

Present: Vice-Chairperson Kamp; Members: Clark, Fahlen, Freedman and Pfeifer

Absent: Dery, Pagnucco, Parks and Verdi-Hus

Also Present: Village Building Official, Byrwa
Council Liaison, Downey
Council Member, Walsh

Vice-Chairperson Kamp presided and called the meeting to order at 7:35 p.m. in the Village municipal building at 18500 W. Thirteen Mile Road.

APPROVE MINUTES OF A REGULAR ZONING BOARD OF APPEALS MEETING HELD ON JANUARY 10, 2000

On page 2, third paragraph, line 1, add "Thirteen Mile Road" after "21300".

MOTION by Fahlen, supported by Pfeifer, that the minutes of a regular Zoning Board of Appeals meeting held on January 10, 2000 be approved as amended.

Motion passes unanimously.

CASE NO. 987 (rehearing)

Petitioner & Property: Rick Urquhart
20555 W. 13 Mile Road
Lot 1 of Coryell Estates, TH24-10-226-003

Petition: Petitioner requests permission to retain the existing shed after the completion of a new detached garage in order to house lawn and pool pump and equipment.

The Zoning Board of Appeals is made up of nine members. There are five members present tonight, which is a quorum. Kamp informed Mr. Urquhart that an affirmative vote of five of the nine members is required to approve his petition. All members present will have to vote in favor of the applicant's request in order for it to be approved this evening. The petitioner has the option to defer consideration of this case until more than five members are present. This decision could be made by the applicant at any time before a vote of the board is taken.

Kamp noted that the previous case was tabled in order to mail the appropriate notice to property owners within 300 feet of the property in question.

MOTION by Pfeifer, supported by Freedman, to remove Case 987 from the table.

Motion passes unanimously.

The petitioner Rick Urquhart explained that the hardship in this case is based on his family's lack of storage space in their small ranch house, which has no basement. They plan to convert an existing attached garage into living space. Urquhart recently constructed a two-car detached garage on his property to house vehicles. He is asking to retain an existing shed needed for storage of pool and lawn equipment. The accessories for the pool are attached to the shed and include the electricity for the pool light, the pump, and the cover.

The shed was professionally constructed in 1993 and meets Village codes. It is well maintained and not obtrusive to the property or the neighbors. Urquhart stated that he checked with the neighbors since the last meeting to make sure they received a notice of the hearing. None of the people he talked to directly said that they have a problem with his proposal. It was noted that no letters were received from area residents regarding this case.

Board members are in receipt of a letter dated October 20, 1999 from Rick Urquhart to Dave Byrwa. Urquhart states in the letter that he understands that the Village Ordinance does not allow him to

have two accessory buildings, and that he will have to obtain a waiver from the Planning Board or tear down the garden shed shortly after completing the garage.

The board received another letter dated October 15, 1999 to the petitioner from attorney William M. Nance addressing deed restrictions on his property.

Pfeifer feels that the petitioner should not have been issued a building permit that allowed him to proceed with the construction of a detached garage, which was in violation of the ordinance. A request to build the detached garage when there was an existing accessory structure on the property should have come before the Zoning Board of Appeals for a variance request. Pfeifer maintains that it was not correct for this ordinance violation to be created in this manner.

Pfeifer reflected on how he would have treated a request for a variance to build a detached garage with an existing pool shed on the property. Considering that this is a small home and the board has allowed variances of this nature in the past to expand the use of the home, Pfeifer would be willing to support this request for variance. He affirmed that each case stands alone and is not precedent setting.

Freedman asked if any consideration was given to making the garage larger to accommodate the equipment. The petitioner answered that cost was a significant factor. Freedman does not think that the need for storage space or financial hardship constitute a peculiar or exception hardship on which to base approval of a variance.

Pfeifer thinks that the petitioner is suggesting that he needs more living space. Urquhart affirmed that he is trying to accommodate more living space within the house by creating additional storage space.

Fahlen commented that, the fact that the detached garage has been built makes it difficult to approve the request for variance.

Kamp considered what would have happened if this case was originally presented as a request to construct a detached garage. The factors including the need for additional living space, configuration of the house, and no basement are prevalent in parts of the Village and lend themselves to support for allowing a garage because this board attempts to consider proposals that would make the Village a better place in which to live without damaging the spirit of the ordinance.

Kamp stated further that the Ordinance allows only one accessory building per lot, and this board must consider peculiar or exceptional practical difficulties in order to justify a variance. The hardships stated in this case are lack of storage space and the cost of building a larger garage. Kamp does not believe that the cost factor is something that is unique enough to justify support of the variance. He added that the petitioner was advised of the Ordinance prior to submitting his request for variance.

Clark concurred with the view that the hardship as presented based on lack of storage space does not constitute a peculiar or exceptional practical difficulty.

There was discussion of alternatives that would accommodate the petitioner's needs without violating the Ordinance. One of the suggestions was to move the shed from its current location and attach it to the new detached garage. This would result in one accessory building on the property.

Byrwa stated that the petitioner was advised at the time he submitted plans for a garage that he would be required either to remove the shed or petition for a variance upon completion of the detached garage. In future cases of this type, Byrwa will direct an individual to the Zoning Board of Appeals before a building permit is issued. Urquhart stated that he was not aware of the procedure of coming to the Zoning Board of Appeals before building the detached garage.

Kamp reiterated that the petitioner has the option of deferring the board's consideration of his case before a vote is taken. The case would then be reheard when there are more than five members present.

Urquhart asked that the board defer consideration of his variance request until there are more members present. He stated that this will also give him an opportunity to explore other alternatives.

At the petitioner's request, the Zoning Board of Appeals will defer consideration of this petition until a future meeting unless the request for variance is withdrawn by the petitioner.

MEMO FROM VILLAGE MANAGER REGARDING APPOINTMENT OF ONE ZONING BOARD MEMBER FOR SERVICE ON THE BEAUTIFICATION AWARDS COMMITTEE

It was the consensus of the board members to allow MaryAnn Verdi-Hus the opportunity to represent the Zoning Board of Appeals on a new committee that recognizes the efforts of residents with respect to the beautification of their property.

ZONING BOARD COMMENTS

Freedman strongly recommends that people not be permitted to proceed with building if that building is going to result in a request for variance after the fact. Byrwa stated that future applicants will be directed to the Zoning Board of Appeals if their building proposal violates the Zoning Ordinance.

BUILDING OFFICIAL COMMENTS

The Zoning Board of Appeals will not meet in March due to the Village Election being held on March 13.

Byrwa has been asked by Village Attorney Ryan to add an item to the agenda of the April Zoning Board of Appeals meeting. Ryan is asking the board to rehear the case involving a request to erect a gate in the front yard of property on 13 Mile Road. The petitioner proceeded with construction after two requests for variances were denied, resulting in issuance of a citation. Ryan suggests bringing this case back to the ZBA in an attempt to achieve a peaceful resolution. A jury trial has been requested by the petitioner and has been adjourned several times.

Kamp stated that the Zoning Board of Appeals was deliberate in establishing records with respect to Cases Nos. 964 and No. 975. Coming back before the board without new evidence would be an attempt to circumvent considered decisions of this board. Each time it considered the petitions, the board made good decisions based on the evidence heard in a fair, unbiased manner. The petitioner chose not to appeal the decisions to the circuit court, as was their right.

There was discussion on this matter. Board members concurred that they did not want to rehear these cases unless there was a substantial change in the petitions or new information to consider.

MOTION by Freedman, supported by Fahlen, to adjourn the meeting at 8:40 p.m.

Motion passes unanimously.

James Kamp, Vice-Chairperson
Zoning Board of Appeals

Ellen E. Marshall
Village Clerk