

Present: Chairperson Jensen; Vice-chair Tillman; Members: Borowski, Freedman, Landsman, Liberty, Ostrowski and Walter

Absent: Wayne

Also Present: Building Official, Byrwa
Planning Consultant, Wenzara

Chairperson Jensen called the meeting to order at 7:30 p.m. in the Village of Beverly Hills municipal building at 18500 W. Thirteen Mile Road.

APPROVE AGENDA

Motion by Landsman, second by Walter, to approve the agenda as published.

Motion carried.

PUBLIC COMMENTS

None

APPROVE MINUTES

Motion by Ostrowski, second by Landsman, that the minutes of a regular Planning Board meeting held on Wednesday, January 12, 2005 be approved as submitted.

Motion passed.

PUBLIC HEARING ON A PROPOSED LOT SPLIT AT 32380 MAYFAIR

Jensen explained that this lot split is unusual in that a land division generally comes before the Planning Board directly for review and recommendation to Council. If there is an aspect of a lot split that requires a variance from the Village ordinance, an application goes before the Village Zoning Board of Appeals. The Mayfair property case has already been heard by the Zoning Board.

Planning consultant Caryn Wenzara explained that the applicants, William and Lisa Christie, knew that variances were needed from the Village's lot size and lot width requirements in order to receive land division approval for their property at 32380 Mayfair. Application was made to the Zoning Board of Appeals to request these variances. Wenzara commented that this is a recommended approach in situations when it is known that a variance is required because it saves the time and effort of going to the Planning Board and then to the ZBA. The Zoning Board takes a look at requests for variances from standard requirements of the zoning ordinance. They also hear appeals in a situation where an applicant is appealing a decision that was made.

The Christie case was a heavily debated subject at Zoning Board meetings. At its December 13, 2004 meeting, the Zoning Board of Appeals approved a variance from the minimum lot width and minimum lot area requirements to create a second parcel on the Mayfair property. The next step is to seek formal approval for a lot split. The process is for the Planning Board to hold a public hearing, review the request and forward a recommendation to the Village Council for final action. The State has clear guidelines as to what can and cannot be reviewed as part of a land split application. If a proposal meets certain requirements, it shall be approved.

Wenzara reviewed the Christie Land Division Application for the site at 32380 Mayfair Lane in accordance with Section 23.16 of the Village Zoning Ordinances. She referred to the LSL review letter dated February 1, 2005.

The proposal involves dividing the subject parcel, which maintains 212 feet of lot width and 31,402 square feet of lot area, into two lots. The two resulting lots from this division will provide the following dimensions.

1. Lot A will have 132.5 feet of lot width and 18,682 square feet of lot area, and will be occupied by the existing residence.
2. Lot B will have 79.5 feet of lot width and 12,720 square feet of lot area.

As a result of the proposal, Lot B will not conform to the minimum requirements of the R-1 District for lot width (100 feet) or lot area (16,000 square feet); however, the Village Zoning Board of Appeals granted variances from said requirements. Other applicable ordinance requirements are met in terms of lot shape, building area, existing structures, easement for utilities, access, and consent of Title Holder. Based on the planning consultant's review, the site plan meets all the requirements of the Village.

Board members are in receipt of a copy of a letter dated December 17, 2004 from Village Attorney Tom Ryan regarding the Christie Zoning Board of Appeals case. The letter explains that the applicants have obtained variances for lot width and lot area requirements, which makes this a legal non-conforming lot. It is a matter of looking at other land division requirements to complete the record and officially approve the lot split.

Questions and comments from Board members were addressed by Wenzara and Byrwa. Wenzara remarked that there are no grounds on which this lot split request could be considered deficient. It is a complete application that meets all the requirements with the exception of the legal non-conformities.

Freedman commented that she is uncomfortable with the appearance that the Planning Board has some discretion in terms of considering this agenda item when it does not. There is no basis on which to disapprove this lot split proposal.

Walter commented that there are applicable requirements of State Law that supersede the review standards outlined in the Village zoning ordinance. Wenzara explained that the State Act was amended in 1996, and the ordinance was not updated to comply with that Act in terms of the issue of discretion. There are clear cut standards that have to be met.

Jensen commented on the authority of the Zoning Board of Appeals noting that the only recourse from a decision made by the ZBA is to appeal that judgment to the Circuit Court. There was discussion by Board members as to whether this land division application should have gone directly to Council for action since it is a procedural matter. State Law does not require a Planning Board public hearing and decision on a lot split.

The petitioner William Christie was present but chose not to comment on his request. Jensen opened the public hearing on the Mayfair lot split request at 7:50 p.m.

Rich Marsh of 32344 Mayfair stated that he lives just south of the Christie property on a 135 foot wide lot. He expressed opposition to the lot split on the basis that an 80 foot lot is not in harmony with that side of the street. He feels that the proposal is not about enhancing the property but is about the property owners building a house on the site to make money.

Marsh remarked that it appears to those residents who are not in favor of this proposal that this is not a rule of law by Village ordinance but rule of intimidation by lawyers. The Christies were represented by a lawyer and proceeded to Circuit Court after their request for variance was not approved by the Zoning Board of Appeals. The request was not granted at a second hearing of the ZBA, but was approved at a subsequent meeting.

At the inquiry of Frank Worrell of 32123 Bellvine Trail, Jensen outlined the progression of the Christie case through Zoning Board hearings and review by the Circuit Court. Worrell questioned whether this process aborts the normal procedures of the Village and could jeopardize the zoning in the R-A Residential District in Beverly Hills.

Marsh stated that the Zoning Board of Appeals rules and regulations as outlined in the Village Ordinance state that there has to be five affirmative votes to approve a variance. The Mayfair case was not approved by the Zoning Board of Appeals. The Christies took their case to Circuit Court where the judge chose to overrule the Village ordinance by asking for a majority vote of the ZBA to reject the request for variance. Marsh would like to see the Village uphold its ordinance.

The Planning Board received two letters from residents regarding this lot split. In a letter dated February 6, 2005, Kathleen and Robert Veller of 18945 Warwick question whether approving the lot split on Mayfair will be the beginning of an undesirable change involving crowding of homes in their neighborhood.

Greg and Kirsten Dye of 18915 Warwick state in a letter dated January 25, 2005 that there are spacious lots in the neighborhood. They objected to splitting lots into inappropriate sized parcels and urged the Planning Board not to approve the land division proposal.

The public hearing was closed at 8:04 p.m.

Liberty recalled that one of the priority concerns of residents listed in the results of the village-wide survey distributed by the Strategic Planning Committee was a concern about big foot housing.

Ostrowski remarked that nothing that the Planning Board has seen suggests that the lot in question will result in a big foot situation or that the house will not be compatible with the neighborhood.

Motion by Tillman, second by Borowski, that, in accordance with action taken by the Zoning Board of Appeals to grant variances for lot area and lot width, the Planning Board recommends approval of the Christie land division application for property located at 32380 Mayfair at the recommendation of the Village Planning Consultant.

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

PUBLIC HEARING FOR SITE PLAN AND SPECIAL APPROVAL REQUEST FROM CONSUMERS ENERGY FOR SITE IMPROVEMENT AND AN ADDITION TO THE CONTROL BUILDING AT 30319 LAHSER ROAD

At its January 12 meeting, the Planning Board and planning consultant reviewed the site plan from Consumers Energy for expansion of its gas regulator station located on Lahser Road. After a comprehensive review of the site plan, there was agreement that the plans would be revised to reflect suggestions from the Board in terms of plantings on the site and location of the fence closer to the front of the building. Jensen asked landscape architect Peter M. Pollack from Pollack Design Associates to present the revisions to the preliminary landscape plan.

Pollack displayed the plans that were modified to provide a natural berm and plant groupings (trees and shrubs) in the front yard and a mixture of canopy and evergreen trees along the side yard. The plantings exceed buffer strip requirements and provide an enhanced view along Lahser Road. The plan was revised to provide a six foot tall green vinyl-coated fence. The location of the fence has been set back further from the road and behind the planting/berm screen. The proposed design has reduced the visibility of the fence and will provide a natural landscape in the front yard.

Board members discussed the plan and asked questions answered by Pollack and representatives from Consumers Energy.

Jensen declared the public hearing open at 8:27 p.m.

Frank Worrell of 32123 Bellvine Trail asked the location of the site. He was informed that the building is on Lahser Road south of Thirteen Mile Road. The public hearing was closed at 8:28 p.m.

In response to an inquiry from Ostrowski, project engineer Matthew Beach indicated that Consumers Power could paint the pipes and valves a dark green color to match the color of the fence.

Motion by Freedman, second by Liberty, to recommend approval of the site plan as amended from Consumers Energy for site improvement and an addition to the control building at 30319 Lahser Road with the condition that all control valves and pipes be painted to match the color of the fence.

Roll Call Vote:

Freedman	- yes
Jensen	- yes
Landsman	- yes
Liberty	- yes
Ostrowski	- yes
Tillman	- no
Walter	- yes
Borowski	- yes

Motion passed (7 – 1).

Motion by Freedman, second by Liberty, to recommend special land use approval for expansion of a Consumers Energy gas regulator station located at 30319 Lahser Road.

Roll Call Vote:

Jensen - yes
Landsman - yes
Liberty - yes
Ostrowski - yes
Tillman - no
Walter - yes
Borowski - yes
Freedman - yes

Motion passed (7 – 1).

VIEW VIDEO FROM MICHIGAN MUNICIPAL LEAGUE ON PROPER PREPARATION FOR MUNICIPAL DECISION MAKERS

Board members reviewed a video prepared in 1996 by the Michigan Municipal League that emphasizes the need for communities to regularly update their land use plan and zoning ordinance. Other suggestions included: consult with a professional land use planner; read all information concerning a zoning request; conduct orderly public hearings; base zoning decisions on the municipality's master plan and zoning ordinance, and; carefully document the decision making process.

Jensen questioned the status of a proposal from the planning consultant for Planning Board work programs for the next fiscal year. Wenzara responded that she is working with Brad Strader from LSL on completing the proposal for a Village Master Plan update with a detailed outline of the components discussed with the Board and a cost estimate for Council consideration. She will forward the material to Byrwa in the next week or two to be submitted to Council.

Jensen stated that the Planning Board will be meeting on the fourth Wednesday of each month beginning in March to coordinate with the schedule printed in the Village calendar. The Board will meet on the second Wednesday of the month in November and December due to the holidays. The next meeting of the Board will be on March 23, 2005.

PLANNING BOARD COMMENTS

Walter stated that he noticed that gas companies have started installing gas meters in front of houses on his street, East Rutland as well as surrounding streets. This gives an unattractive and industrial look to houses. He questioned whether ordinance language could be adopted to prevent service entrance equipment being located on the front of homes.

Jensen expressed the view that the owner of the property should have the right to determine where the gas meter is located. Wenzara suggested that this would be a property code issue and not a zoning matter. Planning Board members grappled with the issue but took no action.

There was further discussion on the standards that are applied when reviewing land division applications and which Village standards are superseded by State Law.

In response to an inquiry from Liberty, Jensen clarified the procedures for Council approval of a Planning Board work program.

Freedman stated that she will not be present at the next Planning Board meeting on March 23. To the extent that the Board gets into Master Plan issues, she requested removal of any support for pathways from the Village Master Plan. Her appeal is based on the position taken by Village residents on the millage request for pathways. Her stance has additional support in terms of residents' response to the recent Village wide survey in which pathways were not ranked as a priority of the Village.

Freedman asked if the Circuit Court judge overstepped her bounds if the Village Ordinance says that there must be five affirmative votes of the Zoning Board of Appeals to approve a variance. She questioned whether this could have been appealed by the Village Attorney.

PUBLIC COMMENTS

Frank Worrell of 32123 Bellvine Trail asked how the Christie lot split was assigned to the Planning Board. He was informed that Council referred the lot split request to the Planning Board for review and recommendation.

Motion by Freedman, second by Tillman, to adjourn the meeting at 9:24 p.m.

Motion passed.

David Jensen, Chair
Planning Board

Ellen E. Marshall
Village Clerk

Susan Bernard
Recording Secretary