

Present: Members: Berndt, Brady, Fahlen, Johnson, Needham and Stearn

Absent: Oen, Schafer and Verdi-Hus

Also Present: Building Official, Byrwa

Board member Fahlen 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 Needham, seconded by Brady, that the minutes of a regular Zoning Board of Appeals meeting held on Monday, February 9, 2004 be approved as submitted.

Motion carried.

CASE NO. 1107

Petitioner: Terry McGovern, McGovern Building
4120 W. Maple Road
Bloomfield Hills, MI

Property: 19200 Devonshire
Lots 2651 and 2652 Beverly Hills #7
TH24-02-182-010

Petition: Petitioner requests a rear yard deviation from the required 40' open space to 38' and a side yard deviation from the required 15' open space to 7' for a one-story rear addition.

Terry McGovern from McGovern Building related that his client Joe Rosenberg has lived in the Village for about five years in a home that has two bedrooms and one and one-half baths. Almost three years ago an addition was constructed to the home replacing a screened in porch with a year-round family room on the back of the kitchen. Rosenberg is now proposing to further invest in his property by building a master bedroom and bath onto the back of the two-bedroom section of the ranch home.

McGovern displayed plans of the proposed addition. He pointed out that the existing home is 7' from the east lot line in lieu of the required 15' side yard open space. The addition will extend the existing side setback for an additional 27'. The other request for variance is for a 38' rear yard setback in lieu of the required 40' setback. McGovern explained that the additional two feet is needed to accommodate the layout of the sleeping area, bathroom and closet.

McGovern commented on what they are trying to accomplish from a design and a practical point of view. The proposed addition allows enough room for a king-sized bed and a pathway to the closet and bathroom. He thinks that renovating the home from a rectangular 1950's ranch home to a home with a family room and master suite added to the rear of the house is aesthetically pleasing and adds to the value of the neighborhood. It is more desirable to the neighborhood than

tearing down a small house and building a large two-story home. The renovations will result in a U-shaped ranch home.

Joe Rosenberg stated that he has lived in the community since 1999 and does not want to move from Beverly Hills. He would like to continue to be able to invest in his home. Questions from Board members were answered by McGovern and Rosenberg. It was indicated that the space in the middle of the house is a living room with windows along the wall looking out onto the deck.

Maryann Schlie of 19186 Devonshire, adjacent homeowner to the east, stated that she will be impacted by the proposed addition. She presented the Board with letters from herself and other area residents. Schlie maintains that the deviations requested stretch the intent of the Beverly Hills building code that was designed to assure the unity of size and construction of houses in the Village while allowing people to add space within the setback restrictions. Schlie believes that no practical hardship has been identified by the petitioner.

Schlie objects to extending the non-conforming side yard 27' farther from the back of the house. The building mass on the side will compose nearly 50% of the available side lot line. Schlie thinks that granting this variance will result in a lower resale value of her residence because the width between the houses is diminished and the open space and light is compromised by building mass. She commented that the possibility exists that a second floor could be built onto the home in future years.

Schlie submitted a letter from arborist Mike Weiner who advised her that any construction within a 15' radius of her trees will be detrimental to their health. She purchased her home in Beverly Hills 12 years ago specifically because of the treed lots, openness, and charm of the neighborhood. She asked the Board to consider her objections.

George Kale of 19145 Devonshire supported the proposed addition to the petitioner's home. He contends that property values of area residents will increase as these types of improvements are made in the neighborhood. Many homes in Beverly Hills are older and smaller in scale with respect to bedrooms and bathrooms. It is only practical to do these types of renovations to make the houses more livable and resalable and to raise property values for the entire community.

Kale suggested that construction can be done without harming the neighbor's trees. An addition was constructed at his home without detriment to nearby trees. He thinks that the petitioner is proposing an aesthetically pleasing plan. There is a hardship in that the property in question is a corner lot that would prevent a second story addition. Kale thinks that the proposed addition would add symmetry to the house considering the family room addition. He strongly supported the plan as presented.

Mike Deronne of 19126 Devonshire supported the proposed addition to the back of the house. The addition will continue the existing line of the house. There is a hardship in terms of the layout of the master bedroom suite. Deronne thinks that this improvement to a two-bedroom house will add to the property values of the neighborhood. He would rather see this design than a second story addition to the home.

Fahlen read letters submitted to the Board this evening by Maryann Schlie. The following residents expressed opposition to the request for variances. The letters voiced support for the Village ordinances as written. Residents asked that building setbacks be maintained to insure open space and privacy, appropriately sized homes for the lot size, and spacious views that make the neighborhood unique.

Karen Mitchell	19164 Devonshire
Roy and Marianne Albert	19341 Devonshire
Patrick Callanan	18261 Devonshire
Jeffrey A. Knudson	19325 Warwick
Mary and Joseph Gray	19100 Beverly Road
Mable Harabedian	32340 Inglewood
Eugene Larson	19175 Warwick
Robert Borgon	32340 Drury

Rosenberg referred to the plans and emphasized that there is an existing non-conforming side yard open space of 7 ft. He clarified that the proposed addition will abut open space and is not adjacent to the house to the east. A corridor is not being created. Building an addition 15' from the lot line would be impractical because the structure would be long and narrow. The alternative to encroach on the living room and block off the windows is impractical. A second story addition would have a more detrimental effect on the aesthetics of the neighbor's home and yard. The proposed design is the most practical and aesthetically pleasing solution for an addition. Rosenberg stated that he assured the adjacent neighbor that everything possible would be done to prevent the construction from impacting the trees on her lot.

It was noted that the house was constructed in 1956, prior to the adoption of the Village Zoning Ordinance.

Byrwa informed the applicant that there are six of nine Zoning Board of Appeals members present tonight. Five favorable votes out of the six members present are required to approve the variance. The petitioner has the right to postpone a decision on the case until a meeting when there is a full compliment of Board members.

Kale reiterated that the practical difficulties presented in designing a renovation or expansion are self evident from the site plan. He wished that the individuals who wrote letters of objection would have met with Mr. Rosenberg prior to the meeting to discuss the plans with him and obtain a better understanding of the proposal.

Maryann Schlie stated that she is a proponent for positive change. She believes that hardship and practical difficulty have not been demonstrated and that there are other ways to achieve the same result with a scaled down addition.

Needham suggested that there may be other options to the plan presented for a master bedroom addition. He is not comfortable with granting a rear yard setback.

Berndt commented that the house in question was built like many in the community at a time when family homes were smaller and did not have many of the amenities common in today's homes. He thinks that the Village will continue to modernize its housing to meet the expectations of the present market. Berndt recognized the practical difficulty of the location of the house on the lot and believes that building a second story addition may be a hardship to the community. He thinks that the side lot line constitutes a practical hardship. He would encourage the applicant to return with a revised plan that does not encroach on the rear yard setback. Berndt believes that the design proposed maintains the spirit of the ordinance and would be more beneficial to the community than some of the more legalistically correct alternatives.

Stearn commented that the side setback was not an issue with him but was troubled by the rear yard variance. A hardship must be demonstrated in order to allow a variance to the 40' setback. Johnson would also be more favorable to a plan that did not require a variance from the rear yard setback.

The homeowner Joe Rosenberg asked that a decision on his case be postponed until there is a full Board present. He will come back with a design that he hopes will be approved by the Zoning Board of Appeals and that will add value to the neighborhood and to his home. He hopes to submit a design that will not receive objections from his neighbors.

CASE NO. 1108

Petitioner/ Property: Patrick D. O'Leary
20022 Wellesley
Lot 1 of Wellesley Subdivision
TH24-03-229-025

Petition: Petitioner requests a rear yard deviation from the minimum 40' open space to 38.5' for a proposed one story addition.

Patrick O'Leary explained that he is proposing to build an addition to the rear of his house to enlarge the existing family room and kitchen. The dining room is located at the east side of the house. The house is set fairly deep on a pie-shaped lot creating a large front yard and small back yard. The proposed addition only encroaches on a small portion of the 40' rear yard setback due to the angle of the rear lot line. A 1.5' variance is requested for the northwest corner of the addition.

Decision: Motion by Johnson, seconded by Berndt, to grant the variance as requested given the location of the house on the lot and the irregular shape of the property.

Roll Call Vote:
Fahlen - yes
Johnson - yes
Needham - yes
Stearn - no

Berndt - yes
Brady - yes

Motion passed (5 – 1).

CASE NO. 1109

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 4-1-04 through 9-30-04
2. Pumpkins from 10-1-04 through 10-31-04
3. Christmas trees from 11-01-04 through 12-31-04
4. Porch displays from 3-1-04 through 10-31-04

Vic Ventimiglia was present requesting a variance from the ordinance to display the above listed items at his place of business as has been done for a number of years. He noted that the application should note that tents are erected at the south side of the building.

Byrwa mentioned that the display area at the south end of the building has not exceeded 10 parking spaces in previous years .

Decision: MOTION by Needham, seconded by Berndt, that a variance be granted to allow outdoor sales at Vic's Fruit Market as indicated on the petition with the provision that the display not take up more than 10 parking spaces on the south side of the building.

Roll Call Vote:
Motion passed (6 – 0).

CASE NO. 1110

Petitioner/Property: William Colenso
19360 Beverly Road
Pt. of Lot 18, Supervisor's Plat #14
Pt. of Lot 2669 of Beverly Hills #7
TH24-02-183-007

Petition: Petitioner requests a deviation to build a deck in the side yard.

The petitioner William Colenso proposes to build a deck that wraps from the back to the side of his house for access to his French doors. He has signatures from adjoining neighbors indicating

their support of the proposal. Colenso mentioned that he has revised the plans to gain the approval of the adjacent neighbor. He will plant trees and bushes between the homes.

Questions from Board members were addressed by the applicant. It was clarified that this case does not involve a setback issue. A variance is requested from the ordinance section that states that no accessory buildings, structures, or uses shall be erected in the front or required side open space. Decks are a permitted use in the rear yard but are not a permitted use in the side yard. Berndt commented that the deck will be visible from the road and may detract from the openness of the neighborhood.

The petitioner commented that the proposed location of the deck in the side yard allows a larger back yard. He stated that there is 15.6' from the proposed deck to the side lot line. The neighbor's house is 31' from the lot line.

Decision: Motion by Stearn, seconded by Needham, to grant the variance as submitted to allow a deck in the side yard on the basis that the position of the house and the narrowness of the lot create a peculiar or exceptional practical difficulty.

Roll Call Vote:

Needham - yes
Stearn - yes
Berndt - no
Brady - no
Fahlen - yes
Johnson - yes

Motion fails (4 – 2).

CASE NO. 1111

Petitioner/Property: Duane T. Crosthwaite
32211 Westlady
Lot 14 of Cranbrook Woods Subdivision
TH24-03-178-017

Petition: Petitioner requests a deviation from the average front yard setback of 93.6' to 85.1' for an addition to the kitchen.

The petitioner is requesting a front yard setback variance in order to expand the kitchen wall out towards the front porch, which is cracked and sloped towards the house. By improving the kitchen and expanding the living space, the logical location for a new exterior wall would be at the existing porch footing thereby reclaiming the unused square footage and expanding the living space.

A plan was submitted showing the setback distances of the neighboring houses at 85.4' for the house to the south and 106.1' for the house to the north. The average setback would be 93.6'.

The petitioner maintains that the setback of his house is very similar to most of the houses in the neighborhood. The house to the north is an exception that skews the average. The proposed construction will maintain a uniform look to the neighborhood.

Byrwa commented that the distance from the lot line to the petitioner's house is 85.1', which is less than the average setback. The petitioner cannot increase the non-conforming area of the house without a variance. It was noted that this house was built in 1957 prior to the adoption of the Village Zoning Ordinance.

Crosthwaite proposes to improve the interior and exterior of the house as many homeowners in the area have done. He will not be able to do anything that is practical, logical and within financial limitations with the current house plan without approval of the variance requested. The petitioner has talked to several neighbors who have no problem with the petition.

Questions from Board members were addressed by the petitioner. Bob Walsh, President of the Valley Woods Homeowners Association, asked for clarification of the proposal, which was provided by Crosthwaite. Walsh commented that it seems like a reasonable request.

Decision: Motion by Johnson, seconded by Stearn, to approve the variance due to a practical difficulty given the configuration of the porch and considering that the addition will continue the line of the house.

Roll Call Vote:
Motion carried (6 – 0).

ZONING BOARD COMMENTS

Stearn congratulated the recently elected Council members. He congratulated Dave Domzal on his election as Council President. Stearn reiterated his request that Council look into the ordinance in terms of allowing recreational vehicle storage in the rear yard.

Motion by Stearn, seconded by Needham, to adjourn the meeting at 8:57 p.m.

Motion passed.

Jack Fahlen, Member
Zoning Board of Appeals

Ellen E. Marshall
Village Clerk

Susan Bernard
Recording Secretary