

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

Absent: Fahlen, Freedman and Parks

Also Present: Village Building Official, Byrwa

Chairperson Verdi-Hus presided and called the meeting to order at 7:30 p.m. in the Southfield Township building at 18550 W. Thirteen Mile Road.

#### **APPROVAL OF MINUTES**

MOTION by Pagnucco, supported by Clark, that the minutes of a regular Zoning Board of Appeals meeting held on Monday, February 8, 1999 be approved as submitted.

Motion passes unanimously.

#### **Case No. 955**

**Petitioner:** Frank and Yvette Orlando  
22100 Hillview

**Property:** 31814 Nixon  
Part of Lot 3273, all Lot 3274  
Beverly Hills #12 Subdivision, TH24-02-332-008

**Petition:** Petitioner requests a side yard deviation from the required 15 feet side yard open space to 13.2 feet for a rear addition in order to continue with the existing line of the house.

Petitioner Yvette Orlando is proposing to add 10 feet onto the rear of the house for a family room addition which would continue with the existing line of the house. Ms. Orlando stated that she and Frank Orlando own the house but do not live there; they will be moving in after the addition.

Byrwa referred to a letter submitted by Mark W. Cherry of 31798, property owner directly south of the subject parcel, in which he mentions that a half pallet of bricks has existed in the rear yard for more than five years. Frank Orlando stated that there is no reason for the brick pile to be there and it can be moved easily.

Verdi-Hus read a letter from Tom and Myrna Hitchman of 31770 Nixon who have no problem with the requested deviation. They relate in this letter that, when the 31814 Nixon house was sold about five years ago, they were told that the owners planned to move in within six months. The house has been either rented or vacant ever since with a steady deterioration of the house and yard. The Hitchmans recommend that the Village establish a landlord ordinance like Birmingham and other nearby communities have to help minimize deterioration in houses that are rented.

In his letter of April 12, 1999, Mark W. Cherry of 31798 Nixon states that he has no objections to the petitioner's request for a side yard variance to build the proposed addition. He mentions the pile of bricks in the rear yard and states that he and his wife are concerned about when the construction debris resulting from the project will be disposed of. Cherry requested that the ZBA condition any variance upon the removal of this pallet of bricks from the rear yard and the petitioner's covenant to remove all construction debris from the project in a timely manner.

Mr. Cherry suggests that the Village adopt a landlord ordinance to govern the rental of dwellings within Beverly Hills. He believes such an ordinance would be beneficial to the residents of the Village in terms of maintaining property values and promoting appropriate maintenance.

Verdi-Hus does not believe the Zoning Board of Appeals can attach the suggested condition on its ruling. The Board can advise Council that residents have requested to consider landlord/tenant regulations.

Byrwa stated that this situation can be addressed by not finalizing the building permit and issuing a Certificate of Occupancy until all construction debris and extra dirt from excavation is removed from the site. A bond is required as part of the building permit to insure the completion of a construction project and will not be refunded until all excess building material and debris is removed from the site.

In a letter dated April 6, 1999, Richard Kazmier of 31834 Nixon states he has no objection to the addition.

**Decision:** MOTION by Kamp, supported by Pagnucco, to approve the petitioner's request for variance on the basis that enforcement of the ordinance creates a peculiar and exceptional practical difficulty by preventing construction of an addition which will continue the existing line of the house and existing variance.

Roll Call Vote:  
Motion passes unanimously.

#### Case No. 956

**Petitioner and Property:** Victor Ventimiglia Jr.  
Vic's Fruit Market  
31201 Southfield, Acreage, TH24-02-480-013

**Petition:** Petitioner requests permission to display the following:  
1. Bedding plants and flowers from 5-1-99 to 7-1-99.  
2. Pumpkins from 10-1-99 to 10-31-99.  
3. Christmas trees from 11-16-99 to 12-31-99.

Vic Ventimiglia, owner of Vic's Market, was present requesting permission to display products as he does every year. There was no one present in the audience nor letters received regarding this case.

**Decision:** MOTION by Dery, supported by Clark, that the variance be granted with the exceptional hardship being no place to display the plants, flowers, pumpkins and Christmas trees.

Roll Call Vote:  
Motion passes unanimously.

#### Case No. 957

**Petitioner:** Patrick S. Durbin, builder

**Property:** 31731 Bellvine Trail  
Lot 11 of Berkshire Valleys Subdivision, TH24-03-326-004

**Petition:** Petitioner requests a side yard deviation from the required 15 feet side yard open space to 14 feet for an addition.

The builder, Pat Durbin, was present requesting a one foot side yard variance in order to build a master bedroom suite addition on the north side of the home. The 15' x 35' addition will continue with the same lines of the ranch style home. He referred to the interior layout of the house and explained that this is the only location for the addition without disrupting other rooms.

I do have two letters, one from the neighbor to the north and one from a neighbor to the west that were just given to me.

Verdi-Hus read letters dated April 12, 1999 from Kathryn Rundell of 31744 Bellvine Trail and Betty Barron of 31781 Bellvine Trail stating that they have no objections to the request for side yard

deviation from the required 15 feet side yard open space to 14 feet for an addition at 31731 Bellvine Trail.

**Decision:** MOTION by Pagnucco, supported by Kamp, that the deviation be granted because the placement of the house on this lot creates a peculiar and exceptional situation with respect to expanding the line of the house.

Roll Call Vote:  
Motion passes unanimously.

### **ZONING BOARD COMMENTS**

Pagnucco reviewed that the Zoning Board of Appeals denied a request for variance on Case No. 952 at its February 8, 1999 meeting. The Board turned down the request from Mr. Scott Fortner of 31905 Eastlady Drive to install a six foot high fence around a tennis court. The fence had already been installed.

Pagnucco recently learned from a realtor that the house is for sale. He received a phone call this weekend from Steve Matthews, a neighbor who wanted to know why the fence was not removed two months after the Board ruling. Matthews was concerned that the house would sell and be occupied with new owners who are not aware of the illegal fence.

Byrwa stated that he was made aware last week that the house is for sale. He responded by issuing a correction notice to Mr. Scott Fortner to remove the fencing within two weeks. The fence was to be removed when the weather permitted. The notice is dated April 7 which gives Mr. Fortner until April 21 to remove the fencing. Byrwa will follow up on this.

In response to Board comments, Byrwa stated that a disclosure form is required for the sale of a house. If the owner knows of a defect or peculiarity of the property, it has to be disclosed. Byrwa expressed the opinion that the owner would be fraudulently representing that property by selling it in that state.

Kamp suggested that the Village Council consider amending the Ordinance so that petitioners like Vic's Market would not have to appear every year before the ZBA to request outdoor displays.

MOTION by Pfeifer, supported by Clark, to adjourn the meeting at 7:55 p.m.

Motion passes unanimously.

**MaryAnn Verdi-Hus, Chairperson**  
**Zoning Board of Appeals**

**Ellen E. Marshall**  
**Village Clerk**