

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

Absent: Borowski

Also Present: Building Official, Byrwa  
Planning Consultant, Borden  
Council members, Pfeifer and Walsh

Vice-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 Ostrowski, second by Walter, to approve the agenda as submitted.

Motion passed.

### **PUBLIC COMMENTS**

None

### **APPROVE MINUTES OF A REGULAR PLANNING BOARD MEETING HELD ON WEDNESDAY, JULY 26, 2006**

Motion by Landsman, second by Ostrowski, that the minutes of a regular Planning Board meeting held on Wednesday, July 26, 2006 be approved as submitted.

Motion passed.

### **REVIEW INFORMATION FROM LSL ON ACCESSORY STRUCTURES**

Planning consultant Brian Bordon stated that the Board continued its discussion on nonconforming lots and accessory structures at last month's meeting. LSL Planning along with Village staff were asked to provide sample language to address the issues raised.

Board members identified the issues and reviewed existing ordinance sections last month. There was discussion on alternative ways to address current and potential problems. With respect to accessory structures, the idea was to prevent future problems. The Board viewed a couple of case examples where there was concern about the size of accessory buildings. For the most part, Bordon did not believe that there was a significant threat or issue, but there was the potential for problems. Potential solutions were discussed. Bordon received direction from Board members and has returned with proposed ordinance language for review and comment.

Bordon outlined modifications made to the current ordinance definition of an accessory building. It is common for communities to incorporate attached building area under the definition of accessory building in order to place limitations on the size of attached garages. The definition was updated so that it can be accurately referenced when referring to accessory building regulations.

Bordon stated that the current ordinance has a definition for a private garage, which the Planning Board may want to revisit depending on the outcome of its discussion. Bordon remarked that it is unusual to reference a size limitation in a definition. It is more standard to include size limitations in the provisions for an accessory building. He would recommend striking the definition of a private garage unless it is a common reference in the rest of the ordinance. Byrwa mentioned that he refers to the private garage definition, which is the only section where the size of a garage is defined (maximum 720 SF).

Bordon reviewed the ordinance provisions ‘a’ through ‘f’ for accessory buildings and provided the rationale for proposed modifications to the language. Topics that were discussed in some detail were building height and restricting upper floor levels, whether to include a width to depth ratio for garages, and the need to limit the total area of attached and detached accessory structures on a property. Board and audience members discussed the draft ordinance language.

Bordon stated that the key to the size limitation issue has been incorporated in paragraph ‘e’, which would place an upper limitation on the size of all accessory building area. He has provided the following revised language based on last month’s discussion.

- e. The total floor area of accessory buildings shall be limited to fifty percent (50%) of the ground floor area of the principal building, except that a minimum of five hundred (500) square feet is permitted by right where this requirement would result in a lesser area.

Bordon would like direction from the Board on the appropriate percentage. His intent was that the number should be inclusive of garage space. The number could be based on the ground floor area of the principal building or usable floor area. There may be a need to add a definition of ‘ground floor area of principal building’. The 500 sq. ft. “by right” minimum number is equivalent to a 2½ car garage. It was clarified that the 500 by right minimum number does not waive setbacks. Following further discussion, it was the consensus of the Board to use 50% in paragraph ‘e’.

There was discussion on paragraph ‘f’, which says that the dwelling shall not be dominated by garage doors. Bordon indicated that LSL has used this language in other communities to encourage side entry garages where possible. He indicated that 24’ of door width would allow for three cars.

Bordon mentioned that this is draft language to be recommended to Council for approval. If adopted, it can always be changed if the building official perceives a problem or if the ZBA receives an influx of cases. In answer to an inquiry, Bordon stated that the regulations were designed to be village-wide. The idea was that using a ratio based provision would keep accessory structures in character with the neighborhood. The common ratio will apply the same to smaller lots as it does to larger lots. Bordon proposed doing further research on whether to include a width to depth ratio requirement in the ordinance.

Bordon will proceed with modifications to Section 22.08.100 based on direction received from the Planning Board.

**REVIEW INFORMATION ON NEIGHBORHOOD STUDY**

Bordon reviewed that the Planning Board has been discussing nonconforming lots and buildings with the goal of reducing the number of nonconforming situations on the east side of the Village and reducing the number of ZBA cases for properties in that area.

Jensen read from the minutes of last month's meeting: "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."

At that meeting, there was a consensus of the Board 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. Board members emphasized that, while people are being encouraged to invest in their homes, the intent is not to encourage overbuilding on a lot.

Bordon stated that he and Byrwa met last week to research current data in order to identify average lot width and lot area for various sections on the east side of the Village. The objective was to determine if a change in the existing zoning district or the creation of an entirely new district was warranted. The intent was not to rezone property to completely eliminate nonconforming situations, which would mean that the bar was set at the lowest level.

The available data was not in the form that Bordon anticipated and would have involved a tedious process of scrutinizing plat maps. As a result, he and Byrwa did not produce a report and recommendation on the numbers that are representative of those neighborhoods. There followed a discussion on what resources are available for attaining the necessary information for this undertaking. Byrwa will consult with Bob Bliven on the availability of maps that would assist with the task as well as any backup data that can be accessed on the Village's GIS database. There was conversation as to whether the Village could retrieve lot size information through aerial survey techniques using aerial maps available through Oakland County.

Bordon indicated that he has the direction needed to obtain the data required to proceed with the study. He will work with GIS experts at LSL Planning and look into acquiring aerial maps if necessary. Byrwa will consult with Bob Bliven regarding the extent of his data.

Bordon stated that LSL has written ordinances in other communities to permit minor expansion/alteration of nonconforming residences without the need for a variance. He has drafted language to be included in the Village's current nonconforming structure regulations that would reduce the number of Zoning Board of Appeals applications on the east side of the Village. The primary issue from a nonconforming building standpoint is side yard setbacks. The proposed clause would essentially permit an expansion where it follows the established side yard setbacks of a nonconforming dwelling. This could be permitted by the Building Official

without going to the ZBA as long as the homeowner does not further encroach into the side yard. The expansion has to conform to all other area and bulk requirements.

The Planning Board and consultant reviewed and discussed proposed section 22.30.040 Nonconforming Structures. Modifications suggested by members will be incorporated into the draft language. It was noted that the Board may decide not to pursue this ordinance section if the nonconforming issues are adequately addressed through map amendments.

Jensen commented that, if the goal is not to change the character of the neighborhoods, it may be a move in the right direction to change a zoning regulation to be consistent with existing conditions, which would encourage redevelopment and allow people to construct additions without receiving a variance.

Ron Berndt suggested that, once rational zoning is put in place, the Village should adopt a lot coverage regulation to maintain openness in the community. Bordon was not aware that the Village did not have lot coverage restrictions, and he will add this to his list of things to do.

Bordon commented that he has the direction that he needs and will prepare information for the Board so that we can continue the nonconforming structures discussion with additional data at the next meeting.

#### **PLANNING BOARD COMMENTS**

Freedman commended planner Brian Borden on the good work he is doing for the Board. She noted that Board members received a copy of an ordinance amending Chapter 5.05 of the Municipal Code regarding Construction, Reconstruction, Repair and Cleaning of Sidewalks. This ordinance confirms that abutting property owners are responsible for maintaining sidewalks along their property. Freedman believes that this is the reason that the community voted against funding for additional sidewalks.

Wayne stated that the Eagle newspaper reported a serious accident that occurred on Evergreen and 13 Mile Road. He questioned why there is not a more sophisticated set of signals at that intersection that would increase safety. He noted that this is in a school area.

Freedman suggested that one of the problems may be that there are three different speed limits on roadways in this area (Thirteen Mile Road, Evergreen north of Thirteen Mile and south of Thirteen Mile Road).

Jensen stated that Evergreen Road is within the jurisdiction of Beverly Hills. Manager Renzo Spallasso will be made aware that the Planning Board has a concern relative to the safety of this intersection. Byrwa stated that Thomas Meszler is the new Director of Public Services for the Village. Members could contact him with their traffic safety concerns.

Jensen thanked Ostrowski for chairing a productive meeting last month.

**PLANNING CONSULTANT’S COMMENTS**

Bordon reviewed that the Village is in the public agency review period for the draft Master Plan. Byrwa has received a letter from Oakland County indicating that its Coordinating Zoning Committee will consider the draft plan at its meeting on Tuesday, September 26, 2006 at 10:30 a.m. in the Commissioners’ Auditorium in Pontiac. Bordon stated that he and Byrwa have addressed questions from the County Committee during its review period.

**BUILDING OFFICIAL’S COMMENTS**

Byrwa stated that he has requested an electronic version of the draft Master Plan to be posted on the Village web site for public review.

**PUBLIC COMMENTS**

None

Motion by Freedman, second by Liberty, to adjourn the meeting at 9:07 p.m.

Motion passed.

**David Jensen, Chair**  
**Planning Board**

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

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