

Present: Chairperson Verdi-Hus; Vice-Chairperson Kamp; Members: Fahlen, Johnson, Pagnucco and Parks

Absent: Freedman, Needham and Schafer

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

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 Parks, that the minutes of a regular Zoning Board of Appeals meeting held on Monday, August 14, 2000 be approved as submitted.

Motion passes unanimously.

#### **REHEAR CASE NO. 1000**

The petitioner David Patton of 16252 Reedmere or his representative was not present. The board will return to this case if the petitioner appears before the close of the meeting.

#### **CASE NO. 1001**

**Petitioner & Property:** Ralph Hall  
30501 Marimoor  
Lot 62, Kennoway Meadows #1  
TH24-10-252-016

**The Village Ordinance:** **Section 22.24.010 (a) Front Open Space:** Where a front open space of greater or less depth than 40 feet exists in front of a single family residence or residences presently on one side of a street in any block and within 200 feet of the lot or parcel, the depth of the front open space of any building subsequently erected or remodeled on that side of the street in that block shall not be less than the average depths of the front open space of such existing residences.

**Petition:** Petitioner requests a front yard deviation from the average front yard setback from the road of 86.75' to 67' for a front yard carport.

The petitioner Ralph Hall was present with contractor Max Fair from ASI Wholesale Window and Home Improvement. Fair has a permit to construct an addition off the back of the house and has applied for a permit to build a carport over a portion of the U-shaped asphalt driveway in the front yard. Fair was informed by the building department that carport overhangs are not allowed in the front of homes in Beverly Hills. The petitioner is requesting a variance to construct a 23' x 32' carport overhang off the front of the house.

Verdi-Hus noted that the petitioner indicated on the application to appear before the Zoning Board of Appeals that enforcement of the Ordinance creates a peculiar or exceptional practical difficulty and that enforcement of the Ordinance creates exceptional or undue hardship. She asked the petitioner or his representative to explain the hardship and practical difficulty in this case.

Fair stated that work is in progress on the rear addition and they plan to proceed with the front yard improvements. A circular driveway was installed in anticipation of building a carport overhang. Fair commented that he has observed dozens of homes in the neighborhood that have the possibility of doing the same type of project. Many people have a circular driveway that leads up to a house with a porch. Fair thinks that there are neighbors who are interested in the outcome of this request for variance.

Hall explained that it was not until after he purchased the property and moved into the house that he realized how dark the neighborhood was at night. There are no street lights. Hall is proposing to build a carport to provide security for his wife and others who approach the house when it is dark.

Pagnucco commented that everybody in Beverly Hills lives under the conditions that the petitioner is describing. He suggested that the Mr. Hall could install spotlights on his house that detect motion to address the lighting and security issues. Pagnucco does not believe a hardship exists.

Hall responded that installing lighting around his house would be cost prohibitive. He was planning to illuminate only the overhang area.

Kamp questioned the estimated cost of the carport. The builder answered that the cost of the structure will be approximately \$25,000-\$30,000. Fair added that he is proposing to build something that is architecturally pleasing to the property owner and the neighborhood.

Kamp stated that this is a board of limited powers. The Village Council decides the requirements of the Village and adopts the ordinances. The Council would be the body to convince that an ordinance should be changed. The Zoning Board of Appeals is charged to consider granting a variance from the law only under certain circumstances if there is an exceptional or undue hardship or a peculiar practical difficulty.

The board has to look at the hardship involved. Hall has brought up lighting and security issues. Kamp believes that there are alternatives to the applicant's lighting and security considerations. He is not convinced that the expense of lighting as an alternative is a persuasive argument in this case considering the cost of building the carport. It is his opinion that the proposed deviation is significant and not justified.

Verdi-Hus questioned whether an awning or canopy could be considered as an alternative. Byrwa noted that a canopy would fall under the same setback requirements if it is permanently attached to the main structure and if it is up for longer than six months.

Parks stated that the Zoning Board of Appeals votes on whether the petitioner has proved a hardship or peculiar exceptional difficulty that would allow this board to grant a variance. It cannot decide a case on the basis of architectural benefit to the property owner or neighborhood. The applicant is requesting a structure in front of the house that does not meet ordinance requirements. Parks does not believe that a peculiar or exceptional difficulty has been demonstrated by the petitioner.

Verdi-Hus read letters received by the Zoning Board of Appeals regarding this case. John Pecis of 30395 Leemoor Road asked that the request for variance be denied and the existing Zoning Ordinances be continued unaltered. He stated that all household parking facilities are located at the rear or side of the home in this part of Beverly Hills. Pecis believes that this aspect of the Village presents a superior community image and has a positive effect on property values.

Robert and Elaine Clements of 30475 Embassy signed a letter stating that they strongly object to awarding a deviation to install a carport on the front of the residence at 30501 Marimoor. They believe it will lead to a decrease in property values.

In response to an inquiry, the petitioner was informed that a notice of this hearing was mailed to property owners within 300 feet of the property in question. Byrwa explained the ordinance requirements for determining the average front yard setback.

William Collins of 30241 Marimoor, who lives three houses from the petitioner, stated that he does not think the proposed carport would benefit property values in the neighborhood. Collins has driven through the subdivision and has not seen one carport at the front or side of a house.

Sharon Tischler of 21415 Virmar Court, president of the South Berkshire Homeowners Association, stated that South Berkshire consists of Kennoway, Coryell and South Berkshire as one unit. She has looked at the drawings that were submitted for this addition. Tischler believes that there are no other instances in Beverly Hills of a horseshoe driveway with a roof from the front door to the drive.

Tischler has received phone calls from area residents. It appears that a notice of this request for variance was distributed to people on Marimoor beyond the required 300 foot radius. Speaking on behalf of the homeowners group, Tischler stated that the residents are not in favor of the proposed deviation.

Matthew Forgach of 30500 Marimoor lives directly across the street from the petitioner. He knows that Mr. Hall is enthused about his property and is improving his home. Forgach commented that he has not seen a carport on the front of a house in the area and does not know what it would look like. He is not certain whether he is for or against the request for variance to allow this carport. Forgach would like to maintain harmony in the neighborhood and thinks it is awkward for the neighbors to take a stance in opposition to the petitioner's request.

Bill Pfeifer of 160 Charrington commented that Village ordinances are adopted to protect property values. They are not designed to keep people from building onto their houses. Property owners can come before this board to request a variance from the ordinance. There seems to be difficulty in demonstrating a hardship in this case. Pfeifer thinks that the petitioner could install lighting in the same area of the house as where the carport would be located and accomplish the same thing. He suggests that the hardship requirement is not being met and asked that the request be denied.

**Decision:** MOTION by Parks, supported by Pagnucco, that the variance be denied on the basis that the petitioner failed to show that enforcement of the Ordinance creates a peculiar or exceptional practical difficulty or undue hardship.

Roll Call Vote:  
Motion passes unanimously.

#### **ZONING BOARD COMMENTS**

Fahlen stated that he received notification of Case No. 1001 in the mail because he lives within 300 feet of the petitioner's property. He was told that he should probably have excused himself from hearing this case. Fahlen requested an opinion from the Village attorney on this matter. Byrwa will bring this to the attention of the Village Manager.

Kamp expressed the view that a potential conflict of interest only exists if the case would prevent a board member from exercising fair judgment and citing the case on its merits. Living in the affected area does not preclude a member from sitting on the board. Kamp does not think the Village ordinances address this matter.

Parks believes that the fact that a board member lives within the 300 foot radius of homes that receive notice of the hearing does not make that board member any more or less of an interested party than any other resident of Beverly Hills.

#### **PUBLIC COMMENTS**

Council Liaison Munguia of 31736 S. Verona commented that he asked the Village Manager to distribute copies of the Michigan Municipal League Handbook for Zoning Board Officials to board members. He hopes the board finds it helpful. Munguia asked board members to advise him if there are any concerns that he can bring to the Council table.

MOTION by Fahlen, supported by Parks, that the meeting be adjourned at 8:12 p.m.  
Motion passes unanimously.

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

**Ellen E. Marshall  
Village Clerk**