

Present: Chairperson Verdi-Hus; Vice-Chairperson Kamp; Members: Dery, Freedman, Pagnucco, Parks and Pfeifer

Absent: Clark and Fahlen

Also Present: Village Building Official, Byrwa
Council Liaison, Mooney

Chairperson Verdi-Hus presided and called the meeting to order at 7:30 p.m. in the Village municipal building at 18500 W. Thirteen Mile Road.

APPROVAL OF MINUTES

MOTION by Kamp, supported by Dery, that the minutes of a regular Zoning Board of Appeals meeting held on Monday, January 11, 1999 be approved as submitted.

Motion passes unanimously.

CASE NO. 954

Petitioner and Property: Donna Merrifield
19669 Wilshire
Lot 23 of Westwood Estates #1, TH24-02-352-010

Petition: Petitioner requests a deviation from the required 40' rear yard open space to 22' open space for a one story rear addition in order to continue with the existing line of the house.

Vernon Wynn with Wynn Design stated that the Merrifields live on the corner where Wilshire Road curves. He displayed a site plan of the lot showing the existing house and proposed addition. The Merrifields are requesting a variance from the required 40' rear yard setback in order to locate the 24' x 22' addition on the rear of the house. The Merrifields do not think the addition will be an impediment to the adjacent neighbors.

Verdi-Hus asked the petitioner why the enforcement of the ordinance creates an exceptional, practical difficulty in this case.

Mrs. Merrifield stated that they would like to expand their home to create more living area. The current family room is small. They want to stay in the area rather than move to a larger home. Merrifield thinks that the addition would add value to their home and improve the value of the neighborhood.

Wynn commented on the configuration of the house and the way the developer used the land. The house is situated in the center of the lot which does not allow the homeowner to expand in the appropriate area without a variance from the setback requirements. Adjacent houses are located more forward towards the street which allows more room to expand in the back. Wynn described the floor plan which prevents the addition from being located on the side yard behind the dining room. He noted that the Merrifields are expanding vertically over the garage to enlarge the master bedroom.

Wynn submitted a petition signed by residents representing ten households in the surrounding area, including the homeowner directly abutting the Merrifields to the rear who approve the request for variance for the work outlined in the plans.

Verdi-Hus read a letter dated January 30, 1999 to the Zoning Board of Appeals from Jane and Peter Lederer of 19610 Wilshire. They object to the variance requested on the basis that the homes in the subdivision were positioned to take full advantage of the open space between the homes.

A letter dated January 29, 1999 to the chairperson of the ZBA was submitted by Phillip Mueller of 31529 Waltham. He has no objection to the proposed addition and encourages the Board to approve

the request for variance. He states that additions of this nature allow neighbors to obtain the living space they desire as well as increase the overall appeal and value of the subdivision.

Pfeifer expressed the view that the petitioner is making a nice addition to the home. He thinks a hardship exists because of the original placement of the house on the lot. Had the house been built within the building envelope, the addition could have been made without requesting a variance.

Decision: MOTION by Pfeifer, supported by Freedman, to approve the variance request on the basis that a hardship exists with expanding the house to the rear due to the location of the lot on the corner and the position of the house on the lot.

Roll Call Vote:
Motion passes unanimously.

REHEAR CASE NO. 952

Petitioner and Property: Scott Fortner
31905 Eastlady Drive
Lot 19 of Peaceful Valley, TH24-03-402-005

Petition: Petitioner requests a deviation to install a 6' high fence around the existing tennis court that is located in the side and front yards.

The petitioner Scott Fortner and William Ristovski are the property owners of 31905 Eastlady Drive. Ristovski explained that their landscape designer ordered and installed a fence without receiving the proper variances. The six foot fence encloses an existing tennis court that is located in the side and front yards. The fence was erected to replace the previous wire mesh fencing that could be pulled around to enclose the tennis court. The petitioner requests approval to retain the six foot fence.

The tennis court was constructed in the 1970s adjacent to the house. Ristovski stated that the lot is pie shaped and there was no room to locate the tennis court in the rear yard due to the creek that runs through the property. It is an unusual lot shape.

Ristovski displayed a landscape plan for his property designed by landscape architect Deborah Silver. He outlined the extensive plans for beautifying the yard which includes planting vines on the cyclone fence to make it less visible.

Pagnucco referred to past minutes which indicate that, after the tennis court was built in 1976, the property owner came before the Zoning Board of Appeals where it was suggested that they erect a collapsible type of fence. The property owner withdrew the petition. Another property owner came before the Board in 1978 with the same type of request for a 12 foot fence to be used as a back stop on a tennis court. That petition was denied.

Pagnucco stated that it has been suggested in the past that a petitioner install a fence that is collapsible or a screen that can be pulled in place when needed. The fence in question was erected without a permit and it does not meet the Zoning Ordinance requirements. It is Pagnucco's opinion that the fence will have to be removed.

In answer to an inquiry, Byrwa stated that a variance was not required from the Village for fencing around the tennis courts at Groves High School. The state and not the local jurisdiction controls construction on school property.

Pfeifer recalled that there was a concern from neighbors that the tennis court area was being used for a dog run. Ristovski responded that the dogs do run in this area at times. He added that his dogs are let out during the day into the backyard where there is an invisible fence.

Pfeifer is concerned about the fact that a six foot fence has been erected. The fence ordinance allows a maximum fence height of only four feet. This fence is also in violation of the ordinance because it is located partially in the side yard and partially in the front yard.

There has been research done since the last meeting on previous cases involving requests for tennis court fencing. The record indicates that there was a fence at either end of the tennis court that was pulled up when the owners desired to use the court and lowered when it was not being used. That appeared to be a good solution to the use of the tennis court. Pfeifer thinks the use of a cyclone fence is undesirable particularly since it is partially located in the front of the house.

Ristovski commented that the landscape architect used a cyclone fence to have a durable base for the vines. The idea is that the fence would be completely covered by greens with bushes and shrubbery along the front.

Ristovski commented that, if a variance is not granted to allow the six foot fence, he will investigate alternate ways of closing off the tennis court so that the balls do not fly out.

Kamp questioned whether the petitioner did any research on available alternatives for tennis court fencing. He understands the need for some type of fencing on the ends and possibly angled fencing extending on the sides. He suggests that there may be alternatives to having a six foot fence surrounding the tennis court that will not decrease the utility of the tennis court. An alternative is to add landscaping along the sides of the tennis court.

Research indicates that there were cases in the past where consideration was given to erecting a collapsible fence of some kind. Kamp does not know the availability of that type of fence. It is Kamp's view that, in light of the Zoning Ordinance and what has been presented, some kind of permanent fencing on the ends might be appropriate without enclosing the tennis court completely.

MOTION by Freedman, supported by Pagnucco, that the petition be denied for failure of the petitioner to demonstrate that the enforcement of the ordinance creates a peculiar or exceptional practical difficulty. It is thought that the problem could be addressed with a less offensive enclosure.

Roll Call Vote:
Motion passes unanimously.

Ristovski asked if an in ground swimming pool in the same location as the tennis court would require a fence surrounding it to meet ordinance requirements.

Byrwa stated that a variance would be required to construct a swimming pool in the side yard. A four foot barrier is required to surround a swimming pool or the more recently approved power safety covers. It would be a non-conforming use in the side yard.

CASE NO. 953

Petitioner: Joseph Philips, Architect, 921 Wing St., Plymouth

Property: Buckles & Buckles
17845 W. 14 Mile Road
Lots 73 and 74 of D. J. Healy's Golfhurst, TH24-01-101-007

Petition: Petitioner requests a deviation from the maximum allowable one story building height to a one and one-half story addition to match the existing structure. The petitioner is also requesting landscape screening in lieu of a six foot high screening wall.

Mike Buckles, owner of the building, and Joseph Philips, architect, were present. Buckles stated that he and his wife have been residents of Beverly Hills and active in the community for 19 years. They

reside at 16901 Locherbie. Ten years ago they came to the Village and requested a change in the zoning to allow them to have an office building in what was a dilapidated house.

Buckles submitted a petition signed by surrounding homeowners who state that they support the plan of Mike and Gerri Buckles to improve their office building at 17845 Fourteen Mile Road. He commented that Mrs. Eastman, who lives in the home behind and to the right of their building, is in Florida. Buckles noted that she did support the original rezoning request.

Buckles referred to a site plan drawing showing the existing one and one-half story office building and the proposed addition. In late 1996, Buckles was granted approval by the Village to remodel the upstairs. He obtained an exemption from an administrative law judge to allow upstairs offices even though there is no handicapped access to that area.

The proposed plan will eliminate off-street parking problems. The site plan design shows the current eight parking spots expanded to 16 or 17 spots by using available space in the rear. Buckles has a temporary arrangement with the doctors in the abutting office building to park a couple of cars in their parking lot. The expansion will result in enough spaces to accommodate all off-street parking within their own lot.

The expansion will be built primarily to the west towards the medical office building. The plan meets the required side and rear yard setbacks.

Buckles explained that his building currently does not have a conference or lunch room. The file room is insufficient, and space is needed for office equipment. There are heating and cooling problems as a result of the machines and people being confined in an area that is not large enough.

Buckles promised and delivered ten years ago to transform a building, which was in an extreme state of disrepair, into something that was an addition to the community. The intent was to remodel the building to be architecturally consistent with the rest of the neighborhood. The addition was designed to retain the residential style.

Buckles stated that he is requesting a variance to build a one and one-half story addition to match the existing structure. A commercial, public, or residential building can be two stories high. The Zoning Ordinance allows a maximum of one-story for an office zoned district with a maximum building height of 30 feet. The proposed addition will be 19-20 feet high. He is requesting a one and one-half story addition to be able to utilize the vertical space available and add an elevator to provide for handicap accessibility to the second floor.

The proposed addition will make the building more fully functional as an office building. It increases the value of the building and adds to the tax base of the community. By being able to use the space available and build this building, Buckles stated that he and his wife will be able to remain here as the office owners and users of the building. He contends that they have demonstrated to the Village that they maintain their property.

Buckles addressed the hardship in this case. He thinks it is discriminatory to deny his request for a one and one-half story residential looking office building when business and public property zoned districts can have two stories. The public safety building is two stories and is located next to residential property. The office building at the southeast corner of 13 Mile and Lahser Roads is two stories high. Buckles questioned the logic of having an ordinance that allows a 30-foot high building with one story.

Buckles stated that the Village approved the rezoning of this property in 1988 based on his proposal to use the one and one-half story building as an office. He is proposing to extend the one and one-half stories to the west towards the parking lot of an office building.

The Zoning Ordinance requires a six foot wall separating a nonresidential use from a residential zone district. Buckles was given an exemption in 1988 to provide screening by planting evergreens in lieu of the brick wall. Arborvitae shrubs were planted along the side and back of the property. This eight foot high hedge of evergreens has been maintained.

Philips commented on how well Mr. Buckles maintains his property. He stated that the office addition will be 880 square feet with almost one-third of that area being used for elevator and stair access. Philips thinks that the design will enhance the beauty of the neighborhood.

Philips and Buckles answered questions from the Board members. It was indicated that the air conditioning units will be located outside in front of the building and screened by landscaping. The building will be lit by lights on the sides of the building that shine down.

Freedman expressed concern with expanding an office use in a residential area. She questioned whether the space available can comfortably accommodate the proposed addition.

Buckles was asked if he is planning to add more staff with this expansion. Buckles stated that the plan notes the existing number of employees as nine full-time employees and future employees as fourteen. Buckles remarked that he will not hire five people tomorrow. He needs the space now to make his office function more completely and address parking concerns.

Pfeifer commented that it is not the function of this body to review building plans. That is the responsibility of the Planning Board. He asked what is requested of this Board relative to the proposed addition.

Byrwa responded that the Zoning Ordinance states that office zoned districts are limited to one story of use with a building height of 30 feet. Buckles is proposing to expand a nonconforming use of a second story in his building which is in an office-zoned district.

Pfeifer stated that Council granted the petitioner the right to use this story and one-half building as an office facility which is a violation of the Ordinance.

Byrwa reviewed that the property was rezoned from R-2 residential to O-1 office in 1988. He assumes that the approval included accepting the existing building which was one and one-half stories at that time for office use. There is no record in the minutes that a variance was granted to allow a two-story office building. Approval of an expansion in 1996 did not include a variance from the Ordinance to expand the second story of this building.

In response to an inquiry, Byrwa stated that the ordinance does not mandate a side setback. There is a requirement in the building code stating that an appeal to a sideyard construction variance would go to the Village Council acting as the construction board of appeals to grant construction within five feet of the lot line.

John Mooney of 19111 Devonshire, member of the Village Council, reviewed that Buckles came before Council in 1988 with a request to rezone this property. The property west of Birmingham Blvd. was rezoned from residential to office use. Mooney recalled the poor condition of the existing house on that lot. The rezoning proposal was brought before the Council with the intention of Mike and Gerri Buckles opening up a law office in that building and using both floors. Mooney believes that Mr. Buckles has relied upon that approval since that time.

Mooney believes that a hardship has been demonstrated. The Planning Board and Council approved the rezoning proposal and allowed Gerri and Mike Buckles to use the existing building as an office building for at least ten years. Mr. Buckles has indicated that he will install an elevator to continue the existing use.

Mooney commented that Gerri and Mike Buckles have complied with what they have promised. Their building is more attractive than every other commercial or office building along that strip on Fourteen Mile Road. Mooney supports his request for variances.

Robert Jackson of 31725 Eastlady commented that there are three two-story office buildings at Fourteen Mile and Pierce. They are not aesthetically pleasing.

Stephen Matthews of 31850 Eastlady thinks the structure will look better after the proposed addition and appear more balanced on the lot. He feels it will enhance the community.

Verdi-Hus read letters received from residents regarding this case. A letter dated January 27, 1999 from Anne Marie and Ray Eklund of 17856 Birwood indicates that the deviation requested should be allowed. They state that the house which existed on the lot prior to the Buckles purchasing the home was an eyesore in the community. The Buckles have upgraded it into a first class building and have maintained the grounds. They support the efforts of the Buckles to grow in Beverly Hills.

In a letter dated January 27, 1999 from Lorraine and Bill Fairfield of 17976 Kirkshire, they state their objections to the addition to the Buckles building. They state that the original structure was a private residence when they moved into their home. It was converted into an office building and a second story was added. They site the parking problem along Birmingham Blvd. because of the office building.

Verdi Hus read the petition submitted by the petitioner. It states, "As residents of Beverly Hills, we support the plan of Mike and Gerri Buckles to improve their office building at 17845 Fourteen Mile Road. We have no objection to the one and a half story addition that matches the existing structure. We also support keeping the Arborvitae hedge instead of a six foot high brick wall." The petition was signed by the following residents:

Karen M. Bushar	18015 Kirkshire
Geraldine F. Kenneth	18001 Kirkshire
Michael Pamley	17550 Kirkshire
Neo Gaskin	17455 Fourteen Mile Road
John Charles	17820 Birwood
Scott Votaw	17561 Birwood
Peter Curtis	17824 Kirkshire

Parks commended the Buckles on the work they have done on this proposal. He thinks that an exceptional, practical difficulty has been demonstrated. The fact that the petitioner is installing an elevator for the disabled shows his further commitment as it relates to the building. The plans are consistent with the lines of the house. The architectural rendering shows that the building addition will be as pleasing as the initial structure.

Pagnucco recalls the way the house at 17845 looked prior to it being remodeling by the Buckles for office use. It was an embarrassment to the community. This is an excellent example of blending office property with residential surroundings.

Kamp stated that the issue before the Board is whether or not the petitioner has shown a hardship to support construing the Ordinance, which permits a 30 foot high office building, to allow one and one-half stories as opposed to one story. The site in question has been reviewed numerous times by the Planning Board and by the Council. It is clear to Kamp that the decision has already been made by the Council that this use is harmonious to surrounding properties.

Decision: MOTION by Parks, supported by Pagnucco, that the variance be granted for a one and one-half story building height for an addition. A hardship has been demonstrated by the fact that the use is consistent with the current use of the building. A variance is also granted to allow a greenbelt in lieu of a brick wall at the south property line of the office building at 17845 W. Fourteen Mile Road for the reason that it is consistent with the property on the west; it is more aesthetically pleasing; and the neighbors go along with the greenbelt which will enhance the neighborhood.

Roll Call Vote:
Motion passes unanimously.

PUBLIC COMMENTS

Mooney stated that this is his last Zoning Board of Appeals meeting, and he wishes the Board members all the best. It has been a pleasure and honor to serve with this body.

MOTION by Pagnucco, supported by Dery, that the meeting be adjourned at 8:33 p.m.

Motion passes unanimously.

MaryAnn Verdi-Hus, Chairperson
Zoning Board of Appeals

Ellen E. Marshall
Village Clerk