

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

Absent: Napier

Also Present: None

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**

On page 5, paragraph 6, correct the spelling of the word ‘bearing’.

Motion by Oen, second by Needham, that the minutes of a regular Zoning Board of Appeals meeting held on Monday, August 9, 2004 be approved as amended.

Motion passed.

### **CASE 1134**

**Petitioner/Property:** Catherine Pereira  
16270 Buckingham  
Lot 4 of John Owen Subdivision  
TH24-01-203-005

**Petition:** Petitioner requests a side yard deviation from the minimum 12.5’ open space to 8’ for a proposed attached garage in order to continue with the existing line of the house.

Nick Anderson of 16270 Buckingham stated that he and his wife Catherine Periera propose to construct a one-story attached garage onto their house, which does not currently have a garage. Building the structure to continue with the existing line of the house will provide symmetry and will be aesthetically pleasing.

Anderson explained that building the garage to comply with the 12.5’ setback would involve several hardships including moving an existing door and window wall, tearing up the curb, removing a couple of trees, and moving the entire driveway over. He maintains that constructing the garage as proposed seems like a reasonable thing to do.

Questions from Board members were answered by the petitioner. The petitioner mentioned that the neighbors he has talked to are in favor of the proposal. Anderson remarked that he and his wife have made substantial improvements to their home.

Tom Kaiser of 16228 Buckingham, who was present in support of the petition, commented on the irregular shaped lots on the street.

**Decision:** Motion by Verdi-Hus, second by Oen, that the variance be granted to allow the construction of a garage following the existing lines of the house

due to limitations in locating the garage because of the placement of the house on the lot.

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

**CASE NO. 1135**

**Petitioner/Property:** Tim and Monica Mercer  
17400 Locherbie  
Lots 2057, 2058 and Part 2059  
Beverly Hills Subdivision #5, TH24-01-154-008

**Petition:** Petitioners request a deviation from the required 12.5’ side yard open space to 9’ for a proposed garage enlargement.

It was noted that this case is a rehearing of Case No. 1127 from July, 2004 with slight modifications. Berndt disclosed that he has known Tim Mercer over the years but did not think that this would influence his consideration and vote on this case. Berndt deferred to the Board as to whether he should recuse himself. The Board did not see a conflict.

Tim and Monica Mercer were present with Architect Harold Remlinger. Tim Mercer explained that they are requesting a side yard deviation from 12.5’ to 9.0’ to expand the garage and construct a master bedroom suite above the garage. The existing roofline of the house will be maintained. Mercer stated that he did not properly describe the proposal for the master bedroom addition when he came before the ZBA in July. The variance has been decreased by one foot since the last submission.

Mercer stated that there is a hardship and practical difficulty due to the topography of the land and the placement of the house on the lot prior to the enactment of the Zoning Ordinance. The original placement of the house on the lot in 1948 does not allow for utilization of available space. The Mercers propose to add living space to their home to accommodate a growing family so that they can continue living in Beverly Hills. They like the community, their neighbors, the sidewalks and tree-lined streets in their area, and the first-rate schools.

Mercer stated that, if the variance is granted, there will still be a 25.5’ setback on the west side and a 9’ setback on the east side, which will average about 17’ of setback. The distance between the petitioner’s house and neighbor to the west will be 34 on the west side and 32’ on the east side.

Additional practical difficulties exist due to the topography of the lot. Because of the configuration of the natural and man made features, it is almost impossible to build this addition in any other location. The position of two mature trees on the lot, the location of their only kitchen window and an upstairs bedroom window, and the need to have adequate drainage in an area on the north side of the house make this the only viable option for locating the addition.

Mercer stated that there is currently no master bedroom in the house, and the garage is too small to fulfill their needs. The master bedroom size is a consideration in terms of increasing the size

of the garage. Mercer stated that consideration was given to locating the master bedroom on the west side of the home, but it takes up more usable area of the lot and impacts the neighbors and existing trees. The proposed plan will allow the Mercers to enlarge the garage and build a master bedroom suite with less impact on the buildable area while preserving the integrity of the surrounding area. Mercer stated that he has reviewed past meeting minutes and agrees with a comment made by a Board member, “that consideration should be given to the needs of the current day family if the family oriented character of the community needs to be preserved”.

Architect Harold Remlinger displayed drawings and referred to a handout to explain alternate ideas considered for placement of the addition in an effort to stay within the setbacks. He outlined problems with building an addition on the west side of the lot and with building on the east side extending into the rear yard. He maintains that locating the master bedroom suite in the proposed location is the most feasible option to fulfill the Mercers’ needs and retain the character of the neighborhood. The roofline of the proposed addition mimics the existing house, stays within the aesthetics of the neighborhood, and does not create a large mass on the street side. Remlinger went into some detail with respect to the layout of the house in relation to the proposed addition.

Board members scrutinized the plan in an effort to establish whether the garage and master bedroom addition could be constructed to comply with the side yard setback. The architect responded that the petitioner is proposing to increase the size of the garage to accommodate existing and future vehicles as well as other items. Mercer added that the master bedroom layout would be inadequate if the space is decreased by 3.5 feet.

Schafer read letters in support of the petition from the following residents:

King Ruhly	17395 Locherbie
Jim and Dorothy Marble	17816 Locherbie
Janet J. Query	17415 Locherbie
Debbie and Steve Kent	17870 Locherbie

The following residents spoke in support of granting a variance to allow the construction of a master bedroom suite and enlarged garage at 17400 Locherbie. It was noted that the majority of houses on Locherbie have less than the required side yard setback. Residents expressed the view that the proposed improvements to the Mercers’ home add value to the neighborhood. They asked that the Board grant the variance.

Douglas Roehl	16986 Locherbie
Brian Olsen	17380 Locherbie
Erik Hemingway	17426 Locherbie
Eric Swider	17311 Locherbie
Amy DaSilva	17331 Locherbie
Jim Talbot	17230 Locherbie

Len Dilaura of 17355 Locherbie, representing the East Beverly Hills Homeowners Association, stated that he is the person who approves building plans for the association. He submitted a petition dated September 7, 2004 signed by 25 area residents in favor of the Mercers’ proposal. The petition reads as follows:

“Having reviewed the request and plans, we support the Mercer family in their endeavor to add needed living space to their home. Ample justification has been given to us that this request should be approved due to placement of the home on the lot and existing topographical features of the lot. There is practical difficulty in the way the existing home is placed on the lot along and with the existing vegetation. We feel that this request is not excessive considering the existing non-conformances in our neighborhood. There will still be ample distance between the home with the neighbor to the east. The proposed addition will be in keeping with the style of the current home and will fit nicely with the surrounding homes and neighborhood. We also feel that the addition will add to the value of the surrounding homes in the neighborhood. Additionally, the proposed addition is not deleterious to the health, safety and welfare of Beverly Hills. We strongly urge that the Village of Beverly Hills Zoning Board of Appeals look favorably upon this request and approve it.”

Monica Mercer commented that she and her husband have done everything in their power to assure that their house looks and feels like it belongs in the community. She commented on the importance of the kitchen window not being blocked by a building addition that extends into the rear yard.

Schafer stated that the Zoning Board needs a reason to change the law in the petitioner’s favor. He feels that there are some aspects of this case that mitigate in favor of granting a variance including the placement of the house on the lot. Also, this variance would not be inconsistent with the layout of other houses in the neighborhood. On the other hand, there are factors that predispose him against granting a variance. The desire to expand a house is not a reason for a variance. Home values do not affect his decision. It is his view that a desire to retain trees is not a huge factor for granting a variance to develop property when there are conforming ways to construct an addition. It is a wide lot. Schafer commented that he might be more inclined to grant this variance if there were certain conditions or limitations on further development.

Berndt commented that the Board is charged with maintaining the character of this community. Market expectations today demand certain lifestyle accoutrements for houses. This is a small house in terms of bedroom space. The proposed master bedroom suite appears fairly modest. Berndt does not think that three car garages are reasonable expectations. In this case, the three car garage appears to be a consequence of building the bedroom overhead.

Brady questioned the feasibility of an alternate placement of the master bedroom addition on the west end of the main floor. The architect responded that it would result in the parents’ bedroom being the full length of the house and a floor below the bedrooms of the small children. Brady remarked that he is inclined to support this petition given the location of the house on the lot and maturity of the trees that the homeowner wants to protect. He thinks that the variance is consistent with the neighborhood, and it has received the support of the neighbors.

Berndt questioned whether a condition could be included in a motion stating that there would be no further building expansion into the open spaces of this property without the Board’s further review. It was the understanding of Board members that such a condition is not within the authority of the Zoning Board of Appeals.

**Decision:** Motion by Brady, second by Fahlen, that the variance be granted given the location of the house on the lot and the fact that the variance is consistent with the neighborhood and has received the support of the neighbors.

Roll Call Vote:

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

Motion fails (6 – 2).

**ZONING BOARD COMMENTS**

Zoning Board members have received copies of a memo to the Village Manager from Dan Gosselin, Code Enforcement Officer, regarding recreational vehicles. Questions and comments on this document will be deferred until Building Official Byrwa is present.

Berndt commented that he thinks the Board should inform petitioners that, if their request for variance is denied, they have the right to return to the ZBA with a petition that is substantially altered from their previous case or to appeal to the Circuit Court.

Berndt stated that he has been going through Zoning Board of Appeals cases that have been heard over the last ten years. He would like to obtain a copy of a letter from the Village Attorney recommending that the Board state its motions in the affirmative.

Motion by Verdi-Hus, second by Berndt, to adjourn the meeting at 8:40 p.m.

Motion passed.

**Todd Schafer, Chair**  
**Zoning Board of Appeals**

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

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