

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

Absent: None

Also Present: Building Official, Byrwa
Council Member, Pfeifer

Chairperson Schafer 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 Verdi-Hus, second by Oen, that the minutes of a regular Zoning Board of Appeals meeting held on Monday, July 12, 2004 be approved as submitted.

Motion passed.

CASE NO. 1131

Petitioner and Property: Sean McGaughey
31355 Kennoway Court
Lot 23 of Kennoway Subdivision
TH24-03-451-005

Petition: Petitioner requests a front yard deviation from the average 106' setback to 56.9' for an addition.

Building official Byrwa suggested that the Board make a determination on whether the property in question fronts on Kennoway Court or Kennoway Circle, which will determine the nature of the variance. He displayed a plot plan and photographs of the house and lot on the corner of Kennoway Court and Kennoway Circle.

There is some controversy as to the street address of the petitioner's home. The homeowner submitted the petition with a Kennoway Court address. The front door of the house faces Kennoway Circle. The Village tax roll shows addresses sequenced starting with 31000 on Kennoway Court and 20000 and higher on Kennoway Circle. Byrwa asked the Zoning Board's interpretation of the street address because it has a bearing on whether the request is for a front yard or rear yard variance.

If the house address is on Kennoway Circle, the petitioner would be requesting a rear yard variance from 40' to 33'. If the house is on Kennoway Court, the petitioner's request would be for a front yard variance to build the addition about 57' from the front lot line. The average depth of the front yard open space of residences on one side of the street within 200' of the lot in question is 105'.

Byrwa displayed photographs of the existing house with views from both streets, the location of the proposed addition, existing foliage, and the location of the house to the

north. Board members discussed the address issue and its effect on this case. It was questioned whether it is within the ZBA's jurisdiction to make a determination on the street address.

Berndt read the zoning ordinance definition of front lot line and rear lot line:

Lot line, rear: The lot boundary opposite and most distant from the front lot line. In the case of a pointed or irregular lot, it shall be an imaginary line, parallel to and farthest from the front lot line, not less than ten (10) feet long and wholly within the lot. (see "Lot")

Lot line, front: In the case of an interior lot, the line separating said lot from the street. In the case of a corner or double frontage lot, the line separating said lot from the street which is designated as the front street in the request for a building permit.

It was noted that the home was built in 1922. The petitioner indicated that the power company sends bills to the Kennoway Court address and all services to the house come in from Kennoway Court. McGaughey related that his house was originally the coach house for another house located two doors down on the court. Additions to the original coach house include a two car garage, a study on the front, and living accommodations on the second floor over the main part of the house. The petitioner does not know when this work was done.

In support of a Kennoway Court address is the fact that the house has a legal address on the court, the address sequence is in line with those on the court, and utility bills go to the Kennoway Court address. It was noted that the Village tax rolls indicate the Kennoway Circle address, and the front door and driveway face the circle.

There was agreement among Board members to proceed with a Kennoway Court address, which is the legally recognized address for mailing and utility purposes. It was noted that a structure can be built on a lot to face in a direction other than the front lot line. The building code indicates that the builder or owner has the option of choosing the front lot line.

Kathleen Berwick of 31381 Kennoway Court expressed the view that it is obvious that the legal address of this lot is Kennoway Circle as indicated in the Southfield Township records. The 31355 number does not correspond with the court numbers. The front door of the petitioner's house is on the circle and the back door is behind the front door with no entry on the side. Since the house is on the circle, there needs to be 40' from the back of the house to the rear lot line, which is Berwick's side lot line. Changing the petitioner's address will cause the rear setback issue to be ignored in this area of large lots.

Motion by Berndt, second by Verdi-Hus, that the Zoning Board of Appeals recognizes the address of the house on Lot 23 of Kennoway Subdivision as being on Kennoway Court, which would follow that the front lot line is on Kennoway Court.

Roll Call Vote:

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

Motion passed (8 – 1).

Byrwa stated that this action confirms that the variance sought by the petitioner is a deviation from the 105' average front yard setback on Kennoway Court to construct an addition 56.9' from the front lot line.

Sean McGaughey described his proposal to build an addition to his house. He pointed out the front corner of an existing garage on the lot, which is 55' from the front lot line. This garage will be removed as part of the proposal. A variance is required because the addition will come out further than the current established building line. He noted that the neighbor across the street from him on Kennoway Court has a front yard setback of 50 feet.

The petitioner stated that the intent of the addition is to provide adequate living space and not to overbuild on the lot. He emphasized that it is a peculiar shaped lot. The house was originally a coach house. McGaughey looked at other configurations for building an addition before making the determination to build in the proposed location. Although the square footage represents that of a larger house, there is limited space in the house because of the corridors and the long, narrow shape of the structure. That is one of the main reasons he is requesting additional space.

Berndt observed that building the addition to conform to the 105' average front setback would push the addition practically off the back of the house.

The petitioner displayed the house plans for the Board's review. He described the plan and explained why the layout of the house requires that the addition be located as requested. He is trying to salvage as much of the existing house built in 1922 as possible without destroying the aesthetics of the structure. It was noted that the lot in question is one acre in size.

Katherine Hanson, neighbor across the street at 31400 Kennoway Court, stated that she loves the house and the character it provides to the street. She noted that the house was vacated and on the market for one and one-half years. Hanson hopes the variance is granted so the petitioner can proceed with his improvements.

Kathleen Berwick of 21400 Kennoway Court is opposed to the addition on the basis that big foot housing is not in keeping with the character of the neighborhood.

Berndt commented that a year and a half on the market indicates a certain lack of market conformity with this particular property the way it currently exists. This leads him to believe that it is not unreasonable to change the structure of the house.

Decision: Motion by Berndt, second by Verdi-Hus, that the variance be granted as requested for a proposed addition given the location of the house on the unusual shaped lot and considering the peculiar topography of the property.

Stearn stated that he is convinced that this is a non-conforming lot and the circumstances are unusual. However, he thinks that there may be other ways to go about building an addition. Oen suggested that the petitioner could explore reconfiguring the addition and moving it back into the rear yard.

Berndt stated that the second floor of the house is so tight that moving the addition back within the narrow buildable envelope would block off light to the lower part of the house and would result in destroying the existing carriage house structure and changing the character of the house. Berndt views the practical difficulty as being the owner's desire to preserve the character of this property with an eye towards benefiting the community aesthetically.

Roll Call Vote:
Verdi-Hus - yes
Berndt - yes
Brady - yes
Fahlen - yes
Napier - yes
Needham - no
Oen - no
Schafer - yes
Stearn - yes

Motion passed (7 – 2).

CASE NO. 1132

Petitioner: Father & Son Construction
5032 Rochester Road
Troy 48085

Property: 17124 Beechwood
Lots 2173, 2174 of Beverly Hills #5 subdivision
TH24-01-180-016

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

Byrwa displayed photographs of the site indicating the location of the proposed second story addition to the home. The addition will not extend into the side open space further than the existing house. A side yard deviation is requested from the required 12.5' minimum open space to 10' open space for a second story addition.

Bob Kowalewski from Father & Son Construction outlined the proposal to build living space on the top of the existing home, which was constructed in 1953 prior to the adoption of the Village zoning ordinance. The addition will consist of larger bedrooms for the family. The petitioner submitted a mortgage survey showing the location of the house on the lot. He displayed floor plans of the proposed addition for the Board's review.

Mr. Marvin Marsh of 16964 Beechwood stated that he is philosophically opposed to granting a variance from the ordinance.

Berndt questioned the hardship that would require building over the portion of the home encroaching on the side yard rather than the non-encroaching portion of the house. He is troubled with the addition being less than the full width of the house yet being positioned on the side of the house that is nearest to the lot line. He questioned the compelling need or hardship on the residents that would compel the ZBA to allow an addition to be built in this manner as opposed to building it in a conforming manner.

The petitioner responded that the reason for the location requested is due to the layout of the dormer and the position of the load bearing walls and stair locations. The reasons are for optimum accessibility, economics and aesthetics.

Homeowner Shirley Vincent stated that she needs larger bedrooms for her three daughters. She wants to remain in the home because she likes the neighborhood, sidewalks, and their large family room.

Steve Bechtolt, property owner, stated that they have considered alternate plans. Moving the addition to the other part of the house would require the additional expense of having to raise the chimney structure.

Decision: Motion by Fahlen, second by Napier, that the request be granted on the basis that the existing property is already in a variance position, and the house was built prior to the adoption of the Zoning Ordinance.

Roll Call Vote:

Berndt	- no
Brady	- yes
Fahlen	- yes
Napier	- yes

Needham - yes
Oen - yes
Schafer - no
Stearn - no
Verdi-Hus - yes

Motion passed (6 – 3).

CASE NO. 1133

Petitioner: Butchers Home Improvement
1043 Hartland
Troy 48083

Property: 15924 Dunblaine
Part of lot 615, all 616
Beverly Hills #1
TH24-01-229-027

Petition: Petitioner requests a side yard deviation from the required 12.5' open space to 4.8' for a one story rear addition in order to continue with the existing line of the house.

Byrwa displayed photographs of the site and indicated the location of the proposed addition. The addition will extend from the back in line with the existing house. The ordinance requires a 12.5' side yard setback. The house is already in a nonconforming status at 4.8 feet from the lot line.

The property owner Scott Janssen stated that there is an existing non-conforming condition with respect to the side yard open space. The house was built in 1953 prior to the adoption of the Zoning Ordinance. The proposed addition will not encroach any further into the side yard.

Janssen stated that they have talked to the neighbors on both sides of their home. The neighbor to the east who would be most impacted has no objections and has submitted a letter indicating her position. The neighbor on the west side has also written a letter stating that she has no objections to the request for variance.

The petitioner answered questions from the Board. Janssen said that he is hoping to preserve the character of the ranch style house without having the new construction look like an addition. It is proposed to add new space to an existing bedroom on the rear of the home. The rear yard setback is 43.4 feet.

Berndt expressed the view that this minimal single story addition has less impact on the community's openness to light and air than a second story addition.

Schafer read letters in support of the variance requested from Joan Hoefler of 15916 Dunblaine and from Jan Weeks of 15940 Dunblaine.

Decision: Motion by Berndt, second by Verdi-Hus, that the variance be granted as requested based on the size of the lot and the placement of the house on the lot.

Roll Call Vote:

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

Motion passed (8 – 1).

ZONING BOARD COMMENTS

Stearn suggested that the Zoning Board consider requesting that petitioners provide building plans for the Board's review. It is difficult to determine if there is an undue hardship or exceptional practical difficulty in some cases without looking at a floor plan and elevations.

Byrwa commented that he requires that the petitioner submit a mortgage survey, but does not deny an applicant the opportunity to be heard by the Board if they can provide some type of accurate drawing. He noted that the Board has not always been involved with interior issues. It was Byrwa's view that a decision should be made considering the size, height, bulk, and placement of an addition on the lot.

Board members agreed that looking at a floor plan bears on the credibility of the petitioner's statement of hardship. It was suggested that the interior layout is sometimes relevant to the question of whether there is another place on the lot that the improvement can be constructed. There was agreement that the Board should avoid questions about family makeup.

Schafer asked Board members to give some thought to these types of issues before the next meeting. The Zoning Board may want to consider adopting policies regarding requesting plans and elevations.

Berndt distributed copies of a sheet he compiled including the schedule of regulations and other information pertinent to Zoning Board cases. He incorporated an outline of actions that the ZBA is empowered to do as well as its restrictions. Board members were asked to review the handout and for comment and discussion at the next meeting.

Fahlen informed the Board about an upcoming Zoning Board seminar sponsored by the Michigan Municipal League on Wednesday, October 20 from 5:30 – 9:00 p.m. A copy of the flyer will be provided to all Board members. Fahlen suggested that interested members may want to attend this worthwhile seminar.

Schafer congratulated Jack Fahlen on his re-election as Southfield Township Trustee.

BUILDING OFFICIAL COMMENTS

Byrwa commented that he will be out of town on Village business and unable to attend the September 13 Zoning Board of Appeals meeting. He will compile information on the cases to be heard that evening.

Motion by Berndt, second by Needham, to adjourn the meeting at 8:57 p.m.

Motion passed.

Todd Schafer, Chair
Zoning Board of Appeals

Ellen E. Marshall
Village Clerk

Susan Bernard
Recording Secretary

THESE MINUTES ARE NOT OFFICIAL. THEY HAVE NOT BEEN APPROVED BY THE ZONING BOARD OF APPEALS