

Present: Chairperson Verdi-Hus; Vice-Chair Schafer; Members: Berndt, Brady, Fahlen, Johnson, Needham, Oen and Stearn

Absent: None

Also Present: Building Official, Byrwa
Council Liaison, Taylor
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.

APPROVE MINUTES

A correction was made on page 7, last paragraph, third line, to change the word 'attached' to 'detached'.

Motion by Fahlen, seconded by Schafer, that the minutes of a regular Zoning Board of Appeals meeting held on Monday, April 12, 2004 be approved as amended.

Motion carried.

CASE NO. 1118

Petitioner and Property: Michael Brady
17941 Birwood
Lot 145 of D.J. Healy's Golfhurst subdivision
TH24-01-105-005

Petition: Petitioner requests a side yard deviation from the required 12.5' open space to 10.6' on the west side and from the required 17.5' to 15.2' on the east side for a two-story rear addition in order to continue with the existing line of the house.

Because the petitioner Michael Brady is a member of the Zoning Board of Appeals, he moved to a seat in the audience and recused himself from voting on this case.

Byrwa displayed photographs of the property in question and outlined the proposal to build an addition within the existing lines of the house. The variance requested does not increase the existing non-conformity.

Michael Brady requested side yard variances on both sides of the house in order to construct a two-story rear addition that will provide more living space for his family. He emphasized that the addition will continue with the line of the house and not increase the non-conformity. An old, dilapidated porch and addition will be removed. He stated that

the house was built in 1940 on a 53' wide lot. The current Zoning Ordinance requires a minimum lot width of 75 ft. in an R-2 zoning district.

Jeremey Whan of 17561 Birwood was present in support of the proposed addition on the basis that it would increase the value of homes in the neighborhood.

A letter was received from Roger and Kelli Moore of 17965 Birwood stating that they have no objection to the deviations requested.

Questions from Board members were addressed by the petitioner.

Decision: Motion by Schafer, second by Fahlen, to grant the variance requested on the basis that enforcement of the ordinance creates exceptional practical difficulty and undue hardship due to the size of the lot and the placement of the house of the lot.

Roll Call Vote:
Motion passed (9 – 0).

CASE NO. 1114

Petitioner/Property: William Colenso
19360 Beverly Road
Pt. of Lot 18, Supervisor's Plat #13
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.

Byrwa stated that this case was tabled at the April 12, 2004 meeting at the request of the petitioner. The petitioner has revised his proposal to include planting of evergreens to screen the proposed deck from Beverly Road. Byrwa displayed photographs of the house and property and described the proposed location of the deck and plantings.

The petitioner William Colenso related hardships that he thinks justify approval of his request for variance. He described the configuration and layout of the house noting that the deck is needed for safe access from the door walls located on both the side and rear of the home. The deck will also cover the cement foundation of the house.

Colenso indicated that it was a mistake to locate a door wall on the side of the house. He remarked that the adjacent neighbor to the west received a variance to build a deck in his side yard that extends 20' from the house. Colenso proposes to plant 4'-5' arborvitae three feet apart to screen his deck from Beverly Road.

It was noted that the petitioner could build a living space addition with a roof in the location of the proposed deck.

Verdi-Hus commented that she does not see a compelling practical difficulty to allow a deck in the side yard. The Village has deemed it unacceptable to permit a structure in the side yard.

Berndt believes that this appears to be a self-created hardship. The petitioner had an opportunity to build the addition to the home in a way that would not require this variance. The community through its ordinances sets a standard for maintaining an open, neat appearance. An accessory structure in a side yard stands out. The Board's power to grant variances is based on hardship and practical difficulty which exists due to the shape, topography, or placement of the house on a lot prior to enactment of the Zoning Ordinance. Berndt cannot see justification for granting the variance.

Berndt added that there is potential to accomplish what the petitioner is seeking by taking a different approach. He suggested steps down to a patio leading to a raised deck behind the house or a traditional farmhouse porch.

Colenso responded that some of the alternatives are not economically feasible. He related that his neighbors indicate that they would rather he build a deck than an enclosed porch in that location. Colenso described the dense vegetation on his lot and the abutting lot that would make it difficult to view the deck from Beverly Road.

It was noted that this house was built in 1920. Fahlen did not think that the deck will be noticeable from Beverly Road. Needham expressed the view that a deck located 15' from the lot line would be less intrusive to the neighborhood than a two-story addition.

Decision: Motion by Fahlen, second by Needham, to approve a variance to build a deck as requested, conditioned on planting and maintaining an Arborvitae hedge to screen the structure from Beverly Road.

Roll Call Vote:

Schafer	- yes
Stearn	- yes
Verdi-Hus	- no
Berndt	- no
Brady	- yes
Fahlen	- yes
Johnson	- yes
Needham	- yes
Oen	- yes

Motion passed (7 – 2).

CASE NO. 1115

Petitioner and Property: Howard Hanson
31400 Kennoway Court
Part of Lots 1 & 2 of Kennoway Subdivision
TH24-03-453-001

Petition: Petitioner requests a deviation from the average front yard setback of 73' to 30' for an attached garage AND a deviation from the minimum 40' rear yard open space to 24' for a conservatory.

Byrwa presented photographs of the lot in question and pointed out where the additions are proposed off the north side of the house. The rear lot line abuts the Groves High School athletic field.

The Ordinance states that the depth of the front open space of any building erected or remodeled shall not be less than the average depths of the front open space of existing residences within 200' of the lot in question on one side of the street. In this case, the only house within 200' on the same side of the street is the adjacent neighbor's house, which has a 73' front yard setback. It was noted that three-quarters of the petitioner's house is within that average front setback dimension.

This case was tabled at the request of the petitioner at the April 12 ZBA meeting. Board members questioned if consideration could be given to locating the additions on the south side of the house where there is a large amount of space.

The petitioner Catherine Hanson stated, because the house is built on a slab and has no basement, the attached two-car garage is used for storage. They would like to add a garage to accommodate their cars. It is proposed to place the conservatory at the north end of the house because that is where the electrical, water and gas lines are located.

Kathleen Berwick of 31381 Kennoway Court, who lives across the street, expressed concern that the proposal will change the character of the neighborhood. Most of the lots are spacious with large houses. The property in question is one of the smaller lots and the house already has two additions and a breezeway enclosure. The fact that the drainage ditch has been filled in and the large amount of asphalt in front of the home may adversely impact existing water problems in the area. Berwick asked that the Board deny the request for variance.

Board members discussed the proposal and asked questions of the petitioner. It was noted that this is an odd shaped lot, and the house was built in 1950 prior to the adoption of the Zoning Ordinance. Hanson indicated that there is a small amount of storage space in an attic over the garage. She explained that there are parking areas on the property because the garage is used for storage. One of the cement pads is a basketball court used by her teenagers.

Decision: Motion by Berndt, second by Oen, to grant the variance based on the practical difficulty posed by the construction of the house and its position on the extremely irregular shaped lot.

Roll Call Vote:

Stearn - no
Verdi-Hus - yes
Berndt - yes
Brady - yes
Fahlen - yes
Johnson - yes
Needham - no
Oen - no
Schafer - no

Motion passed (5 – 4).

CASE NO. 1116

Petitioner: Patrick S. Durbin
21751 W. 9 Mile Road, Ste. 133, Southfield

Property: 32365 Robinhood Dr.
Lot 71 of Nottingham Forest #3
TH24-04-210-013

Petition: Petitioner requests a side yard deviation from the minimum 15' open space to 12.6' for a side addition.

Byrwa stated that this proposal came before the Board at last month's meeting at which time the request for variance was denied. The petitioner submitted a new plan that reduces the size of the addition by three feet. Photographs of the property and location of the proposed addition were displayed.

The builder Patrick Durbin stated that a 24' x 24' structure was proposed at the last meeting. The variance was decreased by 3' with the current plan to build a 21' x 24' two-car garage. It is proposed to construct the new garage attached to the house to be in line with the existing driveway. The owner will use the existing garage for a one car, mud room, and storage space for tools, bicycles, etc. The new structure will retain the same architectural details as the house and will only infringe into the side yard by 2.6'.

This house was built in 1961. It was mentioned that deed restrictions at the time required garage doors to open on the side. Durbin commented that a majority of the garage doors in Nottingham are front loading.

Durbin mentioned that he submitted a petition at the April Zoning Board meeting signed by six homeowners in the neighborhood who support the Fassett family in their proposed addition of an attached garage.

Albert VanKempen of 32507 Robinhood Drive objected to the proposal on the basis that all of the houses in the subdivision have two-car garages and maintain an open space of more than 15' from the side lot line. The lot does not have a problem with being exceptionally narrow or shallow, and it is not unusual in terms of shape or topographic conditions. Kempen does not think a variance should be granted to allow an additional two-car garage to a house that already has a two-car garage.

Durbin mentioned that there are homes in the area with three-car garages. The petitioner proposes to house three cars.

Decision: Motion by Johnson, second by Oen, to grant the variance given the practical difficulty imposed by the location of the house on the lot.

Roll Call Vote:
Motion passed (9 – 0).

CASE NO. 1117

Petitioner and Property: Gail Benson
31099 E. Rutland
Part of Lots 77 & 78 of Re-Plat of Artesian Heights
TH24-01-377-028

Petition: Petitioner requests a side yard deviation from the required 12.5' open space to 6.9' for a sun room in order to continue with the existing line of the house.

Byrwa presented pictures of the property and explained the proposal to construct a 12'8" x 14'2" sunroom off the back of the house. The addition will continue with the existing line of the house.

Contractor Thad Nowak with Four Seasons Sunrooms was present on behalf of the petitioner Gail Benson. He stated that the existing home is in non-conformance with the side setback requirements. The proposed sunroom will not encroach any further into the side yard. The logistics of the house do not allow another option for placement of the sunroom. Nowak added that he does not have flexibility in terms of the size of the addition because the sunroom is a pre-manufactured structure.

Decision: Motion by Fahlen, second by Needham, that the petition be granted on the basis that the location of the addition will continue the existing side lot line.

Roll Call Vote:
Motion carried (9 – 0).

ZONING BOARD COMMENTS

Brady, whose appeal case was heard by the Zoning Board tonight, commended members for the amount of time they put into the consideration of cases. He recognizes that petitioners go through a lot of effort to get to this point. Brady suggested that the hearing notice sent to property owners within 300’ of the property in question include language encouraging neighbors to contact the petitioner before the meeting to discuss any questions or comments.

Byrwa commented that residents who receive notice of a hearing are told that they can write a letter to the Board if they are unable to attend the meeting. He generally advises petitioners to talk to their neighbors who are most affected by the proposal. He suggested that some applicants may not want their phone number to appear on the notice of hearing.

Fahlen referred to a concern about “big foot” houses and questioned whether the Village has standards regulating the percentage of building allowed on a lot.

Byrwa responded that the Village does not regulate the percentage of lot coverage. Construction is controlled through a building envelope determined by setback requirements. Accessory buildings are regulated by the zoning ordinance.

Berndt stated there has been interest in how to prevent “big foot” houses in Beverly Hills. He mentioned that there are people in the Village who live on very small lots. Regulations pertaining to percentage of lot coverage would affect a small lot more severely than a large lot. Consideration should be given to the needs of the current day family if the family-oriented character of the community is to be preserved. Berndt noted that some neighborhoods have a deed restriction that allows only one story. The various means of preventing big foot construction by limiting percent of coverage or limiting extension of an existing side building line would be restrictive in small, tight neighborhoods that predate the minimum lot size standards.

Public Comments

Kathleen Berwick expressed the view that the Village would not have the drainage problems that it has if the Zoning Board of Appeals did not grant as many variances that result in increasing building size.

Motion by Stearn, second by Oen, to adjourn the meeting at 8:45 p.m.
Motion carried.

Maryann Verdi-Hus, Chair
Zoning Board of Appeals

Ellen E. Marshall
Village Clerk

Susan Bernard
Recording Secretary