

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

Absent: Fahlen, Freedman, and Kamp

Also Present: Building Official, Byrwa

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

MOTION by Pagnucco, seconded by Oen, that the minutes of a regular Zoning Board of Appeals meeting held on Monday, February 11, 2002 be approved as submitted.

Motion passed unanimously.

CASE NO. 1041

Petitioner/Property: Victor Ventimiglia Jr.
Vic's Fruit Market
31201 Southfield Road
Acreage, TH24-02-480-013

Petition: Petitioner requests permission to display the following:
1. Bedding plants from 5-1-02 through 7-1-02
2. Pumpkins from 10-1-02 through 10-31-02
3. Christmas trees from 11-16-02 through 12-31-02
4. Porch displays from 3-1-02 through 10-31-02

Vic Ventimiglia was present requesting a variance from the ordinance to display the above listed items at his place of business. It was clarified that the porch display requested this year represents display of items outside of the front entrance and under the roofline of the building and will not involve elimination of any handicapped parking spaces.

Debbie Richards representing Lois Gross Cleaners stated that she came before the Zoning Board of Appeals with a request for variance in January. She questioned the Board's policy regarding approving variance requests for activities on more than one date. Richards observed that the bedding plants at Vic's were set up before approval was granted by this Board.

Byrwa responded that an applicant is allowed to petition for up to one year's worth of variances for activities conducted in that year.

Decision: MOTION by Pagnucco, seconded by Needham, that the variance be granted to allow outdoor sales at Vic's Fruit Market as indicated on the petition.

Roll Call Vote:
Motion passed unanimously.

CASE NO. 1042

Property/Petition: Charles Hillman
32466 Sheridan
Lot 592 of Beverly Hills #1 Subdivision
TH24-01-277-013

Petition: Petitioner requests a side yard deviation from the minimum 5' side yard open space to 3' for detached garage.

Charles Hillman requests a deviation from the minimum five foot setback for accessory buildings to three feet. He proposes to eliminate the existing one-car garage at the side of his house and build a two-car garage in the rear yard. The variance is needed in order to make the

far side of the garage accessible to a vehicle. Hillman pointed out that his lot tapers towards the rear.

Hillman stated that the lots on both sides of his house have three foot side yard setbacks. The neighbors to the east and west have similar detached garages in approximately the same location.

Hillman addressed questions from Board members. It was noted that the lot is more than four feet narrower at the north end of the lot, which affects where the petitioner can locate the garage. It was suggested that removal of the existing one-car garage will be an improvement to the property.

The following neighbors signed a petition in support of the proposal for 32466 Sheridan:

Kim and Thomas Howlett	32470 Sheridan
Leon Brandon	32462 Sheridan
Nancy and James Ethridge	32371 Arlington
Robert McCartney	32361 Arlington

Decision: MOTION by Needham, seconded by Johnson, to grant the petition due to an exceptional practical difficulty in placing the structure anywhere else on the lot.

Roll Call Vote:
Motion passed unanimously.

CASE NO. 1043

Petitioner/Property: Roger and Joanne Blair
32016 Verona Circle, Lot 414 of Beverly Hills #1 Sub
TH24-01-283-001

Petition: Petitioner requests a deviation from the minimum 12.5' side yard open space to 6' for a proposed side yard entrance room and closet addition.

The petitioner Roger Blair requests a side yard deviation in order to construct an entrance area and closet space on the side of their house. Guests entering the house currently walk right into the kitchen. The petitioner expressed a need for more living space.

Blair mentioned that the side of the property abuts Beverly Road. The lot is pie shaped, narrower at the rear.

Byrwa stated that the petition should be modified to indicate that the minimum required side yard setback for a corner lot on a side street is 15 feet as opposed to 12.5 feet as indicated in the application. Byrwa noted that there is a 86 foot road right-of-way on Beverly Road in lieu of the typical 60 foot road right-of-way. The measurement from the center of Beverly Road to the petitioner's property is 43 feet. Byrwa maintains that the request for variance has a minimal impact on any neighbor's property and on the surrounding area.

Rex Holton of 32055 Beverly Circle stated that he has no objections to the variance requested.

Decision: MOTION by Johnson, seconded by Pagnucco, that the petition be granted given the practical difficulty with the configuration of the lot and the placement of the house on the lot.

Roll Call Vote:
Motion passed unanimously.

CASE NO. 1044

Petitioner/Property: Larry Svalya
16260 Birwood

Lot 81 of Henry Winegar's Eco City
TH24-01-202-031

Petition: Petitioner requests the following deviations:
1. Retain the 6' replacement fence
2. Retain solid wood replacement fence

The petitioner Larry Svalya displayed photographs of the old fence and the replacement fence. He was recently cited by the Village because his new fence, which was erected without a permit, is not in compliance with the Zoning Ordinance.

Svalya explained that he replaced the fence last year shortly after moving into Beverly Hills because the existing six foot privacy fence was badly in need of repairs. The old fence was an eyesore and a safety hazard. He noted that the fence contractor did not think that a permit was necessary to replace an existing fence of the same construction. Svalya indicated that his immediate neighbors approved of the new fence.

Svalya commented that his original intent was to only replace decrepit sections of the fence and stabilize the structure. Due to the badly rotted condition of the fence, he extended himself financially to fund the repairs in the amount of about \$4,000. He does not want to incur the additional expense of modifying the fence. Svalya thinks that the fence is functional and attractive and enhances the property and the community.

The petitioner believes that this fence is a logical solution for the narrow lots on Birwood. The homes are very close together on small lots. He understands that privacy screens are available but does not view them as a good solution for narrow lots because they must be 10' from the property line. Because the houses sit on high foundations, a four foot fence provides little privacy.

Svalya stated that it was suggested to him that shrubbery be used for screening. He maintains that this would use a greater percentage of his yard area and would not be safe in an area where there is a swimming pool. He noted that the sewer line runs along the back of his property. Svalya thinks that stockade fences would be inappropriate for sections of the Village where homes are set on large wooded lots because there are other solutions.

Byrwa mentioned that the code requirement for fences around swimming pools permits a maximum four foot fence height

Svalya indicated that he was informed prior to the meeting that there is a third variance needed for his fence because the finished sections of the fence face towards his lot rather than the neighbor's property.

Byrwa cited the section of the ordinance relating to the variance not included in the petition. Section 22.08.150.4 Orientation of Finished Appearance states, "When one side of a fence has a more finished appearance than the other, the side with the more finished appearance shall face the exterior of the lot." The fence in question is in violation of that requirement

Verdi-Hus commented that the Fence Ordinance was updated in 1999 after much deliberation. Six foot fences are generally permitted only on property abutting major roads. The intent has been to maintain the open space character of the Village. There would have to be an extreme hardship to allow a six foot fence. It is unfortunate that the petitioner was unaware of the ordinance requirements and spent the money to erect a six foot fence. Verdi-Hus does not think a hardship has been demonstrated in this case. Pagnucco concurred with the need to uphold the ordinance in order to maintain the character of the Village.

The petitioner was informed that he could request to postpone a vote on his case until the next meeting at which time there may be more Board members present. There are nine members of the ZBA, and five votes are needed to grant a variance. The third variance requested will be indicated on a revised petition.

Two letters were received by the Village from residents in support of the request for variance. The letters were from Brian and Rita Dates of 16257 Birwood and Juliana Jung of 16268 Birwood.

Julie Shea of 16252 Birwood stated that Svalya asked her permission and that of the other abutting neighbors before constructing the fence. The neighbors were in agreement that the fence was acceptable. She commented on the amount of work that Svalya put into the house since he moved in with the effect of increasing the value of the neighborhood.

Needham indicated support for the petition on the basis that the replacement fence is a dramatic improvement in the appearance of the neighborhood.

Svalya asked that a decision on his case be postponed until the next Zoning Board of Appeals meeting. The third variance will be added to the petition for the next meeting.

CASE NO. 1045

Petitioner/Property: Ronald Martella
17555 Buckingham
Lots 189, 190 of D.J. Healy's Golfhurst
TH24-01-108-016

Petition: Petitioner requests a side yard deviation from the minimum 12.5' to 10' side yard open space for a two-story addition.

The petitioner Ronald Martella stated that he lives at the corner of Buckingham and Birmingham Boulevard and is requesting a variance from the 15 foot required setback to 10 feet. He proposes to construct an addition on the side and rear of the house. The variance will provide an additional five feet on the structure, which will be in keeping with several other houses in the neighborhood that are even closer to the lot line.

Martella stated that the hardship is a need to expand the living space and storage in the house. The house has only a half basement. He has spoken with two of his neighbors, who have no objections to the variance requested.

The petition answered questions from the Board. Martella stated that there is no other practical place to locate the addition where it would be within the setback requirements.

Decision: MOTION by Johnson, seconded by Pagnucco, that the variance be granted given the hardship related to the architecture of the house and the placement of the house on the lot.

Roll Call Vote:
Motion passed unanimously.

BUILDING OFFICIAL COMMENTS

Byrwa informed the Board that the Village will hold an appreciation dinner this year for its volunteers on Thursday, June 13 at the Birmingham Country Club.

PUBLIC COMMENTS

Questions from Rex Holton of 32055 Beverly Circle regarding 14 Mile Road construction were addressed by Byrwa. The Building Official also answered questions about fence requirements.

MOTION by Needham, seconded by Schafer, to adjourn the meeting at 8:29 p.m.

Motion passed unanimously.

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

**Ellen E. Marshall
Village Clerk**

**Susan Bernard
Recording Secretary**