back toward the front of the lot farther than the rear of the house, except when a house has a commonly and consistently used side door entrance rather than rear door entrance, then a fence may extend into the side yard only to enclose the side door entrance.
2. Privacy Screens: Privacy screens that do not exceed six feet in height above grade are permitted as follows:
 - b. Properties whose rear yard abuts Southfield Road, Greenfield Road, or Thirteen Mile Road may erect a privacy screen along the perimeter of the rear yard that abuts these roads and may extend the privacy screen in the side yard only to enclose a side door entrance.

Deviation Requested: Petitioner seeks to build a fence that is 6 feet above grade and opaque along the rear lot line, and also to build a privacy screen that is 8 feet above grade along the east lot line, which abuts Greenfield Road, and extending into the side yard.

Tillman explained to petitioner Runde that a non-use dimensional variance requires five affirmative votes and that he must demonstrate that there are practical difficulties that keep him from using the property in the way it was intended. Tillman added that the petitioner would have to demonstrate why no lesser variance would be viable.

Runde explained that the requests were due to the increased traffic noise on Greenfield Road. He has lived in the home for 18 years and is no longer able to enjoy being outdoors. He believes not being able to use his backyard because of the noise creates an undue hardship. Runde added that privacy is also a concern.

Runde played a brief audio recording of traffic noise and noted that it was typical of what he and his wife hear on a daily basis.

Verdi-Hus asked the petitioner if he had ever considered additional green screening. Runde indicated he had, but that he believed fencing was a more effective solution to block traffic noise.

Tillman asked Runde if his backyard received adequate sunlight to grow additional shrubbery to provide privacy. Runde indicated that his backyard does not receive adequate sunlight to grow additional shrubbery due in large part to a mature tree.

Raeder asked the petitioner if his shrubbery along Greenfield Road was in the right of way. Runde indicated the shrubbery is beyond the fence line and he believes it is owned by the Village.

Tillman noted that the Village's fence ordinance has different height requirements for different areas. She said rear fences have a 4-foot requirement and fences along heavy traffic roads like Greenfield are allowed to be 6 feet above grade.

Motion by Maxwell, second by Crossen, to approve a variance from the 48-inch height above grade, and 35% openness requirements of Village Ordinance 22.08.150 to allow a solid, 6 foot fence along rear lot line due to practical difficulties.

Roll Call Vote:

Crossen	no
Donnelly	no
Maxwell	yes
Mitchell	no
Raeder	no
Rass	no
Tillman	no
Verdi-Hus	no

Motion failed (1 - 7).

Motion by Raeder, second by Maxwell, to approve a variance from requirements of Village Ordinance 22.08.150 to allow an 8 foot privacy screen along east lot line in rear yard extending into side yard due to practical difficulties.

Roll Call Vote:

Crossen	no
Donnelly	no
Maxwell	yes
Mitchell	no
Raeder	no
Rass	no
Tillman	no
Verdi-Hus	no

Motion failed (1 - 7).

CASE NO. 1288

Petitioner: Michael Donovan

Property: 18356 Bedford

Village Ordinance: 22.24 Area, Height Bulk and Placement Regulations

Zoning District R2-B requires 40 feet of rear open space.

Deviation Requested: The petitioner seeks to build an addition on the existing house which would encroach 6-feet 3-inches into the required rear open space.

Wilks explained that the addition is for single story living space to be used as a family room and dining area and the open space in rear yard would measure 33 feet 9 inches. Wilks added that the addition would replace an existing wooden deck.

Petitioner Donovan explained that his family is growing and that additional space is needed for a bedroom. He noted that the addition is virtually the same square footage of the existing deck. Donovan indicated that he looked at several different options, but believes his current request before the Board is the best.

Tillman noted that if approved, the addition would give the rear of the home a "U" configuration. She asked the petitioner if the existing portion of the home that forms the other U section is currently non-conforming due to setback requirements. Wilks explained that she measured from the rear of the home to the lot line and that it is conforming.

Rass asked the petitioner if he intended to add a deck to the addition. Donovan answered that he does not.

Crossen asked if the petitioner's current deck is considered non-conforming. Village Manager Wilson explained that the deck is conforming. He added that the Board could include a stipulation that a deck not be added to the addition.

Tillman asked the petitioner if he would agree to the stipulation. Donovan indicated he has no interest in adding a deck and is agreeable to that stipulation. Donovan added that the addition would not take any green space away from his backyard.

Tillman asked how many feet the addition would add. Crossen noted the addition would be 29.6 feet in width and 18.9 feet in height per the site plan submitted.

Hillary Morgan, N. Nottingham, expressed support of the addition.

Donnelly requested that letters in support of petitioners should indicate their location in relation to the petitioner.

Motion by Crossen, second by Raeder, to approve a variance of 6 feet 3 inches from the 40 foot rear open space requirement of Village Ordinance 22.24 to allow the petitioner to build a 30' x 19' addition on the rear of the home which would be no closer than 33 feet 9 inches due to practical difficulties of the lot, and future addition of a deck is prohibited.

Roll Call Vote:
Motion passed (8 - 0).

CASE NO. 1289

Petitioner: Tanya Christ

Property: 15589 Kirkshire

Village Ordinance: 22.08.150 Fence, Wall and Privacy Screen Regulations

c. Fences: Fences with a vertical surface area that is at least 35% open to air and light (see Section 22.04 "Point of Observation") are permitted subject to the following:

d. Rear Yard: A fence in a rear yard shall not exceed 48 inches in height above grade and shall not extend back toward the front of the lot farther than the rear of the house, except when a house has a commonly and consistently used side door entrance rather than a rear door entrance, then a fence may extend into the side yard only to enclose the side door entrance.

Deviation Requested: The petitioner seeks to keep a fence that is 6 feet above grade and opaque, located along the rear lot line.

Wilks explained that the petitioner purchased the home approximately one year ago, and that the fence was installed within the past five years by the prior homeowner. She added that no permit was issued for the fence.

Tillman asked if the fence should be grandfathered in. Wilson explained that up to 25% of the fence could be replaced per year, but it cannot be firmly established when the fence was erected because no permit was pulled.

Tillman asked if a citation had been issued to the petitioner. Wilson said a citation has not been issued. Tillman also asked if a ticket could be issued at all because no record existed of the fence's construction. Wilson indicated that if a citation was issued, the petitioner would have 30 days to correct the problem.

Maxwell indicated that the real estate listing for the home before the petitioner purchased it shows the fence.

Tillman asked if the petitioner's request should be tabled in order to consult with the Village attorney. Raeder asked if the petitioner's request could be approved but stipulate that no improvements be made to the fence.

Wilson asked if the fence was properly oriented. Wilks indicated it was not and that the finished side of the fence should face out.

Petitioner Christ indicated she has a young child and a large dog and that for those reasons the fence is needed. She added that the cost of removing the fence would be an undue burden to her.

John Simpson, Kirkshire, indicated that the petitioner is her neighbor and that he does not object to the fence.

Mary Von Barga, Kirkshire, also spoke in support of the petitioner's request. She asked if realtors can be compelled to inform potential buyers of non-conformity issues.

Tillman indicated a home inspection prior to purchase should reveal any non-conformity issues and that it is not the responsibility of the realtor. Maxwell agreed with Tillman's assessment.

Raeder asked the petitioner if her neighbor to the rear supported her request. Christ read from an email from the neighbor to the Board which indicated support. A copy of the email was circulated to Board members.

Motion by Raeder, second by Crossen, to approve a variance from the 48-inch height above grade, and 35% openness requirements of Village Ordinance 22.08.150 to allow petitioner to keep a solid, 6-foot fence along rear lot line due to practical difficulties for a period not to exceed seven years, or to be removed when the house is sold.

Roll Call Vote:

Crossen	yes
Donnelly	yes
Maxwell	yes
Mitchell	yes
Raeder	yes
Rass	yes
Tillman	yes
Verdi-Hus	no

Motion passed (7 - 1).

CASE NO. 1290

Petitioner: Brendan Quinn

Property: 17234 Beechwood

Village Ordinance: 22.24 Area, Height Bulk and Placement Regulations

Zoning District R2-A has a stated 40-foot minimum front open space, and

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: The petitioner seeks to build a second story addition to the existing nonconforming house which currently has a front open space of 27 feet; the average front open space per Section 22.24 (a) is 33 feet. The petitioner is proposing the addition to be placed 31 feet from the front lot line.

Wilks noted that the front yard open space requirement is 40 feet in zoning district R2-A. In addition, the average front open space as referenced in Section 22.24 (a) Front Open Space is 33 feet. The petitioner's house is the closest to the street within that 200ft area and there are other existing nonconforming homes on the street.

Mitchell asked how big the addition would be in terms of square footage. Petitioner Quinn said the addition would be about 1,200 square feet and bring the home up to a total of about 3,000 square feet. Quinn added that his home would not be the largest in square footage in the neighborhood.

Motion by Rass, second by Raeder, to approve a variance from front open space requirements of Village Ordinance 22.24 to allow the petitioner to build a second story addition on the existing home which would be no closer than 31 feet from front lot line due to practical difficulties of existing nonconforming lot.

Roll Call Vote:
Motion passed (8 - 0).

CASE NO. 1291

Petitioner: Debbie & Eric Blumbergs

Property: 22323 Metamora

Village Ordinance: 22.24 Area, Height Bulk and Placement Regulations
Zoning District R2-B requires 40 feet of rear open space.

Deviation Requested: The petitioner seeks to build an addition on the rear of the existing nonconforming house which has a rear open space of 34 feet.

Wilks explained the petitioner is seeking to add square footage and renovate an existing addition. The proposed remodel would maintain the existing encroachment of 6 feet into rear open space since the additional square footage would be extending towards the front corner of the lot. The lot is irregular in shape and the home sits at a slight angle on the lot. She added that the home is an existing nonconforming structure and the additional square footage would be added to the conforming side.

Tillman noted that the nonconformity would not be increased by the addition.

Petitioner Debbie Blumbergs indicated that she and her husband are remodeling the entire house, and that the addition is in need of renovations. She noted the foundation is cracked along one side.

Motion by Crossen, second by Maxwell, to approve a variance of 6 feet from the 40 foot rear open space requirement of Village Ordinance 22.24 to allow the petitioner to build an addition on the rear of the home which would be no closer than 34 feet due to practical difficulties due to the shape of the lot and placement of the home.

Roll Call Vote:
Motion passed (8 - 0).

CASE NO. 1282 (rehearing)

Petitioner: Daniel Nunez

Property: 16128 Marguerite

Village Ordinance: 22.24 Area, Height Bulk and Placement Regulations

2. 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: The petitioner seeks to build a privacy screen greater than 25% of the lot line portion of the rear yard, and closer than 10 feet from the side and rear lot lines.

Motion by Crossen, second by Rass, to table the case to the December 14, 2015 meeting.

Motion passed.

PUBLIC COMMENTS

None.

LIAISON COMMENTS

Abboud complimented the Board for remaining consistent in its decisions.

ADMINISTRATION COMMENTS

Wilson indicated that the Village Council recently approved ordinance amendments for temporary structures and for nonconforming uses.

Raeder asked whether the ordinance change to nonconforming uses will impact the Zoning Board's case load. Wilson said existing nonconforming structures will continue to come before the Board.

Wilson mentioned that LSL Planning would be holding training classes for the Board at Village Hall in the near future.

ZONING BOARD COMMENTS

Maxwell asked if privacy fence rules in the Village would be addressed. Wilson indicated that he spoke with the Planning Commission on changes and he recommended modifying the fence ordinance based on zoning district. Abboud indicated support to modify the fence ordinance. Tillman, on behalf of the Board, requested Village Council review the fence ordinance, especially in areas where homes are situated on very small lots. Wilson noted that most fence variance requests come from homeowners east of Southfield Road.

Raeder complimented the updated Master Plan. He raised concern that the update did not address the possibility of homes on the east side of the Village being enlarged. Raeder said the Board needs guidance on how to address such requests. Maxwell agreed with Raeder. She indicated that such home additions will be an asset for the community. Wilson indicated that the Village does not have a lot coverage maximum in its ordinance.

Motion by Raeder, second by Donnelly, to adjourn the meeting at 8:55 p.m.

Motion passed.

Michele Tillman
Vice-Chairperson

Ellen Marshall
Village Clerk

Scott Daniel
Recording Secretary