

Present: Chairperson Verdi-Hus; Vice-Chairperson Kamp; Members: Freedman, Johnson, Needham, Pagnucco and Schafer

Absent: Fahlen and Parks

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

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 Pagnucco, supported by Johnson, that the minutes of a regular Zoning Board of Appeals meeting held on Monday, July 10, 2000 be approved as submitted.

Motion passes unanimously.

### **CASE NO. 998**

**Petitioner:** Greg Long, G. Long Assoc.  
28475 Greenfield, Southfield

**Property:** 19145 Devonshire  
Part of Lot 2657, all of Lot 2658 & 2659  
Beverly Hills Sub No. 7, TH24-02-184-003

**Petition:** Petitioner requests deviations for two one-story rear additions. Rear yard deviation from the required 40' open space to 34' for both additions and a side yard deviation from the required minimum 20' open space to 18.5' for the addition on the east side.

Greg Long, contractor, from G. Long Associates was present on behalf of property owners Linda Simon and George Kale. The petitioners are requesting a 6 foot variance from the required rear yard setback and a 2 foot variance on the side yard setback. There is an existing non-conforming side yard setback of 18.5' from the house to the east property line.

The petitioner was asked to comment on why the enforcement of the ordinance creates peculiar or exceptional practical difficulties.

Long stated that this is a small three-bedroom house built in 1955. The homeowners would like to bring the house up to 2001 design standards by adding a family room and a master bedroom suite. Their proposal is to add living space onto the back of the house rather than construct a second story addition, which would not be in conformance with the other ranch-style houses on the block and in the subdivision.

Long mentioned that there is not a 40' rear yard setback on the street behind the house in question. The petitioners view three garages from their backyard. The proposed additions will not encroach on the privacy of the neighbors to the rear.

Verdi-Hus read a letter dated August 10, 2000 received by the Village from Margaret McGregor of 19125 Devonshire, property owner immediately adjacent to the petitioner's property. She strongly objects to the requested variance of 18.5' on her side of the property line. McGregor states that her screened and glassed in porch is already close to the petitioner's easterly lot line. The variance would reduce the open space between the two buildings.

George Kale stated that the house at 19125 Devonshire has not been occupied by the owners in over two years. The McGregors moved to Florida. Kale stated that he has done occasional maintenance of the neighbor's property, which is in a state of disrepair. He does not think the letter from Margaret McGregor was a fair assessment and questioned the validity of that response to the notice of hearing.

Questions from the board were addressed by the contractor and the homeowners. Long outlined the size and use of the proposed additions and the total room sizes. He was asked if the petitioner has considered alternate designs for the additions that would meet setback requirements. Long described the layout of the house. He explained that moving the master bedroom towards the center of the house would result in losing the egress window to an interior bedroom. The intent is to retain a three-bedroom home. It is proposed to maintain the existing 18.5' distance from the east property line. The house was built in 1955 prior to the adoption of the Beverly Hills Zoning Ordinance.

Long stated that the hardship is in adding needed living space to the house while maintaining a ranch style home to conform to the other houses in the neighborhood.

In answer to a question, Kale estimated that there is at least 14 feet from the lot line to the neighbor's porch. There is approximately 30' between the houses.

Verdi-Hus commented that she visited the site and tried to visualize the additions. It appears that the structures will expand into too much of the back yard.

Simon stated that the contractor staked out the proposed additions on the property, and there was plenty of back yard behind the addition for their two children to play. The roof line will tie in the bedroom and family room additions. The building material and paint will match the existing house. Simon stated that they love the neighborhood and do not want to move to obtain needed living space.

Byrwa commented that the builder mentioned that an egress window will be lost on an existing interior bedroom if the master bedroom addition is moved towards the center of the house. He stated that the building code requires emergency egress windows from all bedrooms. Byrwa mentioned that he observed that there is dense foliage along the back lot line. He also noted that the properties on Beverly Road have detached garages that are near the back lot line.

Needham questioned whether the size of the proposed house with addition violates any ordinance by being too large for the lot. Byrwa responded that some communities define an allowable percent of lot coverage. Beverly Hills restricts lot coverage by its setback requirements. The required setbacks determine the buildable envelope or area.

**Decision:** MOTION by Freedman, supported by Pagnucco, that the petition be granted to permit the variances requested.

Roll Call Vote:

Needham - yes  
Pagnucco - yes  
Schafer - no  
Johnson - no  
Freedman - no  
Verdi-Hus - no  
Kamp - no

Motion fails (5 - 2).

MOTION by Freedman, supported by Johnson, that the petition be denied based on the petitioner's failure to articulate a peculiar or exceptional practical difficulty that affects this property.

Roll Call Vote:

Verdi-Hus - yes  
Schafer - yes  
Pagnucco - no  
Needham - no  
Kamp - yes  
Johnson - yes

Freedman - yes  
Motion passes (5 - 2).

Verdi-Hus stated that the petitioner's request for variance is denied.

Kale inquired as to the board's main objections to the proposal. He requested some direction in order to approach the board for a more favorable opinion. Questions on the appeal process were addressed by Byrwa.

Freedman stated that, in order to grant a variance, the board has to find that there is a peculiar or exceptional practical difficulty or that the ordinance creates a hardship. The petitioner should articulate an exceptional practical difficulty peculiar to this property and explain how his situation is different from anyone in a similar situation on that street.

Verdi Hus commented that the applicant could resubmit the application with a less obtrusive variance.

Kamp stated that, subject to consideration of the individual petition, history shows that the Zoning Board of Appeals generally has less problem approving a variance that continues a non-conforming side setback.

#### **CASE NO. 999**

**Petitioner and Property:** Don Studt  
Ascension of Christ Lutheran Church  
16935 W. 14 Mile Road  
Lots, pt. 40-64, 636, 637 of Rex Humphrey's Eco City  
TH24-01-127-013

**The Village Ordinance:** Section 22.02.060 Exceptions to Height Limits (a): The height limits of this Ordinance may be modified by the Zoning Board of Appeals in its application to radio transmitting and receiving or television antennae, chimneys or flagpoles, church spires, belfries, cupolas, domes, water towers, observation towers, power transmission towers, radio towers, masts, aerials, smokestacks, ventilators, skylights, derricks, conveyors, cooling towers, and other similar and necessary mechanical appurtenance pertaining to the permitted uses of the Zone Districts in which they are located.

**Petition:** Petitioner requests interpretation of Ordinance Section 22.08.060 Exceptions to Height Limits (a) to install a new cross.

Studt stated that he is a church member representing Ascension of Christ Lutheran Church in its request that the Zoning Board of Appeals grant an exception to the height limitations of the Zoning Ordinance Section 22.08.060, which allows the board to exempt things like church spires. The church proposes to construct a 3" square aluminum tubing cross 7' above the existing 34' tower on the north side of the church. The tower faces 14 Mile Road, which is commercial property to the east and to the north in Birmingham. The residential area is to the west of the church.

Studt remarked that there are other buildings in the Village, particularly churches, that are exempt from this ordinance requirement regarding height. Our Lady Queen of Martyrs Church on Pierce has a very large cupola and cross that was allowed under this Ordinance. Studt asked the board for favorable consideration of this request.

Studt answered questions from the board. The cross would bring the total height of the spire to 39 feet. The church was built in the early 1950's. An addition was constructed about 8 years ago.

Byrwa commented that another structure in the area is the water tower on 14 Mile Road, which is 145' high.

Schafer observed that the notice of hearing mailed to residents within a 300 foot radius of the church states that the petitioner requests interpretation of the Ordinance. He would not feel comfortable granting a variance tonight based on the notice mailed to area residents.

Studt responded that the application describes the appeal as requesting the ZBA to grant exception to height limits pursuant to Chapter 22, Section 27.08.060 of the Zoning Ordinance.

Byrwa stated that there has been no correspondence received regarding this case. It was mentioned that area residents received a notice of hearing with a sketch of the church with the proposed cross on the back of the notice.

**Decision:** MOTION by Freedman, supported by Pagnucco, that the petition be granted for the reason that the spirit of Ordinance Section 22.08.060 (a) appears to include church spires and belfries, and this request meets the spirit of that Ordinance.

Roll Call Vote:

Freedman - yes  
Johnson - yes  
Kamp - yes  
Needham - yes  
Pagnucco - yes  
Schafer - no  
Verdi-Hus - yes

Motion passes (6 - 1).

**CASE NO. 1000**

**Petitioner and Property:** David Patton  
16252 Reedmere  
Lots 1437 and part of 1438  
Beverly Hills #3 Subdivision  
TH24-01-402-012

**Petition:** Petitioner requests deviations for two one-story rear additions. In order to continue with the existing line of the house, a side yard deviation is requested from the required 12.5' open space to 10' for the addition on the west side and a rear yard deviation from the required 40' to 19' open space. Also, a rear yard deviation for the addition on the east side from the required 40' to 14' open space.

The petitioner David Patton explained that he is requesting several variances in order to add a master bathroom onto a bedroom and to convert an existing Florida room into a year-round family room. He recently purchased the house and is asking for the variances before moving in order to start working on the house. A hardship exists because he and his wife require additional living room to accommodate their parents who visit and a parent who may live with them in the future.

It was mentioned that the house was build prior to the adoption of the Zoning Ordinance and there are existing non-conforming setbacks.

The petitioner was asked if he has looked at a different configuration to minimize the amount of the variance, particularly the back yard variance.

There followed discussion on ways in which the family room addition could be constructed by maintaining the existing back wall of the Florida room without extending the addition further into the rear yard open space. The petitioner agreed to table his request and return with a revised proposal that does not increase the non-conforming rear yard setback.

MOTION by Freedman, supported by Kamp, to table Case No. 1000 to allow the petitioner to submit a revised request for variance.

Motion passes unanimously.

**ZONING BOARD COMMENTS**

Board members discussed the procedure for making decisions. It was agreed that it is important that there be clear articulation of the reasons for a decision.

It was suggested that a petitioner may have a better idea on how to proceed if board members were to make their views known before a motion is made and a vote is taken.

The suggestion was made that the chair inform the applicants before the vote that the first motion will be framed in the affirmative.

**PUBLIC COMMENTS**

Council liaison Munguia questioned the status of ongoing construction at Our Lady Queen of Martyrs Church and parish center. Byrwa stated that the parish center is almost complete. The school addition is being handled through the State of Michigan Fire Marshall's office. Byrwa will check into the progress of the school addition and inform Munguia.

Munguia announced that the Village of Beverly Hills web site is up and running. The URL is [villagebeverlyhills.com](http://villagebeverlyhills.com). Meetings of council and board meetings will be posted on the web site after approval by those bodies.

There will be a Parks and Recreation Board meeting this Thursday, August 17 held in Beverly Park at 7:30 p.m.

MOTION by Kamp, supported by Pagnucco, to adjourn the meeting at 8:40 p.m.  
Motion passes unanimously.

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

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