

Present: Vice-Chair Ostrowski; Members: Borowski, Freedman, Landsman, Liberty, Tillman, and Wayne

Absent: Jensen and Walter

Also Present: Building Official, Byrwa
Planning Consultant, Borden

Vice-Chairperson Ostrowski called the meeting to order at 7:34 p.m. in the Village of Beverly Hills municipal building at 18500 W. Thirteen Mile Road.

APPROVE AGENDA

MOTION by Tillman, second by Wayne, to approve the agenda as submitted.

Motion passed.

PUBLIC COMMENTS

None

APPROVE MINUTES OF A PLANNING BOARD MEETING HELD ON WEDNESDAY, JUNE 28, 2006

MOTION by Tillman, second by Landsman, that the minutes of a regular Planning Board meeting held on June 28, 2006 be approved as submitted.

Motion passed.

REVIEW INFORMATION ON NEIGHBORHOOD STUDY

The Planning Board is in receipt of additional information from LSL Planning, Inc. relative to nonconforming lots and buildings and regulation of accessory structures. The material presents current regulations, issues that have been identified, potential solutions, and a summary/recommendation.

Planning consultant Brian Bordon commented that his submittal outlined issues identified by the Board up to this point and presented input on what may be potential solutions that will address concerns that the Village is currently experiencing or that may occur in the future. Borden has provided examples of what other communities have done in similar situations. The material will generate discussion resulting in direction from the Board as to whether some of the examples will fit the needs of the Village. If there is agreement, Bordon and building official Byrwa will meet prior to the next meeting to draft language that will address these items. Both of these neighborhood issues will be numbers based. Research on the appropriate numbers or percentages will be conducted following a determination by the Planning Board on how to proceed with regulation changes.

Bordon reviewed that the Planning Board talked about nonconforming lots and buildings at last month's meeting. The Village ordinance is limiting as to what it allows in terms of expanding a nonconforming building. Anything that would be considered to increase the

nonconformity is not permitted unless a variance is obtained from the Zoning Board of Appeals. That is consistent with what most communities do.

LSL Planning has written ordinances in other communities to permit minor expansion/alteration of nonconforming residences without the need for a variance. An example would be allowing an expansion to match an established side yard setback with a limitation on the depth of the expansion. It could be a percentage based on depth of the structure. Consideration is given to what is existing and what would be appropriate while respecting rear yard setbacks. Bordon remarked that this approach is not done that often in his experience. It would reduce the amount of ZBA applications but would not eliminate any nonconformities.

As discussed at previous meetings, the stated goal is to reduce the number of nonconforming situations on the east side of the Village and to reduce the number of ZBA requests for properties in that area.

Freedman suggested that perhaps the amount of lot coverage should be considered in requests to extend the existing line of the house. Tillman expressed the view that there should be a balance between how much house and how much lot there is. More house results in increased tax revenue for the Village, which is a consideration along with what the residents on the east side of the Village want to do with their property.

Bordon commented that addressing the number of nonconforming situations raises the question of whether the properties are zoned appropriately in terms of lot area, lot widths, setbacks and side yards. An option would be to consider a new zoning designation that is more consistent with the style of the lots and the homes. Bordon would like feedback from the Planning Board on whether this is something it wants to pursue. It is his opinion that the best way to address the problem is to reduce the number of nonconforming situations. It appears that the current zoning is not a good fit for what is there.

Bordon remarked that nonconforming situations may act as a “red flag” in terms of home sales and promoting reinvestment. He proposed that he and Byrwa could review the data base of lot areas in an attempt to find a zoning designation that would be a better fit without setting the bar so low that everything becomes conforming. He cautioned against dropping standards too far, which could impact the character of the neighborhood. The intent is not to change the density of an area. The idea would be to pursue a middle ground that would eliminate a lot of nonconforming situations and improve others. He asked whether the Board thinks it is appropriate to pursue a new zoning designation for the east side of the Village.

Board members discussed how to proceed with addressing the nonconforming lot situation. There was a consensus to direct the planning consultant to study the lot areas on the east side and propose a map amendment that would be a better fit for the existing conditions. The point was made that, while people are being encouraged to invest in their homes, the intent is not to encourage overbuilding on a lot. There is a balance that would allow reasonable expansion.

Byrwa remarked that 70-80% of the property east of Southfield Road has nonconformities in one or more of three categories: lot size, lot width and nonconforming placement of the house less than 12.5 feet from the lot line.

Bordon concluded that he and Byrwa will research the printouts of lot data on the east side of the Village over the course of the next month, analyze figures, and provide a report at the next Planning Board meeting. He will summarize what was found and illustrate the largest, smallest and median lot size in a particular neighborhood to give the Board a feel for what is there. That will help the group arrive at what the suggested numbers should be.

REVIEW INFORMATION ON SIZE OF ACCESSORY STRUCTURES

At last month's meeting, Board members viewed photographs of a number of large garages in the Village and considered how much garage space becomes too much before it has a negative impact on the neighborhood. The Board reviewed the current Village regulations for attached and detached structures. The point was made that the Village cannot dictate taste; it does have control over area and bulk standards.

Bordon gathered from that discussion that, while there may not necessarily be a problem with the Village accessory building regulations, there is a clear opportunity for potential abuse of those regulations. The Board is considering how to address the problem before it occurs all over the community.

Bordon provided a couple of options, one that addresses detached accessory buildings and one that could address attached accessory buildings. He has provided the Planning Board with alternatives and suggestions and asked for their direction.

Tillman expressed concern that current standards would allow a structure that looks like a warehouse. Permitting overly large garages in the Village will adversely affect property values. Board members identified potential problems and the need to regulate garage size.

Ron Berndt of 31384 E. Rutland cautioned against arriving at a method to determine percentages that would keep people on the east side of the Village from building a two-car garage in the process.

Borden stated that many communities do not regulate the maximum size of attached garages as long as the structure meets setback, lot coverage, and height requirements. There are a couple of ways that this has been handled: 1) require that accessory floor area cannot exceed the floor area of the principle use; 2) establish a maximum size based upon a ratio of garage area to ground floor area. An example would be to set a maximum percentage of the ground floor area of the home that can be occupied by garage space. It was noted that this approach can be problematic for smaller homes. If the Village wishes to pursue this option, it could also establish a "by right" minimum regardless of the size of the house.

Freedman suggested that consideration be given to determining how to address a required amount of permeable space on a lot. She advised against designing a future ordinance because

there has been a gross problem, which in this case is an oversized garage in the Village that received numerous citizen complaints.

Based on input from the Board relative to attached structures, Bordon will prepare a regulation that is ratio based similar to what he presented as an example on a ground floor area basis with a minimum “by right” number so as not to overly limit garage size on a smaller home.

With regard to detached structures, Village Code Section 22.08.100 permits one detached accessory building with a maximum size of 60% of the ground floor area of the principal building. Bordon stated that this is not uncommon, but a more typical approach is to have flat maximums community wide, with some exceptions for larger lots. There could be a couple of tiers to allow for a larger lot size.

Bordon questioned whether detached accessory buildings are a big issue and whether the 60% ratio is an appropriate limit for detached buildings in Beverly Hills. It was his understanding that the Planning Board favors establishing a maximum percentage of accessory floor space attached or detached such that it must be less than the sum of the usable floor area. It was noted that accessory floor area should include more than garages.

Bordon summarized that the Planning Board is not as concerned about the current detached regulation the way it is applied. He proposes incorporating the detached regulation with what was discussed as a ratio base for attached structures along with language stating that accessory floor area cannot exceed ground floor area. There may be a couple of definitions needed. Bordon will draft language for the Board’s review. He will provide sample lots on which formulas can be applied to determine their effect on property of varying sizes.

Borowski commented that he is not certain whether he will have objections to the proposed regulations. He believes that people ought to have a right to do a lot of what they want to do on their property.

Bordon responded that he will provide material that will demonstrate how the regulations discussed would limit a specific property in various areas of the community. The Board will have enough information to make a judgment on restrictions being considered.

Berndt stated that some communities define a garage attached by a breezeway as being detached while Beverly Hills ordinance defines them as attached, which results in cases coming before the ZBA. He asked if this is something the Planning Board wants to address in the course of visiting garages. Byrwa responded that he interprets this as a building code issue.

PLANNING BOARD COMMENTS

None

PLANNING CONSULTANT’S COMMENTS

Bordon referred to a report provided to Board members from LSL Planning regarding Zoning Agreements. The Michigan Legislature has authorized what is generally referred to as “contract” or “conditional” zoning. Contract zoning for many years was considered an illegal

practice, in that it was largely an agreement for rezoning in exchange for the acceptance of certain requirements and conditions related to the development of the property in question.

The Michigan version of the authorization to enter into zoning agreements was implemented early this year through amendments to the City and Village Zoning Act, the County Zoning Act and the Township Zoning Act. The basic authorization states: *An owner of land may voluntarily offer in writing, and the (applicable unit of government) may approve certain use and development of the land as a condition to a rezoning of the land or an amendment to a zoning map.*

Bordon stated that there is nothing in the Village’s current Zoning Ordinance that would address Zoning Agreements, which could be a useful planning and development tool. If the Planning Board and Council are interested, Zoning Agreement language could be added to the Village ordinances. This is something that could be incorporated into the round of ordinance amendments related to current Zoning Enabling Legislation.

BUILDING OFFICIAL’S COMMENTS

None

PUBLIC COMMENTS

None

Motion by Borowski, second by Tillman, to adjourn the meeting at 9:28 p.m.

Motion passed.

**George Ostrowski, Vice-Chair
Planning Board**

**Ellen E. Marshall
Village Clerk**

**Susan Bernard
Recording Secretary**