

Present: Chairperson Eifrid; Vice-Chairperson Tillman; Members: Crossen, Donnelly, Maxwell, Mitchell, Raeder, Verdi-Hus; and Alternate: Wilensky

Absent: Member Rass; Alternate: Lepidi

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

Chairperson Eifrid 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 NOVEMBER 9, 2015

Motion by Mitchell, second by Tillman, that the minutes of the regular Zoning Board of Appeals meeting held November 9, 2015 be approved as submitted.

Motion passed.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

None

CASE NO. 1282 (Rehearing)

Petitioner: Daniel Nunez

Property: 16128 Marguerite

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

Administrator Wilks explained that the petitioner is seeking to erect privacy screening along 25 feet of the rear lot line and 15 feet along the west lot line. Wilks displayed photos of the petitioner's property depicting current conditions. She explained that privacy screens are allowed in the Village as long as they are 10 feet off the lot line and not more than 25% of length of the rear lot line. Wilks reported that the petitioner's rear lot line is 100 feet. She added that the petitioner's request is to place the privacy screen on the lot line.

Eifrid clarified that the petitioner is seeking a dimensional variance and explained the standards the petitioner must meet to be granted the variance.

Nunez explained that the Board has previously asked him to speak with neighbors to try to resolve the privacy screening issues. He indicated he spoke to neighbor Annette Hobrecht and presented three different screening options. Nunez indicated he received support from neighbor Karen Krutsch. Nunez explained that he had not been able to speak with neighbor Christopher Michaud. He noted that his proposed privacy screening is made of cedar wood and would have a basket weave design.

Christopher Michaud, 16125 Amherst Avenue, explained that he is the property owner to the north of the petitioner's property. He asked that the Board maintain the 10 foot lot rule for erecting privacy screening. Michaud said the petitioner's request felt very encroaching and believes the variation isn't needed to provide privacy for all parties involved. He indicated that he intends to extend his arborvitae to provide privacy.

Maxwell asked if Michaud thinks the arborvitae will grow well enough to provide screening given the lack of sunshine in the space. Michaud added that he intends to trim trees and other foliage in the area to help provide the needed sunshine. He noted that the petitioner had previously erected temporary lattice fencing but took it down after making the privacy screen request to the Village. Michaud told the Board he doesn't believe the petitioner's request meets the standard for the proposed variance.

Annette Hobrecht, 16144 Marguerite, lives adjacent to Nunez to the west. She indicated that she did have contact with the petitioner in October. Hobrecht indicated that she is not in favor of additional screening. She believes the Board should follow the Village's rules and not grant the variance. Hobrecht believes the petitioner's request is excessive and self-created.

James Bahrmann, 16051 Amherst, spoke in favor of the Michauds. He believes a privacy fence on the lot line would be overbearing and make their small yard feel even smaller.

Raeder indicated that no one is guaranteed 100% privacy on their lot line. He explained that the petitioner's request is a six foot fence and not 35% open.

Tillman noted that because of the petitioner's large back yard, there is no practical difficulty to necessitate the variance. She noted that the petitioner's neighbor to the north does have a very small back yard and stated that granting the variance would provide relief to both parties. Tillman noted that when a privacy screen is not on a major road, it should be only 48 inches in height. She said the petitioner could gain some relief and remain within the ordinance by erecting a 48-inch fence.

Eifrid noted that all the parties involved want privacy but failed to come to agreement on how it could be achieved. He thinks an amicable arrangement could be worked out with everyone without granting the variance.

Maxwell stated a compromise might be possible if the petitioner agreed to amend his request from erecting the privacy screen five feet from the lot line instead of on it. Michaud said he would consider her request. Hobrecht indicated the compromise request was acceptable to her. The petitioner indicated the request was not acceptable to him because it would not leave enough usable space in the area.

Motion by Tillman, second by Maxwell, to grant a variance to install 40 feet of privacy screen at the rear and side lot lines, 25 feet at the rear and 15 feet at the side, in the northwest corner of the property due to practical difficulties given the difficulty of growing natural screening and the closeness of the home to the north of the petitioner's house.

Roll Call Vote:
Motion fails (0 - 9).

CASE NO. 1292

Petitioner: Sergio Navarrette, 32100 Sheridan, Beverly Hills

Property: 16253 Kirkshire

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.

Deviation Requested: Petitioner seeks to keep a fence that is 6 feet above grade and opaque along both side lot lines.

Wilks explained that the petitioner's fence is brand new. She showed several photographs to the Board depicting the property's current condition. The home is new construction and there was a miscommunication between the City of Royal Oak and the petitioner's builder about the need to replace a six foot privacy fence.

Maxwell believes the Village and the City of Royal Oak need to address the privacy fence issue to make sure the Village's ordinances are clearly communicated. She believes the Village will be seeing a significant amount of redevelopment in the coming years.

Navarrette explained Royal Oak informed his builder that to receive a final certificate of occupancy, a new fence needed to be erected and sod planted. He said he complied with Royal

Oak's instruction. The privacy fence is needed because of the poor condition of a neighboring property's back yard.

Verdi-Hus stated that the mistake was by the petitioner's builder. She is not in favor of the fence staying and thinks the fence is illegal.

Tillman remarked that many similar cases have come before the Board and have been denied. She does not believe a practical difficulty exists. She believes the petitioner should look to his builder for relief.

Eifrid noted that a fence permit should have been pulled prior to erection of the petitioner's fence.

Navarrette asked the Board if the existing six foot chain link fence could remain. Eifrid explained the chain link fence could stay because the ordinance only addresses newly constructed fences. Tillman added that any fences in the Village constructed prior to adoption of the fence ordinance in 1999 are considered existing nonconforming.

William Currier, 19670 Beverly Road, indicated that he bought a property adjacent to the petitioner. He purchased the property because the petitioner had done an excellent job in redeveloping the property and built a beautiful home. Currier said he had no problem with the petitioner's privacy fence.

Doyle Downey, 30865 Lincolnshire West, stated that he is property owner on Kirkshire near the petitioner's property. He believes that the petitioner does have a hardship due to the small size of the lots. Downey feels six foot fences are appropriate in the petitioner's area.

Ron Kovel, 16241 Birwood, has been a resident since 1989. There is no privacy in his back yard and does not believe there should be an expectation of privacy in the petitioner's back yard. He is not in favor of a six foot opaque fence.

Raeder believes a temporary variance may be possible. Tillman explained that tabling the variance request is also possible. She was not in favor of a temporary variance. Mitchell said such a decision by the Board might set an undesirable precedence.

Motion by Mitchell, 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 the side lot lines due to practical difficulties.

Roll Call Vote:
Motion failed (0 - 9)

CASE NO. 1293

Petitioner: Paul Mooney, 34624 Saint Martins Street, Livonia, MI 48151

Property: 20655 Glenhill Court

Village Ordinance: 22.24.010 Addendum to 22.24 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 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 new home in place of the existing house which currently sits 117 feet from the front lot line. The average front open space per Section 22.24 (a) is 130.4 feet. The petitioner is seeking a variance of 13.4 feet.

Wilks explained that the existing home has been demolished. The Village's requirement is that when a modification is made to the front of a home, the homeowner is required to maintain the average depth of existing homes within 200 feet of the lot or parcel. The average in this case is 130.4 feet. She noted that the petitioner had 190 feet in the rear yard. The proposed home would sit in the same space at the previous structure, but would go farther in the back and to the side. No other setbacks would be encroached.

Maisia Mooney, 20655 Glenhill Court, explained that they are seeking a 13.4 foot variance. By keeping the new structure in the same location, she said they would be able to keep a circular driveway on the property. Mooney indicated the cost of adding a new driveway would be a hardship. She also explained that she and her husband have three children and want to keep as much rear yard as possible. Paul Mooney stated that the location of the new home would be consistent with adjacent properties. He noted that the property drops sharply in the back yard into a nature preserve.

Sharon Fox, 20605 Glenhill Court, explained that her home is immediately to the east of the petitioner's property. She noted that there are no impediments in the petitioner's rear yard and that the drop off does not occur for a great distance, approximately 175 feet. She does not believe a practical difficulty exists under the Village's ordinance.

Bob Walsh, 20655 Smallwood Court, stated the petitioner's request would increase the non-conformity. He believes the ordinance should be followed and that the petitioner has no hardship.

Eifrid said he does see a practical difficulty because the petitioner's lot is oddly shaped. He spoke in favor of the variance. Tillman, Raeder and Wilensky indicated support of the variance.

Motion by Crossen, second by Verdi-Hus, to grant a variance from front open space requirements of Village Ordinance 22.24.010 (a) to allow the petitioner to build a new home which would be no closer than 117 feet from the front lot line due to practical difficulties given to relocate a circular drive and the significant drop off of the rear yard.

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

CASE NO. 1294

Petitioner: William Currier, 19670 Beverly Road

Property: 16261 Kirkshire

Village Ordinance: 22.24 Area, Height Bulk and Placement Regulations

Zoning District R-3 has a stated 5-foot open space requirements for both sides.

Village Ordinance: 22.08.130 Minimum Separation

No principle structure shall be erected, altered, or enlarged in zone districts R-2A, R-2B, or R-3 within fifteen feet (15') of any structure on an abutting parcel within the same zone district classification.

Deviation Requested: The petitioner seeks to build a new home replacing the existing home which is two feet from side lot line, and 13 feet from the principal building on the lot to the east and 12 feet from the principal building on the lot line to the west.

Wilks explained that the structure is an existing non-conforming home. The petitioner needs two variances; one to keep the existing two foot side lot line set back, and one for the separation of the principal buildings to the east and west. The new home would not increase the current non-conformities.

Wilks clarified that the current foundation will be used to build the new home. The house as constructed will have more room on the side yard. There is currently 12 feet on one side and 13 feet on the other side between the current home and neighboring houses. Measurements are from the foundation, not the overhangs (bump outs). Discussion ensued regarding side yard set backs.

Currier stated he intends to use the home's current foundation. He would enlarge the home to the rear. All of the overhangs will be removed and the house will be more narrow.

Motion by Tillman, second by Mitchell, to approve a variance of two feet on the east and three feet on the west from minimum separation requirements of Section 22.08.130, and a variance of three feet from the side open space requirement of section 22.24 due to practical difficulties of the size and placement of the existing structure and the building envelope of the property. The variance prohibits bump outs on the remodeled home.

Roll Call Vote:

Motion passed (9 - 0)

PUBLIC COMMENTS

Sharon Fox, 20605 Glenhill Court, stated that the Village's fencing ordinance needs to be revised as well as the 200-foot setback ordinance on large lots also needs to be revised.

LIAISON COMMENTS

Abboud encouraged residents to come to the Village's Zoning, Planning and Council meetings to make their voices heard. He welcomed Ben Wilensky to the Board.

ADMINISTRATION COMMENTS

Wilks reported that a training session will be held for the Board on the procedures and standards of statutes.

Motion by Raeder, second by Tillman, to adjourn the meeting at 9:30 p.m.

Motion passed.

David Eifrid
Chairperson

Ellen Marshall
Village Clerk

Scott Daniel
Recording Secretary