

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

Absent: None

Also Present: Village Building Official, Byrwa
Village Attorney, Ryan

Chairperson Verdi-Hus presided and called the meeting to order at 7:05 p.m. in the Township of Southfield meeting room at 18600 W. Thirteen Mile Road.

RESOLVED by Fahlen, supported by Pagnucco, to go into closed session to discuss pending litigation, Palmer vs. Village of Beverly Hills, with the Village Attorney.

Roll Call Vote:
Resolution passes unanimously.

The Zoning Board of Appeals met in closed session with Attorney Tom Ryan.

MOTION by Parks, supported by Freedman, to return to open session at 7:35 p.m.

Motion passes unanimously.

Verdi-Hus called the meeting to order at 7:35 p.m.

APPROVE MINUTES

MOTION by Kamp, supported by Fahlen, that the minutes of a regular Zoning Board of Appeals meeting held on Monday, February 14, 2000 be approved as submitted.

Motion passes unanimously.

CASE NO. 993

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 5-1-00 to 7-1-00.
2. Pumpkins from 10-1-00 to 10-31-00.
3. Christmas trees from 11-16-00 to 12-31-00.

Vic Ventimiglia, owner of Vic's Fruit Market, was present requesting permission to display products outside of his store as he does each year.

Verdi-Hus read a letter dated April 7, 2000 from Michael Laurencelle, owner of The Corners shopping center located directly to the east of Vic's Market. Laurencelle has no objection to the ZBA granting the variance as requested.

Decision: MOTION by Parks, supported by Freedman, that the variance be granted as requested with the hardship being that there is no other place to display the plants, flowers, pumpkins and Christmas trees.

Roll Call Vote:
Motion passes unanimously.

CASE NO. 988

Petitioner and Property: James Biondo
19532 Wilshire
Lot 14, Westwood Estates #1, TH24-02-302-021

Petition: Petitioner requests a deviation from the required 40' rear yard open space to 16' for a porch.

The petitioner James Biondo stated that the house is on a corner lot surrounded by pine trees and hedges. There is 32' from the back of the house to the rear lot line. He would like to build a 16' square all season porch onto the back of the dining room in order to gain additional living space. The porch will be constructed of aluminum siding and brick to match the house.

A letter has been submitted to the board from the only neighbors who face the petitioner's back yard. Mr. and Mrs. Lyle M. Nustad of 31407 Waltham have no objections to the addition and think it would have a positive effect on the property values in the neighborhood.

In answer to questions from the board, Biondo stated that he has lived in the house since 1972. Kamp pointed out that, according to the mortgage survey, the back yard of the property is already quite narrow. The existing house does not meet the requirements of the current ordinance. Kamp thinks that the configuration of the house on this lot may be a hardship with respect to building this porch.

Decision: MOTION by Pagnucco, supported by Kamp, to approve the request for variance based on the fact that the configuration of the lot and placement of the house create a peculiar and exceptional practical difficulty.

Freedman commented that the house was constructed in its present location, which encroaches into the 40' rear yard open space required by the Zoning Ordinance. The proposed addition will exacerbate the current situation. Freedman thinks that the proposed structure is too large for the lot.

Fahlen stated that the records indicate that this house was built in 1964, which was five years after the current Zoning Ordinance was adopted. The house was built in the wrong location by the developer.

Byrwa stated that this is a corner lot. The addition is proposed to be located in the petitioner's rear open space, which abuts a side open space of the adjacent property to the north. It is not a typical interior lot.

Roll Call Vote:
Motion passes unanimously.

CASE NO. 989

Petitioner and Property: Paul Kleppert
20855 West 14 Mile Road
Part of Lot 1, Basset Woods, TH24-03-127-020

Petition: Petitioner requests a variance to allow the use of the original 125 year old fence posts and gates.

Anne Kleppert requested that the petition be tabled until the next meeting at which time the petitioners propose to bring a fence post and gate with them for display.

At the inquiry of a board member, it was clarified that the only variance being requested is the height of the gate and the fence post.

CASE NO 990

Petitioner and Property: Kevin and Diane Jackson
30673 Pebblestone Court
Part of Lot 58, Georgetown Green, TH24-09-201-007

Petition: Petitioner requests a side yard deviation from the required 15' minimum side yard open space to 11.5' for a one story rear addition in order to continue with the existing line of the house.

The petitioner Kevin Jackson explained his request for a variance from the required 15' side yard open space to 11.5' in order to build a single story addition that will continue the current line of the house. The proposal is to build a family room and breakfast room addition off the back of the house. There is a hardship due to the odd shape of the lot.

Kamp observed that this is a narrow, deep lot. The area behind the house dips down into a ravine. There is a walkout basement on the other side of the house.

Diane Jackson stated that they have talked to the surrounding neighbors who have no objection to their plans.

Richard Brown of 30809 Lincolnshire West had no objections to the request for variance.

Decision: MOTION by Kamp, supported by Fahlen, that the petition be approved due to the peculiar and exceptional practical difficulty and undue hardship of building an addition that continues the existing line of the house. It is impractical to build this addition in any other location on this lot.

Roll Call Vote:
Motion passes unanimously.

CASE NO. 991

Petitioner and Property: Frank Cancro
18382 Riverside Drive
Lots 1730 of 1731 of Beverly Hills Subdivision #4
TH24-02-230-001

Petition: Petitioner requests a deviation from the minimum 40' rear yard open space to 33' and a side yard deviation from the minimum 15' open space to 7.83' for a one story rear addition that will continue with the existing line of the house.

Architect Richard Zischke was present on behalf of the Cancros to state their request for variance. The property owners propose to build an addition onto the rear of the house that will continue with the existing line of the house and will encroach approximately 7' into the rear yard setback. The house is on a corner lot, which limits the useable building space. A portion of the existing house extends to within 23' of the rear lot line. This sun room has been in that location for about 25 years.

Freedman expressed concern about the residence next door (Lot 1732).

Kamp asked if the petitioners are new owners of the house. Zischke stated that they recently purchased the home.

Kamp was concerned with the rear setback. The board is being asked to grant a variance on a newly purchased house when Mr. and Mrs. Cancro knew the configuration of the house before it was

purchased. The proposed addition will exacerbate the non-conformity in the rear yard. Kamp questioned the hardship in this case

Zischke stated that the Cancros did not realize that they would need to come before a zoning board of appeals for a variance. When they purchased the house, the existing sun room extending from the back of the house was 23' from the rear lot line. They assumed that they could build in that area.

Zischke believes that there is a hardship in that the house was placed improperly on the lot many years ago. The petitioners do not feel that the encroachment into the rear yard will be a deterrent to the neighbor to the north or to the east. Zischke stated that the house was built in 1953. The owners purchased it in the summer of 1999.

Kamp stated that the house conforms with the required rear yard setback with the exception of the sun room. He asked why the additional space is necessary.

Zischke explained the current layout of the house and the need for the addition. There would not be enough room to create a useable family room space and the added rooms would not be of adequate size without encroaching into the rear yard. Mr. Cancro added that they need space because his mother-in-law will be staying with them for periods of time, and she requires a wheelchair.

Robert Engel of 18350 Riverside Drive owns the house immediately to the southeast. He and his wife have no objections to the addition.

Mary Jackson of 18275 Birwood, whose house abuts the Cancros house to the rear, was not opposed to the addition.

Fahlen agrees with Kamp that it is unfortunate that Realtors do not call open space requirements to the attention of people who are buying a house.

Decision: MOTION by Fahlen, supported by Pagnucco, that the request for variance be granted due to the size of the lot and the location of the house on the lot. The proposed addition will continue an existing encroachment of the house into the rear yard open space.

Roll Call Vote:

Kamp - no
Pagnucco - yes
Parks - yes
Schafer - yes
Verdi-Hus - yes
Dery - yes
Fahlen - yes
Freedman - no

Motion passes (6 - 2).

CASE NO. 992

Petitioner and Property: Stephen Marszalek
32215 Auburn
Lot 478 of Beverly Hills #1 Subdivision
TH24-01-278-014

Petition: Petitioner requests a deviation from the minimum 12.5' side yard open space to 9.5' for a two-story rear addition in order to continue with the existing line of the house AND a deviation to place a deck in the side yard leaving 2.5' side yard open space.

Stephen Marszalek outlined his request for a variance from the required 12.5' side yard open space to 9.5' to build an addition that will continue the existing line of the house. He also requests a side yard variance to build a wood deck that would extend to within 2.5' of the side lot line.

Board members expressed concern with the proximity of the proposed deck to the side lot line. They questioned the existence of a hardship.

Marszalek stated that he spoke to the neighbor whose property abuts the area where the deck is proposed, and he does not object to it. The house is approximately 14" from ground level, and the deck will not be obtrusive above the fence line. Marszalek proposes to erect a landscape barrier along the property line.

The petitioner was asked why he does not build the deck off the back of the house. Marszalek stated that there are existing landscape features and a stone patio directly behind the house. There is a driveway to the right. There is a doorwall off the side of the house that would open onto the deck. The idea was to integrate the deck with the stone patio. The proposed plan makes the best use of the available space on the pie-shaped lot. The petitioner stated that the house was built in 1955.

Board members stated that neighbors may want to use their side yard open space, which is the reason for a minimum setback.

The petitioner asked if he would be allowed to place brick pavers in the side yard to tie into the rear patio. Byrwa stated that this could be done as long as the brick work does not affect the flow of water from the petitioner's lot onto someone else's property.

In lieu of the objections expressed by board members, the petitioner withdrew his request for a variance to place a deck in the side yard leaving a 2.5' side yard open space.

Decision: MOTION by Freedman, supported by Parks, that the petition be granted as amended by the petitioner to allow a deviation from the minimum 12.5' side yard open space to 9.5' in order to construct an addition that continues the existing line of the house. The ordinance creates a peculiar and exceptional practical difficulty due to the off center placement of the house.

Roll Call Vote:
Motion passes unanimously.

CASE NO. 975 (Rehearing)

Petitioner and Property: Dana A. Palmer
20155 W. 13 Mile Road
Lot 6 of Coryell Estates, TH24-10-227-005

Petition: Petitioner requests a deviation to have a gate in the front yard open space.

MOTION by Kamp, supported by Freedman, to amend the agenda to consider another motion with respect to this case.

Roll Call Vote:
Motion passes unanimously.

MOTION by Kamp, supported by Pagnucco, to remove the rehearing of Case No. 975 from the agenda for the reason that there has been no new evidence presented to this board.

Roll Call Vote:
Motion passes unanimously.

ZONING BOARD COMMENTS

Fahlen stated that it is unfortunate that Mr. Pfeifer has resigned from the Zoning Board of Appeals due to the election of his wife, Dorothy Pfeifer, to the Village Council. Bill Pfeifer stated that his decision was given careful consideration by himself and his wife. They did not want the appearance of any possible conflict of interest between his position on the Zoning Board of Appeals and her position on the Village Council.

Kamp expressed his appreciation of Bill Pfeifer's insight, common sense, and guidance as a member of the ZBA. The entire board concurred that they will miss Bill Pfeifer. Pfeifer stated that he has enjoyed every minute of his service on the Zoning Board of Appeals.

Fahlen introduced Southfield Township Clerk, Sharon Tischler, who was present in the audience. Fahlen announced that he has made a decision to run again as Township trustee.

BUILDING OFFICIAL COMMENTS

Byrwa welcomed new member Todd Schafer to the Zoning Board of Appeals. Schafer and Fahlen will be attending a ZBA seminar on Tuesday, April 18 sponsored by the Michigan Municipal League.

The next ZBA meeting is scheduled for Monday, May 8, 2000.

MOTION by Freedman, supported by Dery, that the meeting be adjourned at 8:25 p.m.

Motion passes unanimously.

MaryAnn Verdi-Hus, Chairperson
Zoning Board of Appeals

Ellen E. Marshall
Village Clerk