

Present: Chairperson Verdi-Hus; Members: Fahlen, Johnson, Needham, Pagnucco and Schafer

Absent: Freedman, Kamp and Parks

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

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.

APPROVE MINUTES OF MONDAY, MAY 14, 2001 ZONING BOARD OF APPEALS MEETING

MOTION by Fahlen, supported by Pagnucco, that the minutes of a regular Zoning Board of Appeals meeting held on Monday, May 14, 2001 be approved as submitted.

Motion passes unanimously.

CASE NO. 1018

Petitioner and Property: Clarence Chambers
18175 Beverly Road
Part of Lot 12, Crystal Springs Subdivision
TH-24-02-426-007

Petition: Petitioner requests a variance from the maximum of 720 square feet to 968 square feet. Existing detached garage is 528 square feet and the proposed attached shed would be 440 square feet.

The petitioner Clarence Chambers explained that he has a large lot and therefore has a need to store equipment to perform his own lawn maintenance. He does not have room in his garage or home for storing the necessary lawn and woodworking equipment. Chambers is proposing to add a 20' x 22' addition to the back of his detached garage, which will be similar in appearance to the existing structure.

The current garage is 22' x 24' (528 square feet). The proposed addition is 440 square feet. This is a total of 968 square feet, requiring a deviation to add 248 square feet more than the allowed 720 square feet. The petitioner displayed a photograph showing the existing structure on the lot and the proximity of adjacent property. Chambers noted that there is a 6' x 12' shed on the lot which will be removed.

Chambers stated that the addition will be screened by a green belt on the south and east sides and will have limited visibility from other lots. The Beverly Hills Athletic Club parking lot is located to the rear of the petitioner's property.

There was no one in the audience with questions or comments on the request for variance and no letters received by the Village regarding this case. Questions from board members were addressed by the petitioner.

A motion was made by Johnson and seconded by Pagnucco to grant the variance on the grounds that an exceptional practical difficulty is created by the placement of the existing garage on the lot.

Schafer suggested that the motion should not be based on the location of the garage or current shed because the petitioner is looking for a variance of size and not location. Johnson withdrew his motion and Pagnucco withdrew the support.

Schafer pointed out that the board's approval of a variance must be based on a condition whereby the enforcement of the code creates a problem that would not exist on a similarly situated property.

Decision: MOTION by Johnson, supported by Pagnucco, that the request for variance be granted based on the relative size of the lot and the landscaping maintenance required compared to the home size and existing garage size.

Fahlen commented that the unique situation in this case is that the petitioner would have designed a garage up to the allowed square footage when he moved into the house if he would have anticipated the requirements for maintaining mature landscaping on the large lot.

All of the petitioners present were informed that five affirmative votes are required from the six members present in order to grant a variance. Petitioners have the option of tabling their case until there is a larger number of the nine member board present. Schafer remarked that he is inclined to vote “no” on this motion.

Roll Call Vote:

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

Motion fails (4 – 2).

In answer to an inquiry, Byrwa stated that the petition would have to be modified in order to come back before the Zoning Board of Appeals. A petitioner would have to wait one year in order to present the same proposal to the board.

CASE NO. 1019

Petitioner and Property: Michael J. Allen
31986 Mayfair Lane
Part of Lot 3282, all of Lot 3283 of Beverly Hills #12
TH-24-02-332-001

Petition: Petitioner requests a deviation to replace the existing 6’ privacy screen with a 6’ privacy screen located 3’ from the lot line instead of the required 10’.

Building official Byrwa stated that he was made aware of a unique situation regarding this property and appeal case earlier today. There is an unusual right-of-way on the petitioner’s property that was not shown on the mortgage survey that accompanied the application to appear before the Zoning Board of Appeals.

This lot is the first property on the south side of Beverly Road past Beverly Park. There is a 66 foot right-of-way along Beverly Park. There is an 86 foot right-of-way at the petitioner’s property. This places both the existing and the proposed fence in the road right-of-way.

Byrwa stated that Council approval is required to construct anything in the Village right-of-way. He recommends that the petitioner submit a survey prepared by a licensed surveyor showing the exact location of the property line. The petitioner’s request to replace the existing fence will go before Council for approval. Byrwa apologized that this situation was not recognized sooner.

The case was withdrawn from ZBA consideration. The request will be referred to Council to approve the construction of a fence in the Village right-of-way due to a unique feature with respect to the extended right-of-way at the petitioner’s property. It was suggested that the petitioners present a plan to Council for the fence and possible landscaping. Byrwa noted that plantings in the Village right-of-way are regulated by Ordinance.

The petitioner Michael Allen was under the impression when he bought the house that he would be able to upgrade the existing fence. He was not aware of the location of the right-of-way. He will contact Byrwa relative to presenting his case to Council.

CASE NO. 1020

Petitioner and Property: Steven Milsk
18535 Hillcrest
Lot 1867 and part of 1868, Beverly Hills #4
TH-24-254-010

Petitioner: Petitioner requests a side yard deviation from the minimum 15' 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 Steven Milsk was present with his architect Dennis Jones. Jones explained that the existing house is non-conforming relative to the north side yard setback requirements. He pointed out that the front corner of the home meets the 15 foot side setback requirement. Due to the unusual shape of the lot and placement of the house, the side set back decreases as the house angles towards the rear property line.

Jones described the proposed 550 SF addition to the rear of the home, which would provide a master bedroom suite and family room. The addition will continue with the wall line established by the existing house. A variance of four feet is requested as the addition projects into the side yard setback. The house was built in 1952, prior to the adoption of the Village Zoning Ordinance.

In response to an inquiry, Jones stated that building the addition to comply with the side setback requirement would drastically effect the room addition resulting in an oddly configured interior space. Given the current value of the home and property, Jones contends that it makes sense to construct an addition that is appropriate to the home.

Eric Andrew of 18521 Hillcrest, adjacent property owner most affected by the proposed addition, had no objections to the variance request. He thinks that continuing with the current line of the house would be more aesthetically appealing than angling the addition to comply with the side yard setback requirements.

Decision: MOTION by Pagnucco, supported by Fahlen, that the variance be approved based on the placement of the house on the pie-shaped lot at the time it was built in 1952. The petitioner is allowed to build an addition that will continue the current line of the house.

Roll Call Vote:
Motion passes unanimously.

CASE NO. 1021

Petitioner and Property: Marcia Himelhoch
21900 E. Valley Woods
Acreage, TH-24-03-101-017

Petition: Petitioner requests a deviation to install a 5' high garden gate in the front yard (maximum is 36 inches high) **and** a deviation to extend a fence 7 feet beyond the rear of the house.

Byrwa stated that the application should be corrected to indicate that the request to construct a garden gate in the front yard is a variance from the ordinance that prohibits accessory structures in the front yard. The Village's Fence Ordinance does not address gates. Gates are viewed as an accessory structure. The Zoning Ordinance classifies anything that is permanently mounted to the ground or supported from the ground as an accessory structure, which is only allowed in the rear yard.

The petitioner Paul Himelhoch stated that their home is the third house from Lahser Road on Valley Woods Drive. The front of the house faces Lahser Road, and the homeowners are attempting to configure their home improvements on this basis. Himelhoch related that the house was in a state of disrepair when they purchased it a year ago. They are upgrading the interior and exterior of the house.

Himelhoch explained that there is a large section of blacktop at the entrance from East Valley Woods. Because the side of the house faces the street, most people who pull into the driveway think that the side door is the main door. The petitioner plans to remove the blacktop walk from the driveway to the front door and replace it with an attractive brick walkway. A decorative gate at the beginning of the brick path will help to identify it as the walkway to the front entrance. The antique wrought iron gate is 60” wide and will not be as high as the 5’ supports.

Marcia Himelhoch remarked that the improvements that she and her husband are making to the home and property are increasing the value of their house and the neighborhood.

It was questioned whether the same effect could be achieved with shrubbery. Verdi-Hus commented that the board grants variances on the basis of exceptional or practical difficulties or undue hardship. She thinks that the necessity of constructing an accessory structure in the front yard would be difficult to prove.

The petitioner asked if the gate would be allowed if it were placed in a different location. Byrwa indicated that he would review the placement of the gate with the applicant.

The petitioners withdrew their request to extend a fence 7’ beyond the rear of the house. Himelhoch asked the board for a decision on the gate.

Decision: MOTION by Schafer, supported by Needham, that the board grant a variance to allow an accessory structure in the front yard at the location requested for the reason that enforcement of the ordinance creates a peculiar or exceptional practical difficulty, specifically because of the placement of the house on the lot and the unique shape of the lot.

Roll Call Vote:

Schafer	- no
Verdi-Hus	- no
Fahlen	- no
Johnson	- no
Needham	- no
Pagnucco	- no

Motion fails (6 – 0).

ELECTION OF CHAIRPERSON AND VICE-CHAIRPERSON

MOTION by Pagnucco, supported by Schafer, to postpone the election of officers until the next meeting.

Motion passes unanimously.

ZONING BOARD COMMENTS

Fahlen commented on Case 1019 involving replacement of an existing fence. Byrwa remarked that he will look into whether there is a way to resolve the right-of-way question by examining Village records without requiring the property owner to submit a survey prepared by a licensed surveyor.

BUILDING OFFICIAL COMMENTS

Byrwa introduced the new Village Manager, Brian Murphy.

PUBLIC COMMENTS

Council liaison Munguia asked Byrwa to prepare a memo with background information on Case No. 1019 for Council’s review.

Munguia informed the board members that Council will be making reappointments to various Village boards and committees at its next meeting. He understands that the members of the Zoning Board whose terms are expiring have requested reappointment. He reminded the board that there are two vacancies on the Planning Board.

MOTION by Pagnucco, supported by Fahlen, to adjourn the meeting at 8:23 p.m.
Motion passes unanimously.

MaryAnn Verdi-Hus, Chairperson
Zoning Board of Appeals

Ellen E. Marshall
Village Clerk