

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

Absent: Fahlen, Needham and Schafer

Also Present: Building Official, Byrwa
Council member, Pfeifer

Vice-Chairperson Berndt presided and called the meeting to order at 7:30 p.m. in the Village municipal building at 18500 W. Thirteen Mile Road.

Berndt informed those present that five favorable votes of the Zoning Board of Appeals members are required by law to achieve a variance. There are six members of a nine member board present this evening.

APPROVE MINUTES

Motion by Stearn, second by Napier, that the minutes of a regular Zoning Board of Appeals meeting held on Monday, May 9, 2005 be approved as submitted.

Motion passed (6 – 0).

CASE NO. 1146

Petitioner and Property: Dominic Giancarlo
32276 Arlington Dr.
Lots 503 & 504 of Beverly Hills #1
TH24-01-281-001

Petition: Petitioner requests a rear yard deviation from the required minimum 40' rear yard open space to 28.2' for an attached garage and addition.

Byrwa displayed photographs of the property and pointed out the location of the proposed addition. The home was built in 1951.

The petitioner Dominic Giancarlo stated that he was granted a variance by the Board for a similar petition in July of 2002 (Case No. 1054) but did not construct the addition at that time in lieu of investing in interior improvements. The current request for variance is less than what the petitioner originally proposed in 2002 (22.3' versus 28.2' rear yard setback).

Giancarlo outlined plans to rebuild a failing garage on an old home and gain additional living space with the new construction. It is proposed to build a master suite off the back of the garage. The hardship in this case is that the only other opportunity to expand the house would be to build up. The homeowners do not consider this an option because they intend to live in the house for a long time and do not want to climb stairs. The lot is 110' wide.

The petitioner stated that he has received letters of approval from several neighbors. Questions and comments from Board members were addressed by Giancarlo. It was noted that there are quite a few rear yard additions throughout that area that continue the existing line of the house.

Letters were received from the following area residents who were in support of the petitioner's proposal: Nancy Stermer of 32260 Arlington, Kimberly and Robert Fischer of 32326 Arlington, and Frank and Jane Schmid of 32304 Arlington.

Decision: Motion by Stearn, second by Oen, to approve the variance due to the exceptional and undue hardship created by the placement of the house on the parcel.

Roll Call Vote:
Motion passed (6 – 0).

CASE NO. 1148

Petitioner and Property: Matthew Elliott
16265 Locherbie
Part of Lot 725 and all of 726 of Beverly Hills #1
TH24-01-254-006

Petition: Petitioner requests a side yard deviation from the required 12.5' side yard open space to 7.8' for a second story addition in order to continue with the existing line of the house.

Byrwa stated that the house was built in 1952 prior to the adoption of the Zoning Ordinance and has a side yard open space of 7.8' in lieu of the required 12.5'. Byrwa displayed photographs of the house and indicated the location of the proposed rear addition off the back of the home.

The petitioner Matthew Elliott commented that they have a growing family and their options are to build an addition onto the home or move out of the Village. They love living in Beverly Hills and do not want to relocate. The request is to extend the existing first floor variance to the second floor. It is proposed to build over the sun room in the rear towards the driveway. Elliott has talked to the neighbors including the adjacent neighbors, who have indicated that they are supportive of the proposal.

Elliott addressed questions from Board members. The hardship is that the options are to build out or up in order to acquire the living space needed by the family. Building up fits best with the lot and the dimensions they are working with for an addition. Further, the house has an existing non-conforming side yard open space and lot width. Other options for building an addition were considered but did not make as much sense in terms of layout or retaining the character and structure of the existing house.

Tom Drew of 31771 Topper Court questioned how a person ends up with a non-conforming lot. It was explained that many lots, particularly on the east side of the Village, were constructed

prior to the incorporation of the Village of Beverly Hills and the adoption of the Zoning Ordinance. In this case, a variance is required because the addition will expand an existing non-conforming use.

Berndt read a letter received by the Board dated May 16, 2005 from Jason Krieger from Krieger Associates outlining the reasons for granting a dimensional variance on this property.

Motion: Motion by Stearn, second by Brady, that the variance be granted based on a peculiar or exceptional practical difficulty due to the size of the property along with the location of the house and the fact that the side lot line will not be affected by the variance.

Roll Call Vote:
Motion passed (6 – 0).

CASE NO. 1149

Petitioner and Property: Elizabeth J. Dawe
17095 Dunblaine
Lots 458 & 459 of Rex Humphrey's Eco City
TH24-01-176-003

Petition: Petitioner requests a side yard deviation from the required 12.5' open space to 10.2' for an addition in order to continue with the existing line of the house.

Byrwa displayed photographs of the lot and house and identified the location of the proposed addition off the rear of the home. The house was built in 1953. The petitioner is requesting to extend 9.2 square feet of building into the existing non-conforming side yard in order to enlarge a bedroom on the back of the house that would connect with the larger portion of the addition.

The petitioner Elizabeth Dawe explained that the extensive remodeling includes a family room, bathroom, enlarged bedroom and kitchen remodeling. What she wants to accomplish by adding this area on the back of the house from the family room addition east is to enlarge an existing bedroom and provide a master bathroom. The resulting bedroom would be odd-shaped if the variance were not granted. Dawe remarked that the enlarged bedroom is being prepared for an elderly mother that may be moving into the home.

Dawe remarked that she has talked to her neighbors, who look favorably on the request for variance. Questions from the Board were addressed by the petitioner. The comment was made that it appears that the petitioner is only asking for what is needed.

Berndt read letters of support from the following residents: Donald Miller of 17117 Dunblaine, Mr. and Mrs. Andrew Huebner of 17058 Dunblaine, and Mary E. Courtney of 17130 Kinross.

Decision: Motion by Stearn, second by Verdi-Hus, to approve the variance on the basis that the location of the property, the non-conforming nature of the property as it exists, and the minimum nature of the request create peculiar of exceptional practical difficulties.

Roll Call Vote:
Motion passed (6 – 0).

CASE NO. 1145

Petitioner and Property: Jason Armstrong
18500 Hillcrest
Part of Lot 1845 & 1847, all Lot 1846 of Beverly Hills #4
TH24-02-228-006

Petition: Petitioner requests a side yard deviation from the required 15' minimum side yard open space to 8' for a second story addition over the existing attached garage.

Byrwa showed photographs of a house on Hillcrest built in 1941. The petitioner is requesting to expand the existing side yard deviation in order to build a second story addition over an attached garage.

The petitioner Jason Armstrong referred to a computer generated photograph included in the Board's packet that shows how the addition will look. He clarified that his addition would be of brick construction and not siding. Armstrong stated that he has received Village building department approval for an addition off the back of the house for a master bedroom and family room. The additions are intended to provide space for their family so that they can remain in Beverly Hills.

The second story addition over the garage will consist of two bedrooms with a walk through bathroom. There are no windows facing the side lot line and the closest neighboring structure to the addition is a garage. Enforcement of the ordinance would require bringing the addition in seven feet, which would break up the line of the house and eliminate one bedroom and the bathroom from the plan.

Questions from Board members were addressed by the petitioner. Armstrong described the existing space in the house and how it is used. Board members expressed concern with the scale of the house in a neighborhood of smaller houses.

In response to being asked whether other configurations for the addition were explored, Armstrong indicated that alternative plans were not cost effective nor did they fit with the layout of the house. Alternate placements would require additional footings, crawl place, and electrical or plumbing deviations from what exists, increasing the cost substantially. The petitioner added that he has already put \$200,000 into the existing structure internally including crown molding, marble, hardwood floors and kitchen remodeling.

The petitioner is proposing to increase the square footage for living area so he does not have to build another addition in future years when he has a family. He stated that his lot is narrow in the front which makes it unique.

Brady commented that the existing house is non-conforming and the petitioner is requesting to increase that non-conformity by building a second story addition over the attached garage. He thinks that the request for variance is minimal and the addition will conform with the neighborhood.

Decision: Motion by Brady, second by Napier, that the petition be granted as requested based on an exceptional practical difficulty given the existing non-conforming side setback and the fact that this is a minimal request that would do justice to the petitioner's need for additional living space.

Roll Call Vote:
Motion passed (6 – 0).

CASE NO. 1147

Petitioner and Property: Jeffrey Berlin
31811 Vallen Court
Lot 134 of Berkshire Valleys #4
TH24-03-327-014

Petition: Petitioner requests a deviation to retain the privacy screen that is less than 10 feet from the back lot line and to exceed the 25% of the lot line portion of the rear yard.

Byrwa displayed photographs of the lot on Vallen Court at the corner of East Bellvine Trail. The house was built in 1955 and was placed diagonally on the lot more towards the rear of the property. The homeowner has erected a six-foot wooden privacy screen on the lot line to replace a fence along his rear property line.

The Village Ordinance requires that any fences on the lot or within 10' of the lot line cannot exceed four feet in height and must be open by 35%. The fence in question is a six foot solid wood fence that would fit the criteria of a privacy screen except that it is not located 10' from the lot line. The petitioner is requesting that a solid wood six foot fence be allowed to remain on the lot line and deviate from the requirement that the fence be open to air and light by 35 percent.

Byrwa displayed photographs of the fencing from different angles on the lot. He noted that the petitioner has agreed to open another portion of the fence by 35% to make it conforming.

The petitioner Jeffrey Berlin stated that the placement of his house on a non-conforming lot provides no means of privacy if he were to conform to the fence ordinance. Moving the fence to a location 10' from the lot line to conform with privacy screen requirements would place the

fence 2' from his rear room addition. He noted that his master bedroom is directly off the patio enclosure.

Berlin submitted a letter from the neighbor across the street who is also his landscaper, Larry Garlinghouse. This individual indicated that he would not have the ability to perform his landscaping duties including cutting the rear yard if the fence were moved 10' from the lot line. The equipment they use is six feet wide. Garlinghouse expressed the view that the fence is very tasteful in its current form. Berlin's adjacent neighbor was present in support of the request for variance.

Verdi-Hus stated that she has a problem with the fence not being 35% open to air and light.

The petitioner related that he has owned the house for two months. He mentioned that he owned a home improvement company and has built fences. Based on his background and personal experience, he did not think that the 6' fence height was an issue. Berlin matched the fence to his neighbor's fence. He stated that the fence he replaced was a 4' high split rail fence with mesh wires to contain a dog, and it was in a state of disrepair.

Berlin maintains that the only means for him to create privacy on his lot is to retain the fence in its current location. He does not have the ability to obtain privacy as other homeowners do because of the configuration of his lot.

Stearn remarked that the purpose of the Beverly Hills Fence Ordinance is to maintain open space in the Village.

Berlin responded that he is not obstructing the view from his yard to his neighbor's property because there is 100' from the end of the fence to the street. He views the fence as a privacy screen.

Berndt commented that the petitioner purchased this property aware of its limitations. The house is situated near the property line and a room addition encroaches into a minimal rear setback.

Berlin stated that he liked the house and, based on his experience with erecting fences, assumed that the standard fence height was six feet. He did not check the ordinance when he purchased the house.

Berndt remarked that many communities have ordinances restricting the height and placement of fences. He is surprised that someone in the business would not have checked the ordinance. Berndt stated that the Zoning Board is bound by the law whether or not the members personally agree with the fence ordinance.

The petitioner requested that his case be tabled until the next meeting in July when a more full compliment of the Board may be present to consider his petition.

CASE NO. 1150

Petitioner and Property: Peter and Lisa Obee
22719 N. Nottingham
Lot 85 of Nottingham Forest #3
TH24-04-253-013

Petition: Petitioner requests a deviation to retain the 6' fence that is not open to air and light by 35%.

Byrwa displayed photographs of the property and pointed out two sections of 6' high vinyl privacy screen erected on the west side of the house and on the east side of the house. The fence consists of about 4 feet of solid vinyl material with the top portion being of a lattice style.

The petitioner Peter Obee stated he moved 12% of the fence in order to gain more space in the back yard. He did not check the ordinance prior to replacing the fence and was not aware of the 4' height limitation. There are other fences in the neighborhood that are taller than 4 feet. Obee believes that the fence adds value to the home, and neighbors have said this. The neighbors to their east are in support of the variance. Obee stated that there is a safety issue with the fence in that a child cannot climb this fence.

Obee stated that he is trying to resolve issues with the Nottingham Homeowner Association board and come up with a different style of fence that is acceptable.

Verdi-Hus explained that she will not support the request for variance for the reason that the fence is not 35% open to air and light.

Mrs. Finucan of 22685 N. Nottingham, next door neighbor to the east, stated that she and her husband have no objections to the variance. They think that the fence enhances the house and protects children from access to the pool.

Berndt stated that it is up to the petitioner to convince at least five members that he has a difficulty that is unique to the property that would justify the Board setting aside the law on his behalf.

Peter Obee requested that the case be tabled so that they could work with the neighborhood association to come up with an agreeable solution and return at the July ZBA meeting. Lisa Obee asked if there is a chance of obtaining a variance to erect a 54" fence that is all lattice.

Byrwa remarked that there are code requirements for fencing around pools that may prohibit an all lattice fence. There is a concern that children could climb that type of fence. Byrwa stated that he would work with the petitioner on a fence that would conform to the ordinance.

ZONING BOARD COMMENTS

Stearn commended the Zoning Board for its professionalism over the past couple of years. His term of office expires at the end of June. Stearn remarked that this may be his last meeting if Council does not reappoint him to the Board due to his attendance record.

Berndt stated that Habitat for Humanity is in the middle of a two-week build as part of a Jimmy Carter work program in Pontiac. There are eight homes being constructed this week and next week for families that have never had homes. They are short handed and are seeking volunteers.

BUILDING OFFICIAL COMMENTS

Byrwa stated that election of a Chair and Vice-Chair will be on the agenda for the July Zoning Board meeting.

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

Motion passed.

Ron Berndt, Vice-Chair
Zoning Board of Appeals

Ellen E. Marshall
Village Clerk

Susan Bernard
Recording Secretary