

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

Absent: Stearn

Also Present: Building Official, Byrwa  
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**

Motion by Needham, second by Fahlen, that the minutes of a regular Zoning Board of Appeals meeting held on Monday, May 10, 2004 be approved as submitted.

Motion passed.

### **CASE NO. 1119**

**Petitioner and Property:** Mark Hamm  
31251 Heath Court  
Lot 9, Huntley Square, TH24-02-476-002

**Petition:** Petitioner requests a rear yard deviation from the required 40' open space to 25' for a rear addition.

Byrwa displayed photographs of the property and outlined the proposal to build an addition to the family room at the rear of a home built in 1965. The photographs demonstrated the irregular layout of homes on Heath Court where side yards abut front yards.

Dorothy Pfeifer of 160 Charrington Court, who lived on Heath Court for 33 years, commented on the unusual layout of the homes on the three courts (Heath, Huntley, and Belmont) located between Huntley Square Apartments and Huntley Subdivision. The first house constructed on Heath Court at 31251 should have been positioned closer to the road. Pfeifer remarked that the petitioners are the fifth occupants of that home and have been making improvements to the inside and outside of the house.

Mark Hamm commented that the house is 40' from the rear lot line. It is not feasible to build the addition on the other side of the building due to the layout of the house. There is a need for additional living space in the family room. The addition will increase the living space by about 250 sq. ft.

There was no one present in the audience concerning this case. Hamm stated that he approached all homeowners within the line of sight of the proposed addition, and there were no concerns or objections to the proposal.

Questions from Board members were addressed by the petitioner. Hamm reiterated that they looked at various options and concluded that there is no other area on the lot where the addition could be located. There is a large side yard on the garage side of the house. Converting the garage into a family room and building a new garage would be a massive undertaking and would be cost prohibitive as well as change the configuration of the entire house. Hamm stated that the addition will be designed to match the existing structure.

A letter was signed by the following neighbors who have indicated approval of the request for variance.

Alfredo and Sharon Benitez	31287 Heath Court
David and Karen Sarris	31275 Heath Court
Shailendra and Anita Kaushik	31263 Heath Court
Jim and Julie O'Reilly	31191 Huntley Court
Bill and Nicole Walsh	31203 Huntley Court
Cal and Norma Hoeksema	31215 Huntley Court
John & Bobbie Bone	31227 Huntley Court

**Decision:** Motion by Schafer, second by Oen, to grant the variance as requested on the basis that enforcement of the ordinance creates an exception and undue hardship given the location of the house on the lot and layout of surrounding lots.

Roll Call Vote:  
Motion passed (8 – 0).

**CASE NO. 1124**

**Property:** 18214 Riverside  
Lots 1790 and 1791 of Beverly Hills #4 subdivision  
TH24-02-276-002

**Petitioner:** Alicia and Ed Roberts  
15931 Lauderdale

**Petition:** Petitioners request a rear yard deviation from the required 40' rear yard open space to 34' for an addition.

Board member Carl Johnson was recused from voting on this case because he owns the property in question. He left his seat at the table.

Byrwa displayed slides of the property and adjacent houses. He pointed out the proposed rear yard addition to the ranch-style home built in 1952.

The petitioner Alicia Roberts stated that she and her husband are proposing to purchase the Johnson's house. A 6' variance from the required rear yard setback is requested in

order to convert an existing sun porch into a family room to provide additional living space. The existing sun porch is approximately 6' x 10' and is not winterized. Most of the addition will require only a 4' variance from the required 40' rear yard setback; the fireplace juts out two additional feet.

Questions from the Board were addressed by the petitioners.

**Decision:** Motion by Berndt, second by Schafer, to grant the variance as requested on the basis that enforcement of the ordinance presents a unique practical difficulty in terms of expanding the floor plan of this house given the placement of the house on a corner lot and the relative size of the lot.

Roll Call Vote:  
Motion passed (8 – 0).

Johnson resumed his seat at the table.

**CASE NO. 1125**

**Property:** 16228 Kirkshire  
Lot 48 of Henry Winegar's Eco City  
TH24-01-201-047

**Petitioner:** James Flood  
225 Hendrickson, Clawson

**Petition:** Petitioner and prospective buyer requests side yard deviations from the required minimum 10' open space to 2.8' open space on the east side and from the required 15' minimum side yard open space to 8.4' on the west side in order to construct a second story addition.

Byrwa displayed photographs of a single story ranch home built in 1928 on a 40' lot. The house is in an R-3 zoned district, which requires side yards of 10' on one side and 15' on the other side and a 30' rear yard setback. The petitioner is proposing to add a second story to the house. The variance requested is to maintain the existing non-conforming side yard setbacks.

The petitioner Jim Flood explained that he placed an offer on the house contingent on being able to build a second story. He has five children and needs more living space. The family is interested in living in Beverly Hills close to their church and in the Birmingham School District.

In answer to an inquiry, Flood explained that the second story would extend over the entire footprint except for a kick-out on the west side of the house. This would make the second story 13'5" from the west side lot line. The addition will consist of three bedrooms and a bathroom.

Kathleen Berwick of 31381 Kennoway Court expressed a concern with fire safety considering the closeness of the homes. Fahlen clarified that the second story addition will not result in the houses being closer to each other. Byrwa stated that the building code requires structures to be at least 10 feet apart for fire safety. The distance between the house in question and the abutting home is 11.5 ft.

Questions from the Board were answered by the petitioner. It was noted that building an addition off the back of the house would also require variances from the side yard setbacks. The petitioner stated that it would be impractical to add to the back of the home due to the layout of the house on a very narrow lot.

Byrwa noted that the ordinance is written so that any increase or expansion of a non-conforming use must be approved by the Zoning Board of Appeals. The proposed addition is adding floor area, height and bulk to the building.

**Decision:** Motion by Fahlen, second by Oen, that the deviation be granted extending the existing lines of a house built in 1928, prior to the adoption of the Village Zoning Ordinance.

Roll Call Vote:

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

Motion passed (7 – 1).

**CASE NO. 1120**

**Petitioner and Property:** Marcy Grant  
16313 Birwood  
Lot 3, Williamsburg Row  
TH24-01-203-012

**Petition:** Petitioner requests side yard deviations from the required 12.5' open space to 4' on the east side and from the required 17.5' side yard open space to 11.3' on the west side for an addition in order to continue with the existing line of the house. Also, a deviation to build a two-car detached garage 5' into the rear yard easement and to be 3' from the side lot line instead of the minimum 5' side yard open space.

Byrwa stated that this house is one of a row of houses that were built in 1976. It is a two-story colonial style house. The petitioner is asking to build an addition to the rear of the house that continues with the existing lines of the structure.

The second variance is requested to construct a garage in the rear yard 3' from the side lot line in lieu of the required 5 feet. A variance is also requested to build on the 10' rear easement. This property has a 7' easement and an additional 10' easement in the rear yard. There is another 12' easement in the front yard adjacent to the street right-of-way. Byrwa suggested that the variances for the addition and for the garage construction be handled separately. It was suggested that the petitioner provide written documentation from whoever has been granted the easement rights stating that there is no objection to the encroachment into the easement by the construction of a permanent structure.

It was asked why this row of houses was constructed in violation of the Zoning Ordinance. Fahlen recalled that the developer of this subdivision requested and received deviations for this group of homes from the Zoning Board of Appeals at that time.

Marcy Grant stated that she has lived in the house since July of 1999 and would like to add more living space to accommodate a larger family. Options for increasing the size of the home have been discussed with a builder. The petitioner stated that she would like to make an addition work for this home so that they can stay in the neighborhood. The proposed addition would match the design of the house.

Verdi-Hus questioned the hardship in this case that would convince the Board to grant a variance from the Zoning Ordinance. She expressed the view that the lot is so small and narrow that the proposed addition and garage would create a sense of big foot housing.

In answer to an inquiry, Grant stated that the existing square footage of the house is 1,240 sq. ft. They are requesting to build a 960 sq. ft. addition. She thinks that the addition would increase the value of the home and the neighborhood.

Fahlen proposed a motion to grant a deviation to allow construction of an addition to the house. He remarked that he was a member of the ZBA in 1976 and recalls the condition of the property before the subdivision was built. Robinson Construction requested variances on the basis that it was the only way to build homes on those 40' wide lots. The houses are well kept, and the addition requested will not affect the look from the front of the property. Fahlen withdrew his motion in order to allow for further discussion from the Board.

Schafer commented that he is troubled with the way lots look with a second story addition and a garage. He asked whether the petitioner would prefer the addition or a garage if she could have only one variance. Schafer asked why the garage cannot be moved over 2' so as not to require a variance. The petitioner answered that the garage was placed 3' from the lot line in order to leave more yard space.

Schafer stated that the Board must address why the law should be changed in the petitioner's favor. He pointed out that there were variances granted for the development of this property. There is no way to continue with the existing line of the house to allow an addition without granting a variance.

The petitioner noted that there is a house on the street that has done exactly what she is proposing. Schafer observed that there is a home with a second story addition and a home with a first story addition in this row of houses.

Berndt commented that the previous case involved a 40' lot. The difference is that there was less than 12' between the buildings in that case and there is 16' between the buildings in this case. The Zoning Board often imposes a strict standard on those who come before it with what it deems as a self-created hardship. In this case, it appears to be hardship created to a certain extent by the Zoning Board. Berndt thinks that this calls for a certain amount of leeway in the Board's judgment.

Berndt sees no practical way to reasonably expand these homes and bring them into conformance with what could be expected for a family home in this community in this day and age. If the Village wants to maintain its community standards, then granting some variance from the strict letter of the law is the best way to support the ordinance.

Needham mentioned that notices of this hearing were mailed to people within 300 ft. of the property in question, and no one is present to comment on the case. Lacking any objections from contiguous neighbors, Needham is inclined to support the motion. It seems to him that the Zoning Board of Appeals has agreed to the principle that people have a privilege to expand their home, not a right.

**Decision:** Motion by Fahlen, second by Oen, to grant the deviation as requested for a side lot line in order to build a second story addition that would continue with the existing lines of the house.

Roll Call Vote:

Needham - yes

Oen - no

Schafer - yes

Verdi-Hus - no

Berndt - yes

Brady - yes

Fahlen - yes

Johnson - yes

Motion passed (6 – 2).

Motion by Fahlen, second by Oen, that the portion of this petition involving variances to allow construction of a garage on the property be tabled until the Zoning Board receives a ruling on the 10' easement in the rear yard.

Fahlen recalls that there is an easement for a gas line that was never built running through the property. Schafer remarked that the petitioners may want to look at their title insurance policy, which may indicate the genesis of that 10' easement and assist with locating the contact person.

The petitioner agreed to tabling a decision on a variance to build a garage. The applicant was informed that work could start on the house addition upon submission of appropriate permits and construction document and issuance of building permit.

Motion passed (8 – 0).

**CASE NO. 1121**

**Petitioner and Property:** Pamela A. Reising  
31829 Sheridan  
Part of Lot 1397, 1399 and all 1398  
Beverly Hills #3 Subdivision, TH24-01-401-022

**Petition:** Petitioner has attached the detached garage to the house with a breezeway. The garage has 3.8' side yard open space instead of the required 12.5' and has approximately 6' rear yard open space instead of the required 40' rear yard open space.

Byrwa explained that the ranch style home and detached garage on this property were attached in the last couple of months by the construction of a connecting breezeway, which created a non-conforming situation. The Ordinance requires a 12.5' side yard open space and a 40' rear side yard open space in an R-2 zoning district. An attached garage must be 12.5 from the side yard. There is 3.8' between the existing garage and side lot line. There is 5' from the existing garage to the rear lot line in lieu of the required 40' rear yard setback.

Byrwa displayed photographs of the house and property, noting that attaching the house and garage created the non-conforming status. He explained that there are building issues to be resolved should a variance be granted. The garage would have to be underpinned with a footing, and a footing must be placed under the addition.

Reising stated that the house was in a state of disrepair internally and externally when they occupied it in October. They contracted to install a new roof and make other improvements. The licensed carpenter who constructed a six foot breezeway indicated that he would obtain documentation from the Village for this work. Reising stated that she would not have done anything in violation of the code. She understands that it is the ultimate responsibility of the homeowner.

It was noted that the garage was built when the house was constructed 50 years ago. Reising stated that the abutting neighbors on Lot 1399 were apprised of their plans to construct a breezeway between the house and the garage, and they had no objections.

Board members expressed concern with the structural predicament that will have to be addressed by the property owner. Byrwa elaborated on the need for footings around the garage and on the perimeter of the breezeway to meet building code standards. Structural requirements and alternative suggestions for meeting those standards were discussed.

Reising stated that she has contacted the Engineering Department at Wayne State University where she works. She has consulted with two structural engineers, and they have some suggestions.

In response to a question concerning hardship involved with this case, Reising commented that she has a handicapped situation involving a spinal injury that caused her to seek a safe, covered way to access the garage. She is concerned about walking on snow and ice to reach the garage.

Berndt maintains that the impact of this breezeway is minimal to the site. He thinks it is reasonable in this day and age to expect to have the ability to attach a garage, and this is the only way to do so on this property.

**Decision:** Motion by Brady, second by Berndt, that the petition be granted as requested due to the practical difficulty indicated with respect to the petitioner's health considerations. Approval of the petition is conditioned on the applicant complying with all building code provisions.

Roll Call Vote:

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

Motion passed (6 -2).

**CASE NO. 1122**

**Petitioner and Property:** Carl R. Hildebrand  
15655 Amherst  
Lots 1284 and part of 1285 of Beverly Hills #3  
TH24-01-433-007

**Petition:** Petitioner requests a side yard deviation from the required 12.5' open space to 6' for an addition in order to continue with the existing line of the house.

Byrwa displayed photographs of the property and home built in 1954. He showed the location of the proposed addition on the southwest corner of the house. This is a situation where there is an existing non-conforming structure. The variance requested will not increase the existing non-conformity.

Carl Hildebrand clarified that adjacent lot owned by his neighbors is vacant except for a garage used by the property owner.

Hildebrand explained that the addition is requested to provide needed living space on the main floor and to eliminate the need to climb stairs. The proposed addition will provide symmetry to the design of the house.

Dorothy Pfeifer of 160 Charrington Court stated that the Hildebrand's lot abuts her lot to the rear. She has no objection to the proposed addition.

**Decision:** Motion by Johnson, second by Oen, to grant the variance as requested due to a peculiar difficulty with the shape of the lot and the placement of the house on the lot.

Motion passed (8 – 0).

#### **ZONING BOARD COMMENTS**

Board members thanked Carl Johnson for his service on the Zoning Board of Appeals. His resignation from the Board and move from the Village is attributable to a job promotion. Verdi-Hus presented Johnson with a certificate of appreciation from the Village. Johnson stated that it has been a pleasure serving with everyone on the Board.

#### **BUILDING OFFICIAL COMMENTS**

Byrwa stated that election of officers will be an agenda item at the next ZBA meeting.

Motion by Johnson, second by Brady, to adjourn the meeting at 9:07 p.m.

Motion passed.

**Maryann Verdi-Hus, Chair**  
**Zoning Board of Appeals**

**Ellen E. Marshall**  
**Village Clerk**

**Susan Bernard**  
**Recording Secretary**