

Present: Chairperson Tillman; Vice-Chairperson Raeder; Members: Crossen, Donnelly, Gatowski, Lepidi, Maxwell, and Mitchell; Alternates: Crawford and Gennari

Absent: Members: Verdi-Hus

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

Zoning Board 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 DECEMBER 11, 2017

Motion by Crossen, second by Raeder, that the minutes of a regular Zoning Board of Appeals meeting held December 11, 2017 be approved as submitted.

Motion passed.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Cynthia Nagle, Kirkshire, spoke on behalf of several residents from her neighborhood. She expressed concern with regard to smaller homes in her area being demolished and new homes being built that are two to three times larger than the one being demolished. They are interested in the vision of Beverly Hills for the future. The following people were in attendance with the same concern:

Kay Michael, Kirkshire
Lawrence & Norma Needham, Kirkshire
Barb Chernoft, Kirkshire
Suzy Kappaz, Kirkshire
Mary E. VonBargen, Kirkshire
Mireille Plotke, Buckingham

Tillman explained the responsibilities of the Zoning Board of Appeals and outlined the statutory requirements for demonstrating a practical difficulty to be granted a dimensional variance.

CASE NO. 1341

Petitioner: Michael Johnson

Property: 16313 Buckingham Ave

Village Ordinance: 22.24 Area, Bulk, and Placement Regulations Residential Zone District R-2A requires rear open space of 30 feet.

22.08.070 Corner Lot Setback on the Side Street in Residential Zone Districts All residential Zone Districts require a 15 foot setback for the principal building from the side street where there is no abutting interior residential lot.

22.30.040 (a) Nonconforming Structures Residential Zone Districts require any alteration or enlargement to an existing nonconforming structure conform to the Ordinance.

Deviation Requested: To enlarge an existing nonconforming home by building an attached garage addition that will be 6 feet, 2.5 inches from the rear lot line and 12 feet from the street side lot line.

Saur explained that the petitioner, Michael Johnson, seeks to enlarge an existing nonconforming home by building an attached garage that will be 12 feet from the street side lot line and 6 feet, 2.5 inches from the rear lot line. The existing home is nonconforming due to an encroachment in the street side setback.

The property is zoned R-2A, Single Family Residential. Village Ordinance, Chapter 22, Section 22.24 Area, Height, Bulk, and Placement Regulations requires rear open space of 30 feet. Chapter 22, Section 22.08.070 Corner Lot Setback on the Side Street in Residential Zone Districts requires the minimum setback on the street side to be fifteen (15) feet where there is no abutting interior residential lot. Section 22.30.040 (a) Nonconforming Structures requires any alteration or enlargement to a nonconforming structure be in compliance with the ordinance. As shown on the site plan, provided to the Board, the existing house is approximately 12 feet from the street side lot line.

The proposed attached garage at the rear of the house would be 6 feet, 2.5 inches from the rear lot line and maintain the existing encroachment at 12 feet from the street side lot line. The house does not currently have a garage. It is unclear whether the existing area at the Pierce side of the lot is converted space that was originally a garage or if there was never a garage on the property. A review of the building department records shows no permits have been issued for such work at the property.

As a corner lot, the property is subject to greater side setback requirements than an interior lot. An interior lot in an R-2A district requires setbacks of 5 feet and 10 feet versus the 15 feet required for the street side of a corner lot. That requirement is in place to protect a neighboring interior lot. In this case, the proposed garage addition will be on the side abutting the parking lot exit for Our Lady Queen of Martyrs (OLQM) Church. The rear setback encroachment is also abutting the driveway exiting the OLQM Church parking lot. It was clarified that the shed which currently exists on the property will remain. Village ordinance allows two accessory buildings on a property.

Petitioner Johnson and his builder, David Murphy, addressed the Board. They explained that they looked at every possible option to build a garage and this was the best option. Murphy assured the Board that the design will be consistent with the neighborhood.

Resident Bob Smith, Birwood, supports the proposed addition.

Martin Mason stated that traffic can be variable along Pierce and thinks the addition will provide safety for Johnson's family.

Raeder suggested the privacy fence that is currently on the property should be brought into compliance with the approval of this request.

Motion by Mitchell, second by Crossen, that the Zoning Board of Appeals grants a variance from the requirements of Section 22.24, Section 22.08.070, and Section 22.30.040 (a) to allow the petitioner to build an attached garage that will be no closer than 12 feet from street side lot line and no closer than 6 feet, 2.5 inches from the rear lot line on an existing

nonconforming home due to the practical difficulty of the location of the lot and the home, and the safety of the family.

Roll Call Vote:

Tillman - yes
Crawford - yes
Crossen - yes
Donnelly - yes
Gatowski - yes
Lepidi - yes
Maxwell - yes
Mitchell - yes
Raeder - no

Motion passed (8 - 1)

CASE NO. 1342

Petitioner: Elizabeth Arsov

Property: 32231 Verona Cir

Village Ordinance: 22.24 Area, Bulk, and Placement Regulations Residential Zone District R-2B requires rear open space of 40 feet and side open space of 5 feet side one and 10 feet side other.

22.30.040 (a) Nonconforming Structures Residential Zone Districts require any alteration or enlargement to an existing nonconforming structure conform to the Ordinance.

Deviation Requested: To build a two-story addition on an existing nonconforming house that will be 32.9 feet from the rear property line and attach an existing garage that is 29.2 feet from the rear property line and 8 feet from the side property line.

Saur explained that petitioner, Elizabeth Arsov, is seeking to build a two-story addition on a nonconforming house and attach an existing detached garage. The petitioner is in possession of a mortgage survey, but not a boundary survey.

The property is zoned R-2B, Single Family Residential. Village Ordinance, Chapter 22, Section 22.24 Area, Height, Bulk, and Placement Regulations requires rear open space of 40 feet, and requires side open space of 5 feet on side one and 10 feet on side other. Section 22.30.040 (a) Nonconforming Structures requires any alteration or enlargement to a nonconforming structure be in compliance with the ordinance.

The existing home encroaches into the rear setback approximately 5 feet on the first floor only. The existing second story does not extend over the entire footprint of the house and meets rear setback requirements. The existing garage appears to be conforming as a detached building, however, once attached, it becomes subject to the setback requirements of the principal building.

The petitioner is proposing to expand the first floor and second floor and attach the garage to the house. Per the site plan submitted, the expanded two-story house would encroach 7.1 feet into the

rear setback and the attached garage would encroach 2 feet into the side setback and 10.8 feet into the rear setback.

The Village has reviewed data from Oakland County showing property lines superimposed upon aerial imagery and there appears to be a discrepancy with the submitted site plan. Additionally, a review of building department records finds no permit information available to confirm the accuracy of the site plan. Therefore, a boundary survey will be required prior to approval for permits to ensure accuracy of building locations relative to the lot lines. The petitioner may require a greater variance for the side setback encroachment if the submitted site plan does not comport with the boundary survey. Additionally, the petitioner must demonstrate minimum separation requirements of Section 22.08.130 which requires 15 feet between buildings.

The petitioner requested to table her case until she can obtain a boundary survey.

Motion by Crossen, second by Mitchell, that the Zoning Board of Appeals postpones all discussion on Case #1342 to the next meeting.

Motion passed (9-0).

CASE NO. 1343

Petitioner: Eric Walstrom, Alexander Homes, LLC, 431 N. Main St, Royal Oak 48067

Property: 15844 Kirkshire Ave

Village Ordinance: 22.08.130 Minimum Separation Residential Zone District R-2A requires 15 feet of separation between buildings on abutting parcels.

Deviation Requested: To build a new two-story home that will be 14.7 feet from the existing house to the west and 13.7 feet from the existing house to the east.

Saur explained that petitioner, Eric Walstrom, Alexander Homes LLC, 431 N. Main Street, Royal Oak 48067, for property at 15844 Kirkshire Ave, is seeking a variance from requirements of Chapter 22, Section 22.08.130 to build a new home.

The property is zoned R-2A, Single Family Residential. Village Ordinance, Chapter 22, Section 22.08.130 Minimum Separation requires 15 feet between buildings on adjoining lots within the R-2A, R-2B, and R-3 Zone Districts. The petitioner seeks to build a new home that will be 14.7 feet from house to the west and 13.7 feet from the house to the east. There is an existing, nonconforming home on the property to the west that has a side setback of 9.7 feet on the adjoining lot line and an existing, nonconforming home on the property to the east that has a side setback of 3.7 feet on the adjoining lot line. Due to the nonconformity on the neighboring lots, any home constructed on this property would be required to maintain greater side setbacks than those otherwise allowed by ordinance. The proposal meets all other ordinance requirements for height, bulk, and setbacks.

Eric Walstrom, representing the property owner, Erik Abraham, explained that the current home is 1150 sq. ft. and the proposed home is 1300 sq ft. with an attached garage.

Raeder expressed desire to maintain the width of the new home as that of the current home in order to protect the neighbors' concerns. Walstrom confirmed the home will remain within the existing footprint. He noted the existing home is nonconforming to side setbacks and the new house will eliminate that nonconformity.

Kay Michael, Kirkshire, objects to the requested variance and new building. She is concerned that the current home does not have a basement and the proposed home has a basement which will put more stress on the drainage in the neighborhood. She shared a photo of a flooded back yard which represents many homes in her neighborhood. She also shared a photo of a catch basin on which the DPW installed a metal plate to slow the flow of storm water into the system.

Larry Needham, Kirkshire, acknowledged that some homes in the area were built prior to the Village being in existence and therefore were built prior to current zoning requirements. However, he feels now is the right time for a new home to meet the required setbacks. He is concerned about fire safety with houses that are built too close together.

Bob Smith, Birwood, asked for clarification of a hardship. Tillman and Raeder explained that each petition is unique and the Zoning Board looks at the facts of each case individually.

Barb Chernoft, Kirkshire, is one of the homes in the neighborhood that has a basement and she has spent money keeping water out of her basement.

Walstrom assured the Board that a drainage plan would be submitted with building plans if the variance is granted. The gutters of the new house will slope toward the front of the house, they can install higher rated fire insulation for safety concerns.

Motion by Raeder, second by Mitchell, that the Zoning Board of Appeals grants a variance from the requirements of Section 22.08.130 to allow the petitioner to build a new home that will be no closer than 14.7 feet from the house to the west and no closer than 13.7 feet from the house to the east due to practical difficulties of inadequate surveys in original construction and the hardship of existing nonconforming properties on each side, and the hardship of being forced to reduce the value of the property by building a smaller home.

Roll Call Vote:

Crawford	- no
Crossen	- yes
Donnelly	- yes
Gatowski	- yes
Lepidi	- no
Maxwell	- no
Mitchell	- yes
Raeder	- yes
Tillman	- yes

Motion passed (5 - 3)

PUBLIC COMMENTS

None.

LIAISON COMMENTS

Abboud remarked that the Village Council held a study session in January and they are addressing several concerns that were raised this evening. He welcomed newest Zoning Board alternate, Christina Gennari to the Board. The Michigan Municipal League is holding their annual Capital Conference later this month in Lansing.

ADMINISTRATION COMMENTS

Saur stated that there will be an April Zoning Board meeting.

ZONING BOARD COMMENTS

Raeder commented about the work that is being done by Council and the Planning Commission regarding fences. Maxwell and Lepidi volunteered to be part of the fence subcommittee.

Raeder, Maxwell and Lepidi would like more direction from the Village Council regarding new construction in the northeast quadrant of the Village.

Motion by Crossen, second by Gatowski, to adjourn the meeting at 9:02 pm.

Motion passed.

Michele Tillman
Chairperson

Ellen E. Marshall
Village Clerk

Elizabeth Lyons
Recording Secretary