

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

Absent: Brady

Also Present: Building Official, Byrwa  
Council members – Pfeifer, Taylor, and Walsh

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 1, second paragraph from bottom, line 5, delete words ‘at law’.

Motion by Berndt, second by Oen, that the minutes of a regular Zoning Board of Appeals meeting held on September 12, 1005 be approved as amended.

Motion passed.

Fahlen informed the Board that he will have to leave the meeting at 7:55 p.m. to attend the Southfield Township Board meeting for the reason that he is an elected Trustee of that Board.

Schafer announced that Case No. 1151 and Case No. 1155 have been rescheduled to be heard at the November meeting at the request of the petitioners.

**CASE NO. 1160**

**Petitioner and Property:** Thomas F. Aylward  
16150 Amherst  
Part of Lot 1504 and 1505  
Beverly Hills #3, TH24-01-404-019

**Petition:** Petitioner requests a rear yard deviation from the minimum required 40’ to 6’ and a side yard deviation from the minimum 12.5’ open space to 5’ to construct a rear addition that would be attached to the existing detached garage.

Byrwa displayed photographs of the property and house built in 1954. The petitioner is proposing to connect the detached garage to the house with a breezeway, which would make the garage part of the principal structure and thereby create a non-conforming situation. Byrwa related that the homeowner has agreed to construct a footing under the existing garage to meet the requirements of the building code.

Terence Bilovus, architect, was present along with the homeowner Thomas Aylward. Bilovus maintains that there is a hardship in that the property does not have the appropriate setbacks due to an existing non-conforming situation. A variance was granted in 1984 to allow the house to come within 13.8’ of the rear property line. The existing detached garage conforms to ordinance

requirements. The situation will not change physically, but a non-conforming situation will be created by attaching the house to the garage. The property owner is attempting to improve the residence with minimal intrusion into the open space. The site will not be impacted substantially by attaching the house to the garage but will result in an improvement to the property.

Questions and comments from Board members were addressed by Bilovus. The purpose of the addition is to enlarge the family room and provide direct access to the garage without going outside. Members questioned whether there was an alternative location for the addition. Bilovus responded that a variance would also be needed if an addition were constructed on the other side of the house. Further, the structure would encroach into the back yard space and would not accomplish the goal of providing access to the garage from the house. The observation was made that bringing the attached garage forward would locate it closer to the adjacent residence.

Bilovus observed that there are other houses in the area that have attached garages without the required setback. He noted that this and other lots in the neighborhood are 8,000 sq. ft. lots created before the Zoning Ordinance was adopted requiring 12,000 sq. ft. lots in this zoning district.

Berndt asked if the petitioner had any objection to the Board placing a condition on its approval that would prevent the construction of an accessory structure on the property larger than 10' x 10'. Aylward agreed to this condition noting that he does not plan to build an outbuilding or shed on the property. Berndt related that the ZBA has the authority to impose such conditions on its approval as necessary to maintain the character of the community and uphold the intent of the ordinance.

At the inquiry of Oen, the petitioner also agreed to a condition that the addition be constructed of like materials to the house. Bilovus remarked that the homeowners' intent was to remodel the house to give it a Cape Cod look with siding as opposed to full brick. The design of the addition has not been finalized.

**Decision:** Motion by Berndt, second by Oen, that the variance be granted as requested with the following conditions: 1) that any future accessory structure be limited to a maximum of 100 sq. ft.; 2) that the addition be constructed of like materials harmonious with the primary structure, and 3) that the garage be brought into full compliance with existing residential code requirements including proper footings.

Roll Call Vote:  
Motion passed (7 – 0).

**CASE NO. 1159**

**Petitioner and Property:** Michael DeRonne  
19126 Devonshire  
Lots 16, part 17 of Birmingham Woods  
TH24-02-182-014

**Petition:** Petitioner requests a side yard deviation from the required 15' side yard open space to 8.7' for one side and a deviation from the

required 20' side yard open space to 10.6' for a first floor addition behind the house and a second story addition above the garage in order to continue with the existing line of the house.

Byrwa displayed photographs of the property and house constructed in 1959. The petitioner is requesting a first floor addition behind the house and a second floor addition above the garage. The variances requested will not increase the existing non-conforming situation with the side yard setbacks.

Petitioner Mike DeRonne and his wife Jeanne were present. Board members were given a picture generated by the petitioner to show the appearance of the proposed house with the additions. DeRonne emphasized that the addition will be designed to look like it belongs there. Also distributed was a floor plan of the home with the proposed additions.

DeRonne stated that the two proposed additions will provide additional living space for their family and add modern features to the house. The additions will accomplish the following: add a family room, den area, and mud room, enlarge the kitchen and provide a pantry area, add a second floor laundry room, a larger bedroom over the garage, and a storage area behind the garage for toys and equipment. Jeanne DeRonne commented that they intend to build the addition in harmony with the aesthetics of the house.

Verdi-Hus informed the petitioners that they must demonstrate that there is an exceptional practical difficulty in their case. The need for more space does not meet that threshold.

Schafer related that some of the items that the Board considers are whether there are other options in this case that do not require a variance or would require a lesser variance; whether the request is reasonable or appropriate relative to the rest of the community; what is unique about the particular property that causes the applicant to request the variance rather than staying within the ordinance. He questioned what is causing the petitioner to request a variance instead of narrowing the proposed addition and staying within the setback requirements by building further into the back yard.

DeRonne stated that this is their third house in Beverly Hills. They purchased the property two years ago with the understanding that there was space behind the house to add a family room. Other homes in the area have additions. The reason for extending the existing line of the house on either side rather than building further into the rear yard is to retain the use of their back yard space.

Berndt stated that the Zoning Board is charged to approve variances when they are based on the needs of the property and not the people living there. He added that building further into their rear yard would still provide them with more back yard space than many of the homes in the community. Berndt thinks that there are probably aesthetically pleasing and architecturally consistent alternatives for achieving the goals identified by the homeowners for expanding this classic center entry colonial home.

There was further discussion of the proposal by the Board and petitioners. It was the sense of Board members that the plan as presented did not provide the least amount of variance that would do justice to the petitioner, and the applicant did not demonstrate that there is an exceptional practical difficulty in this case.

DeRonne asked that their case be tabled to allow them an opportunity to submit a revised plan to the Board.

**CASE NO. 1156**

**Petitioner and Property:** Terry Meter  
32210 Beaconsfield  
Part of Lot 2373, all 2374  
Beverly Hills #5, TH24-02-252-009

**Petition:** Petitioner requests a side yard deviation from the required 15' minimum side yard open space to 7.7' for a second story addition over the existing attached garage.

Byrwa displayed photographs of the property and house built in 1938. The applicant is requesting to construct a second-story addition over the garage area. The existing side setback is 7.7 feet. The ordinance requires a minimum of 15' side yard open space in an R-1 Single Family Residential zoning district.

Petitioner Betsy Meter was present with builder Cal Watson. Meter stated that the existing garage is non-conforming in that the corner of the structure is 7.7' from the side lot line. A variance was received by a former owner of the house. It is proposed to build an addition over the garage that would provide a home office and additional living space for the family. The addition will match the existing house aesthetically in terms of brick construction and Tudor design.

Meter explained that a hardship exists in that she needs an office to be able to work from her home. Because the house was built in 1938, the basement is not conducive for use as living space, and there is no other space available within the existing home. It was noted that the home is approximately 2800 sq. ft.

Questions and comments from the Board were addressed by the petitioner. There was concern expressed with expanding the non-conformity considering the proximity of the garage to the side lot line and the visibility of the house from several different views. Fire safety was also mentioned.

Meter stated that they cannot build elsewhere on the lot because of an existing addition on the back of the house. Space is not available to build further into the back yard without encroaching on the rear yard open space. It was noted by the Board that the site plan distributed with the hearing notice does not show the rear addition and therefore does not accurately depict the current state of the property.

Board members suggested that there may be other ways to design the addition and provide additional space with minimal encroachment or none at all. Evidence has not been presented that there are no lesser options available. The site plan submitted is not accurate, and there is a lack of documentation as to whether sufficient space exists elsewhere on the site for this addition.

The Zoning Board is in receipt of a letter from adjacent property owners Stephen and Dora Higbie of 32336 Beaconsfield indicating their support of the proposed addition.

Meter asked that Case No. 1156 be tabled.

### **CASE NO. 1157**

**Petitioner and Property:** Kristin Jonna  
20790 W. Kennoway  
Lots 16 & Part 17, Kennoway Subdivision  
TH24-03-451-012

**Petition:** Petitioner requests a deviation to retain the existing accessory building that would be in the front yard and the existing pool that would be in the side yard when a new residence is constructed.

Byrwa related that the existing house on this property was completely destroyed by fire about eight months ago. A pool and cabana type outbuilding remains on the property. Byrwa displayed photographs of the property. The petitioner is proposing to construct a new house on the lot in a location more towards the rear of the site, which would render the swimming pool in the side yard and the outbuilding in the front yard of the new home. This presents a dilemma in terms of issuing a building permit to construct the house. The ordinance states that no accessory buildings, structures, or uses shall be erected in the front or required side open space or within permanent easements.

Zoning Board members disagreed with the Building Official's interpretation of the location of the front and rear lot lines of the proposed house. Berndt read from the Zoning Ordinance with respect to lot lines, which indicates that the front lot line is parallel with the street. The rear lot line is the line opposite and most distant from the front lot line. The Ordinance defines front and rear yards based on the street rather than the orientation of the structure on the property. It was the consensus of the Board that the front lot line should be considered parallel with the street. The pool and structure would be located in the side yard if the house were constructed as proposed on the plan.

Schafer remarked that the ordinance applies to this property by virtue of the fact that a non-conformity will be created if the petitioner chooses to build the house in the location indicated. The property owner could build the structure in another location that would not create a violation of the ordinance.

Jonna explained that the reason for the proposed location of the home is to build the house with green consciousness. The hardship is to maximize the southern exposure and lighting through the entire house. She explained that it is proposed to revise the plan to move the house forward by

about 10-20 feet from the slope of the Rouge River and rotate it slightly to maximize the southern exposure. They are working with an architect and a soil expert. Jonna mentioned that the guest house will be refaced with materials to match the house.

Jonna proposes to maintain privacy on the lot by doing a significant amount of landscaping to screen the structures. Trees that have been removed due to the fire and for construction will be replanted. She submitted a letter from the adjacent neighbor, who has approved the plans. Jonna commented that the neighbors across the street also approve of the plan.

David Eifrid, builder and partner of Ms. Jonna explained that an important aspect of green building is the use of direct and indirect lighting. Direct lighting is used to heat a home in the winter and indirect lighting is used to provide natural lighting during the summer months without having to turn on lights. The plan presents the best way to take advantage of direct light on this unique lot. There is a hardship in terms of utilizing natural lighting without having to cut down established trees.

Schafer stated that a letter was received from Carol Chadwick of 20778 West Kennoway. She has looked at the building plans and has no objections to the proposal. Another letter was received from Jerry Dayenian of 31070 Rivers Edge Court indicating that he has no problem with the request as long as all pool safety ordinances are met.

Connie Liberty of 20850 W. 13 Mile Road, who abuts the property to the south, commented that she does not agree with the proposed location of the house. She remarked that most of the homes in the Village do not have structures in the side yard. Liberty mentioned that the previous home faced Kennoway but was slightly offset. She was asked by her husband to say that the plan layout does not fit the profile of the homes on Kennoway and will disrupt the character of the neighborhood.

Schafer clarified that the ZBA is not being asked to grant a variance with respect to the proposed structure. The homeowners are allowed to request a building permit for a structure as long as it conforms with the ordinance. If this petitioner does not receive the variance requested, she may not be able to retain the existing pool or cabana.

Berndt commented that the intent of requiring setbacks is to preserve the openness and green space in the Village. The only alternatives to granting a variance in this case would be to remove the outbuilding or locate the house towards the street to create a backyard for the cabana. He noted that moving the house forward would reduce publicly viewable green space. Oen remarked that it is planned to reface the cabana structure to conform to the house, which would make it appear as an attached garage.

Bob Walsh of 20655 Smallwood Court thinks that the house is being oriented on the lot based on aesthetics and other viewpoints while avoiding practicality and hardship issues. He suggested that granting the variance and allowing a structure in the side yard would create an unfavorable precedent for the future.

There was further discussion between the petitioner and Board members on how the house could be positioned on the lot to require a lesser variance or no variance at all. Jonna emphasized that she is requesting the current location for green building purposes and not for aesthetic purposes. The architects chose this location on the property to maximize light coming through the space. Stearn remarked that he would need to see evidence that trees interfere with light entering the house and that the house should be located in the location requested.

The petitioner was amenable to moving the house forward in its current orientation so that the back corner is in front of the pool and cabana. She will submit a revised plan to the Building Official for consideration. Jonna asked that Case No. 1157 be tabled.

**CASE NO. 1158**

**Petitioner:** Steve Lenderman  
Mandell, Bilovus, Lenderman Assoc.

**Property:** Independent Bank  
32800 Southfield Road  
Lots 56-66 of D. J. Healy's Golfhurst  
TH24-01-101-001

**Petition:** Petitioner is requesting to allow a deviation to exceed the maximum one footcandle of lighting at the lot lines.

Byrwa stated that Independence Bank, located on the southeast corner of Southfield and 14 Mile Roads, has been making improvements to the interior and exterior of the building. They are in the process of upgrading the lighting at the site to meet industry standards for banks in terms lighting levels particularly at ATM location at the northeast side of the building. The Zoning Ordinance states that the intensity of light at the lot line cannot exceed one footcandle.

Byrwa displayed photographs of the site and adjacent property. There is a medical building on the east side of the bank with a windowless wall. The office manager of the building has no concerns about the intensity of lighting to the rear of her building.

A photometric study has been submitted with the application to show the intensity of lighting at the building and parking lot with the replacement lighting. It is proposed to replace an existing pole light in the parking lot that exceeds ordinance height restrictions with a 14' high shoebox style light that directs lighting downward and minimizes glare.

Dave Troyer, vice-president of facilities for Independent Bank Corporation, stated that FDIC regulations for banking operations with ATMs and after hours depositories require 15 footcandles at the face of the ATM and up to three footcandles within 50 feet of the ATM. The State of Michigan has not accepted those federal regulations and put them into law yet. The FDIC does not supersede the authority of the ZBA, but the bank must try to meet these safety standards.

Troyer remarked that Independent Bank purchased Midwest Guaranty Bank last summer. They inherited the current situation and are attempting to bring the site up to regulatory standards. In addition to renovating the interior of the building, improvements have been made in terms of signage, paving, and restriping.

Architect Steve Lenderman remarked that the proposed lighting is requested for safety and security issues, particularly in the area of the ATM and night deposit box. There are regulations concerning how much light should be available to see around the corner of the building so that those using an ATM can view people approaching. Lenderman remarked that the plan meets the Zoning Ordinance in the residential areas; a variance is required at the northeast corner of the building. The 40' pole will be taken down and conforming poles will be added at the outer edge of the parking lot to provide general lighting.

Letters were received in opposition to additional or increased lighting on the bank site from William Fairfield of 17976 Kirkshire and Marcy Chamberlin of 18131 Kirkshire. The letters appear to refer to the existing 40' pole light that will be eliminated under the proposed plan and replaced with a lower light.

**Decision:** Motion by Stearn, second by Verdi-Hus, to allow the deviation requested by the petitioner to exceed the maximum one footcandle of lighting at the lot lines pursuant to and in accordance with the photometric plan (revised to correct the spelling of Kirkshire) for the reasons that it will assure security for the bank and potential customers in and that the plan complies with Federal regulations.

It was noted that this is a use variance, which requires six affirmative votes to grant the variance.

Roll Call Vote:

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

Motion passed (6 – 1).

**ZONING BOARD COMMENTS**

Schafer remarked that the Board had asked that adoption of the Zoning Board handbook be placed on tonight's agenda. He requested that this item be placed on the agenda for the November meeting.

Berndt clarified that State Supreme Court rulings indicate that the right of the Zoning Board of Appeals to institute bylaws and procedures cannot be interfered with by anyone but the Circuit Court. He proposes that the handbook be incorporated into the operating procedures of this Board

and distributed to individuals applying to come before the ZBA to request a variance from the Zoning Ordinance.

Stearn congratulated the newly elected Council members especially Dave Taylor, who has been elected as Council President. Stearn took exception to the last Council meeting being held on the Jewish holiday of Rosh Hashanah. He hopes that Council takes this into account when planning its meeting schedule for next year.

**BUILDING OFFICIAL COMMENTS**

Byrwa was pleased that Board members are doing site visits on properties that are the subject of Zoning Board cases. It adds to their understanding of the case.

Motion by Oen, second by Needham, to adjourn the meeting at 10:02 p.m.

Motion passed.

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

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

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